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JUL 27 2010

by City Manager's Office

Sent to Council:



Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Nadine Nader

SUBJECT: Early Council Packet

DATE: July 27, 2010

Approved

Date

7/27/10

EARLY DISTRIBUTION COUNCIL PACKET FOR AUGUST 10, 2010

Please find attached the Early Distribution Council Packet for the August 10, 2010 Council Meeting.

4.x Actions Related to the NUMMI Re-Employment Project.

Recommendation:

- (a) Adopt a resolution accepting the NUMMI Re-Employment Grant award in the amount of \$6,274,772 and authorize the City Manager to execute Grant Agreement, any future amendments, and all related documents without further City Council action;
- (b) Adopt the following appropriation ordinance and funding sources resolution amendments in the Workforce Investment Act Fund (290) for 2010-2011 for the initial grant awards received as follows:
 - (1) Increase the estimate for Earned Revenue by \$2,976,901;
 - (2) Establish an appropriation to the Office of Economic Development for the 25% Additional Assistance Grant Bridge Funding – NUMMI Project in the amount of \$970,000; and
 - (3) Establish an appropriation to the Office of Economic Development for a National Emergency Grant Dislocated Workers – NUMMI Project in the amount of \$2,006,901.

CEQA: Not a Project; File No. PP10-067 (b) Appropriation Ordinance. (Economic Development/City Manager's Office)

4.x Begin Program Grants.

Recommendation:

- (a) Adopt a Resolution Authorizing the Director of Housing to accept Building Equity and Growth in Neighborhoods (BEGIN) housing program grants from the California Department of Housing and Community Development (HCD) when issued and to negotiate and execute the grant agreements and any amendments or

other documents necessary to implement the programs funded by the following BEGIN grants:

- (1) A \$2,000,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in The 88 condominium development.
 - (2) An \$820,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in The Works condominium development.
 - (3) A \$2,400,000 grant to fund down payment assistance loans to first-time homebuyers in the Axis condominium development.
 - (4) A \$2,000,000 grant to fund down payment assistance loans to first-time homebuyers in the 360 Residences condominium development.
 - (5) A \$1,176,500 grant to fund down payment assistance loans to first-time homebuyers in the Villa Fontana condominium development.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:
- (1) Increase the estimate for Earned Revenue by \$2,820,000.
 - (2) Increase the CalHome (BEGIN) Program project by \$2,820,000.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. Council Districts 3 and 6. SNI Area: Julian/Stockton & Spartan/Keyes. (Housing/City Manager's Office)

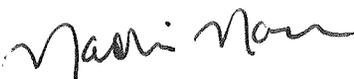
5.x Grant Application for the Los Gatos Creek Trail Project.

Recommendation: Adopt a resolution authorizing the City Manager, or designee, to:

- (a) Submit a grant application in the amount not to exceed \$1,250,000 to the Santa Clara Valley Transportation Authority ("VTA") under the VTA Bicycle Expenditure Program ("BEP") for the development of construction documents for the Los Gatos Creek 5B/C (San Carlos St. to Montgomery Ave.) Trail project ("Project") with a local match requirement of \$320,000;
- (b) Accept any grant funds awarded to the City and negotiate and execute all necessary documents related to any grant funding from the Metropolitan Transportation Corporation ("MTC") to the City for the Project; and
- (c) Keep the Los Gatos Creek 5B/C trail segment between San Carlos Street and Montgomery Avenue open 24 hours a day, seven days a week once the trail segment is constructed, for the life of the trail, except during emergencies, maintenance, and unforeseeable circumstances, as required by VTA/MTC as part of the grant requirement.

CEQA: Mitigated Negative Declaration, File No. PP06-112. (Parks, Recreation and Neighborhood Services).

These items will also be included in the Council Agenda Packet with item numbers.



NADINE NADER
Assistant to the City Manager



Memorandum

**TO: HONORABLE MAYOR AND
CITY COUNCIL**

**FROM: Paul Krutko
Jennifer A. Maguire**

SUBJECT: SEE BELOW

DATE: July 19, 2010

Approved

Date

7-26-10

**COUNCIL DISTRICT: City-Wide
SNI AREA: N/A**

SUBJECT: ADOPTION OF AN APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE WORKFORCE INVESTMENT ACT FUND IN 2010-2011 FOR NUMMI RE-EMPLOYMENT NATIONAL EMERGENCY GRANT (NEG) AGREEMENTS

RECOMMENDATION

It is recommended that the City Council take the following actions regarding the NUMMI Re-Employment Project as follows:

1. Adopt a resolution accepting the NUMMI Re-Employment Grant award in the amount of \$6,274,772 and authorize the City Manager to execute Grant Agreement, any future amendments, and all related documents without further City Council action;
2. Adopt the following appropriation ordinance and funding sources resolution amendments in the Workforce Investment Act Fund (290) for 2010-2011 for the initial grant awards received as follows :
 - a. Increase the estimate for Earned Revenue by \$2,976,901;
 - b. Establish an appropriation to the Office of Economic Development for the 25% Additional Assistance Grant Bridge Funding – NUMMI Project in the amount of \$970,000; and
 - c. Establish an appropriation to the Office of Economic Development for a National Emergency Grant (NEG) Dislocated Workers – NUMMI Project in the amount of \$2,006,901.

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OUTCOME

The recommended appropriation actions will recognize and make available grant awards from the Department of Labor through the State's Employment Development Department (EDD). The funding will provide Workforce Investment Act (WIA) allowable employment and training services to eligible dislocated workers laid off from the New United Motors Manufacturing Incorporated (NUMMI) automobile manufacturing plant. In addition, the funding will also be used to provide services to eligible dislocated workers (secondary workers) who are or were employed by secondarily-impacted suppliers to NUMMI.

BACKGROUND

NUMMI ceased operations in April 2010, displacing over 4,700 as well as affecting over 30,000 secondary (supplier) employees. Of the total number of affected workers, approximately 800 NUMMI employees and 1,900 secondary employees of direct and indirect suppliers reside in work2future's service area.

In March 2010, work2future submitted a 25% Additional Assistance grant application for 776 affected workers. In June 2010, EDD released its notification of the award of \$28 million for NEG grant funds for a consortium of local Workforce Investment Boards (WIBs) affected by the NUMMI plant closure. work2future was awarded \$970,000 25% Additional Assistance grant to provide bridge funding and \$2,006,901 NEG – NUMMI Project award representing the first incremental allocation to work2future. Remaining funds upwards of \$3 million are anticipated to be released once the consortium of six local Workforce Investment Boards reach a combined 70% expenditure rate of the first increment of the total \$28 million NEG allocation.

As a condition of this grant, participating WIBS agrees to exert maximum efforts to promptly outreach to and enroll all potential participants so that 90% of all potential participants are enrolled within the first six months of this NEG-funded project. As of June 30, 2010, work2future has enrolled 298 participants out of the approximately 800 direct NUMMI employees. work2future expects to reach the 90% level by September 30, 2010.

The 25% Additional Assistance grant will provide for the provision of services to NUMMI dislocated workers from July 1, 2010 until September 30, 2010, with the possibility of extending the term up to 18 months. The first increment of \$2 million in NEG – NUMMI Project funding grant term is from April 1, 2010 to March 30, 2012. work2future will begin using these funds starting July 1, 2010. Alternative funding sources such as ARRA Dislocated Worker and ARRA-Rapid Response were utilized in 2009-2010 to fund NUMMI services from April 1, 2010 to June 30, 2010 due to the late notification of the grant award.

ANALYSIS

Many of the dislocated workers were employed by NUMMI for several decades, specializing in automotive assembly and related activities. Many NUMMI suppliers' employees were hired at

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entry level and are low-skilled workers. Therefore, to be competitive in the new market, these dislocated workers will require extensive support including re-training and skills upgrades to transition into new careers.

work2future has used other funds such as ARRA Dislocated Worker and ARRA Rapid Response to provide core and intensive services through work2future's NUMMI Career Transition One-Stop Center as soon as the NUMMI plant ceased operation in April 2010. Moreover, work2future is coordinating its efforts in partnership with other WIBs seeking opportunities to leverage activities to ensure that NUMMI dislocated worker participants are afforded all the resources and services which may be available to them through co-enrollment and co-case management to ensure seamless service delivery.

Specifically these grant funds will provide for outreach, recruitment, testing and assessments, skills analysis, labor market information workshops, basic and remedial education, Individual Employment Plans, career and peer counseling, occupational and/or vocational skills training, supportive services, job placement, and post job placement follow-up activities for displaced NUMMI workers.

The grant funds will also allow eligible participants to enroll in training until the Trade Adjustment Assistance (TAA) funds become available should there be a State budget delay.

work2future is scheduled to present an expenditure plan to work2future's Executive Committee on July 15, 2010; work2future Finance Committee and Board at their respective meetings of September 8, 2010 and September 16, 2010. Below is the spending plan for the NEG – NUMMI Project and bridge funding in the amount of \$6.3 million. Of that amount, \$2.98 million has been awarded and is recommended to be appropriated in 2010-2011. The second installment is anticipated to be awarded in 2011-2012 and additional appropriation actions would be brought forward once those funds are available.

Budget Category	Total Budget	Projected Expenditures FY 10-11*	Projected Expenditures FY 11-12
Program Staff Salaries & Benefits (includes city overhead**)	\$2,975,630	\$ 1,487,815	\$1,487,815
Client Related Services:			
Training Services/OJT /workshops	\$1,540,000	\$700,000	\$840,000
Supportive Services	\$1,028,500	\$382,345	\$646,155
Others (supplies, mileage, rent, printing, professional services etc.)	\$414,195	\$248,517	\$165,678
work2futureAdministration	\$316,447	\$158,224	\$158,223
Total Spending Plan	\$6,274,772	\$2,976,901	\$3,297,871

* Equals grant awards received

** Due to a 10% administrative cap, only a portion of the overhead costs (an average of 44%) has been included in the above expenditure plan.

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EVALUATION AND FOLLOW-UP

The NUMMI grants in the amount of \$2.98 million have been evaluated and approved for funding by the State's EDD. Ongoing progress reports will be submitted to EDD, work2future's Board of Directors, and to the City's Community and Economic Development Committee.

Once the second installment of funding is awarded and made available, additional appropriation actions will be brought forward to the City Council to recognize and appropriate the additional funding. It is anticipated that this would occur in 2011-2012.

PUBLIC OUTREACH

- ✓ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The recommended action meets the above criterion regarding the use of public funding equal to or greater than \$1 million. This memorandum will be posted on the City's website for the August 10, 2010 Council agenda.

COORDINATION

This memo has been coordinated with the Office of the City Attorney.

FISCAL POLICY ALIGNMENT

The NUMMI grant awards support Initiative 7 of the City's Economic Development Strategy: "Prepare Residents to Participate in the Economy Through Training, Education, and Career Support."

COST SUMMARY/ IMPLICATIONS

This project is being funded by the State Employment Development Department on a cost reimbursement basis.

HONORABLE MAYOR AND CITY COUNCIL

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However, as a result of a 10% administrative cost cap, an average of 44% of the total overhead costs will be recuperated from this grant. Discussions to explore ways to possibly mitigate this loss in overhead reimbursement to the General Fund are underway.

CEQA

Not a project; File No. PP10-067 (b): Appropriation Ordinance.

/s/
PAUL KRUTKO
Chief Development Officer


JENNIFER A MAGUIRE
Budget Director

I hereby certify that there will be available for appropriation in the Workforce Investment Act Fund in the Fiscal Year 2010-2011 moneys in excess of those heretofore appropriated therefrom at least \$2,976,901.


JENNIFER A. MAGUIRE
Budget Director

For questions, please contact Jeff Ruster, work2future Executive Director at 408-535-8183.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Krutko
Jennifer A. Maguire

SUBJECT: BEGIN PROGRAM GRANTS

DATE: July 19, 2010

Approved

Date

7-26-10

COUNCIL DISTRICT: 3 & 6
SNIAREA: Julian/Stockton & Spartan/Keyes

RECOMMENDATION

It is recommended that the City Council:

- 1) Adopt a Resolution Authorizing the Director of Housing to accept Building Equity and Growth in Neighborhoods (BEGIN) housing program grants from the California Department of Housing and Community Development (HCD) when issued and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following BEGIN grants:
 - a. A \$2,000,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in The 88 condominium development.
 - b. An \$820,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in The Works condominium development.
 - c. A \$2,400,000 grant to fund downpayment assistance loans to first-time homebuyers in the Axis condominium development.
 - d. A \$2,000,000 grant to fund downpayment assistance loans to first-time homebuyers in the 360 Residences condominium development.
 - e. A \$1,176,500 grant to fund downpayment assistance loans to first-time homebuyers in the Villa Fontana condominium development.
- 2) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:
 - a. Increase the estimate for Earned Revenue by \$2,820,000

- b. Increase the CalHome (BEGIN) Program project by \$2,820,000

OUTCOME

The City of San José will receive \$8,396,500 in State grant funds that will be used to provide low-interest mortgage loans to low- and moderate-income families in targeted new housing communities in San José. In addition to providing families with homeownership opportunities, these funds will help stimulate the local housing market.

BACKGROUND

Proposition 1C was approved by the voters in November 2006; one of the programs funded is the State's BEGIN program. HCD has made BEGIN funds available to cities and counties that have significantly contributed to the reduction of housing development costs to builders through various regulatory relief and development incentives such as modification of density standards, flexible parking standards, streamlined project review, and fee waivers or deferrals. Since the inception of the BEGIN Program in 2002, the Department of Housing has applied for and received over \$19.4 million in competitive grant funding from HCD, making the City of San José the largest beneficiary of BEGIN program funds in the State. Thus far, approximately 257 first-time homebuyers have received a BEGIN program loan from the City of San José.

The most recent BEGIN Notice of Funding Availability was published in April, 2010. In response, the Department of Housing submitted five applications. As of the date of this memo, formal award letters have been received for two grants totaling \$2,820,000. HCD continues to review applications in the order in which they are received and Housing Department staff is working closely with HCD to help expedite the review of the remaining three applications. It is anticipated that formal award letters for the remaining three projects will be received by early August. If all five of the applications are approved, the total amount of new grant revenue will total \$8,396,500 and will be used to assist approximately 99 first-time homebuyer households in the following new for-sale developments: (1) The 88; (2) The Works; (3) Axis; (4) 360 Residences; and (5) Villa Fontana. HCD requires approval by the City Council to accept these new funds. Upon City Council approval, the Director of Housing will be authorized to execute five new BEGIN grant agreements, and related documents or amendments with HCD.

ANALYSIS

Upon approval of this memo, the City will use the BEGIN funds to make deferred payment loans for low- and moderate-income first-time homebuyers purchasing homes in the new housing developments for which the City receives a BEGIN award. Maximum BEGIN program loan amounts can be as high as 20% of the sales price, providing much needed gap financing for first-time homebuyer households. Further, all BEGIN loans are structured as 3% simple-interest loans, with no monthly payment requirements for thirty years, or until the home is sold or transferred to

an ineligible household. BEGIN program grants will continue to be offered to income-eligible families until either the grant funds are depleted, or three years from the date of the award, whichever occurs first.

Under the BEGIN Program, the City may retain program income from loan repayments and any interest earned on these funds. This income may be reused only for future first-time homebuyer downpayment assistance loans for persons or families of low-or moderate income.

NEW DEVELOPMENTS:

The 88:

The 88 is a 197-unit high-rise condominium located in the San Antonio Redevelopment Project Area in downtown San José. The \$2.0 million in BEGIN funds will be used to assist twenty-two low- and moderate-income first-time homebuyers purchase a market rate home within that development. The project was developed by Wilson, Meany, and Sullivan, LLC in late 2008. The 88 is over 50% sold, and Pacific Marketing Associates is currently marketing and selling the remaining units.

The Works:

The Works is a 74-unit condominium project located in the Spartan/Keyes Strong Neighborhoods Initiative (SNI) Area. The project was subject to the City's Inclusionary Housing Policy and all designated affordable units have sold. The \$820,000 in BEGIN funds will be used to assist homebuyers of the remaining ten market rate units purchase a home within this project. The project was developed by Barry Swenson Builders in December 2006.

Axis:

The Axis is a 329-unit high-rise residential condominium development located in the Almaden Gateway Redevelopment Project Area in Downtown San José. The \$2.4 million in BEGIN funds will be used to assist approximately thirty low- and moderate-income first-time homebuyers purchase a market rate home within that development. The project was sponsored by KT Properties, Inc., and completed construction in 2008. The project is approximately 40% sold, and Pacific Marketing Associates is marketing the remaining units.

360 Residences:

The 360 Residences is a 213-unit high-rise condominium development located in the Market Gateway Redevelopment Project Area in Downtown San José. The \$2.0 million in BEGIN funds will be used to assist approximately twenty-four low- and moderate-income first-time homebuyers purchase a market rate home within that development. The project was developed by Mesa Development, LLC in 2009. The Mark Company is helping to market and sell the units.

Villa Fontana:

Villa Fontana is a 91-unit condominium development located in the Fruitdale Station Neighborhood Business District on the corner of Fruitdale Avenue and Southwest Expressway in District 6. The \$1,176,500 in BEGIN funds will be used to assist approximately thirteen low- and moderate-income first-time homebuyers purchase a market rate home within that development.

The project was sponsored by Hudson Companies, and completed construction in early 2009. The project is approximately 75% sold, and the requested BEGIN funds will help homebuyers with downpayment assistance so that they can afford to purchase the remaining units.

EVALUATION AND FOLLOW-UP

Upon approval of this memo, staff from the Department of Housing will work with HCD to ensure that all of the listed grants are awarded and to negotiate and execute the BEGIN grant awards and related documents and amendments.

POLICY ALTERNATIVES

To arrive at this proposal, staff also considered the following option:

Alternative #1: *Do not accept the BEGIN grant funds.*

Pros: Each of the developers is already reaching out to prospective low- and moderate-income homebuyers, and some income-eligible buyers may be able to access sufficient mortgage financing without additional funding from the City.

Cons: Declining to accept the funds will disrupt the ongoing marketing efforts that are already targeting low- and moderate-income families. Further, the BEGIN funds will provide significant financial assistance to first-time homebuyers in need of downpayment assistance.

Reasons for Not Recommending: Despite the housing market downturn, the City of San José remains one of the most expensive housing markets in the nation and demand for new housing units continues in some communities is still slower than expected. Providing homebuyers with much needed financial assistance will help increase affordability for low- and moderate-income first-time homebuyer households and help stimulate home sales of new construction condominiums in and near Downtown San José. Further, future BEGIN loan repayments may be kept by the City to help create a sustainable revolving loan program that can be used to assist future first-time homebuyers.

PUBLIC OUTREACH/INTEREST

This action meets Public Outreach Criterion #1. This memo will be posted to the City Council Agenda for August 10, 2010, via the City's website. In addition, the developers with new construction for-sale housing projects have been notified of these current and future grant funds and are working closely with staff from the Department of Housing to market these funds to homebuyers in an effort to sell their units. Housing Department staff has also notified prospective

homebuyers and the City's primary housing partners, such as Neighborhood Housing Services of Silicon Valley (NHSSV), the Santa Clara County Association of Realtors (SCCAOR), and the Housing Trust of Santa Clara County (HTSCC) of this agenda item via a posting on the Department of Housing website at www.sjhousing.org, and various outreach and training events.



Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**



Criterion 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**



Criterion 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This recommendation is consistent with the City's Council-approved Five-Year Housing Investment Plan for FY 2007/08-FY 2011/12, which describes the process of applying for State funds through the BEGIN Program in order to provide second mortgage assistance for first-time homebuyers in newly constructed for-sale housing developments.

COST SUMMARY/IMPLICATIONS

The recommendations in this memorandum will recognize and appropriate funds for two of the five grants awarded totaling \$2,820,000 from the California Department of Housing and Community Development. The grant funding will provide low-interest mortgage loans to low- and moderate-income families in targeted new housing communities in San José.

BUDGET REFERENCE

Not applicable.

CEQA

Not a project, File No. PP10-066(e), Services that involve no physical changes to the environment.

HONORABLE MAYOR AND CITY COUNCIL

Due Date: July 19, 2010

Subject: BEGIN Program Grants

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/s/

LESLYE KRUTKO
Director of Housing



JENNIFER A. MAGUIRE
Budget Director

I hereby certify that there will be available for appropriation in the Multi-Source Housing Fund in the fiscal year 2010-2011 monies in excess of those heretofore appropriated there from, said excess being at least \$2,820,000.



JENNIFER A. MAGUIRE
Budget Director

For questions, please contact Leslye Krutko, Director of Housing, at 408.535.3851



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Albert Balagso

SUBJECT: SEE BELOW

DATE: 07-22-10

Approved

Date

7-22-10

COUNCIL DISTRICT: 6

SNI AREA: Edenvale/Great Oaks

SUBJECT: GRANT APPLICATION FOR THE DEVELOPMENT OF CONSTRUCTION DOCUMENTS FOR LOS GATOS CREEK REACH 5B/C (SAN CARLOS STREET TO MONTGOMERY AVENUE) TRAIL PROJECT

RECOMMENDATION

Adopt a resolution authorizing the City Manager, or designee, to:

1. Submit a grant application in the amount not to exceed \$1,250,000 to the Santa Clara Valley Transportation Authority ("VTA") under the VTA Bicycle Expenditure Program ("BEP") for the development of construction documents for the Los Gatos Creek 5B/C (San Carlos St. to Montgomery Ave.) Trail project ("Project") with a local match requirement of \$320,000; and
2. Accept any grant funds awarded to the City and negotiate and execute all necessary documents related to any grant funding from the Metropolitan Transportation Corporation ("MTC") to the City for the Project; and
3. Keep the Los Gatos Creek 5B/C trail segment between San Carlos Street and Montgomery Avenue open 24 hours a day, seven days a week once the trail segment is constructed, for the life of the trail, except during emergencies, maintenance, and unforeseeable circumstances, as required by VTA/MTC as part of the grant requirement.

OUTCOME

City Council approval of the recommended actions will authorize the City Manager, or designee, to apply for BEP grant funding, accept any grant funding, and negotiate and execute a grant agreement (and other necessary documents) with the MTC for the Project. If funded, the Project would result in completion of 95% construction documents including the preparation of all required studies and documentation to secure National Environmental Protection Act (NEPA) clearance. In addition,

City Council approval of the recommended actions will keep the trail segment open 24 hours a day, seven days a week, in compliance with the requirement for receipt of BEP grant funding once the trail segment is constructed in the future. Grant guidelines also require the City to provide a local match of at least 20% or \$320,000 of the total Project cost of \$1,600,000. If the City is awarded grant funds in the full amount requested, and upon appropriation of funds to advance and match the grant funds through the annual budget process or through a separate Council memorandum, the City would have sufficient funds to proceed with the Project. Construction of the Project would occur only after an additional source of funding for construction is identified.

EXECUTIVE SUMMARY

Approximately \$4.4 million is being made available by MTC to VTA for projects in the Santa Clara Countywide Bicycle Plan. VTA is seeking grant applications in order to program these funds.

Staff is recommending the submission of an application for grant funds in the amount not to exceed \$1.25 million for the Los Gatos Creek Reach 5B/C (San Carlos St. to Montgomery Ave.) trail project to complete 95% construction documents. This project has been carefully selected based on the grant guidelines and provides the City of San José an excellent opportunity to secure grant funding to complete the trail segment. If awarded, grant funds together with a City contribution of \$350,000 will result in the completion of 95% construction documents, including the preparation of all required studies and documentation to secure National Environmental Protection Act (NEPA) clearance.

BACKGROUND

In October 2000, the VTA Board of Directors adopted the Santa Clara Countywide Bicycle Plan and the companion Bicycle Expenditure Plan. The BEP provides the funding mechanism for Bicycle Plan implementation. The BEP is a consolidation of State and Federal funds available to the region over time and are suitable for development of pedestrian and bicycle projects.

VTA is currently working to program funds for eligible BEP projects. VTA is expected to receive federal Congestion Management and Air Quality (CMAQ) funds for projects included in the BEP. These funds are available through MTC's Regional Bicycle Program (RBP). VTA is administering the grant while the grant agreement will be signed with the MTC.

The current level of funding available to the region is \$4,452,480 and will be available in FY2010-2011 and FY2011-2012.

The BEP list of projects is developed approximately every three years in conjunction with the VTA's Valley Transportation Plan (most currently; VTP 2035). The listed projects are a result of a review of local agency proposals and are ranked by VTA staff. Scoring occurs in compliance with the VTA Board-adopted BEP Evaluation Criteria using a selection committee.

Los Gatos Creek Trail is included in the VTA's BEP list. The City Council approved the Los Gatos Creek Trail Reach 5 Master Plan in May 2008. The plan defined the final reach of the popular trail system as it links mid-town to downtown's Guadalupe River Park. The trail is to be developed within a highly urbanized and constrained site. The master plan acknowledged the complexity of the project by defining sub-reaches to be developed over time.

- Reach 5a (Auzerais Avenue to San Carlos Street) includes a paved trail and riparian landscaping. It was built as part of the KB Homes' Del Monte development and is currently open to the public.
- Reach 5b/c (San Carlos Street to Montgomery Street) includes an under-crossing beneath an active railway and the San Carlos Street bridge structure and a paved trail along the northwestern bank of the creek. The land along this segment is owned by the Santa Clara Valley Water District and will require negotiations of a Joint Trail Agreement with the district. Its design and environmental documents is the subject of this funding request.
- Reach 5d (Montgomery Street to Santa Clara Street-Guadalupe River Park) includes a paved trail and landscaping upon lands currently occupied by private development. Potential and planned projects such as the ballpark, Autumn Street widening, and BART development create an opportunity for trail development but currently present uncertainty and makes a grant application difficult to pursue at this time.

A map of the Los Gatos Creek Trail Reach 5 is attached as Attachment 1.

ANALYSIS

The BEP program is a competitive grant program. Staff recommends a single and compelling proposal as the best means of securing funds. The Los Gatos Creek Trail has been master planned and incremental development from Auzerais Avenue to San Carlos Street has already been completed. The trail system's linkage between Willow Glen/Mid-Town and Downtown aligns well with the VTP's transportation focus.

VTA will be programming CMAQ funds for BEP projects. CMAQ funds are federal transportation funds. Among other criteria, MTC directs the use of CMAQ funds in accordance with federal guidelines. The MTC's guidelines require the Project to be open to the public 24 hours a day and be part of the Regional Bicycle Network.

In addition, MTC requires that bicycle projects:

- Create connections to the regional transit system.
- Provide access to and through the major central business districts of the region or sub region.
- Establish connections to regionally significant activity centers, including selected commercial districts, universities and community colleges, hospitals, regional parks, and recreational venues.

If funding is secured through this grant application, funds would be used to accomplish:

1. Development of 95% construction documents for:
 - trail under-crossings beneath railway trestle and San Carlos Street bridge,
 - ramping system leading to the under-crossings, and
 - development of new paved trail leading to Montgomery Avenue.
2. Preparation of all required studies and documentation to secure NEPA Clearance.

As part of the grant application process, the City is required to adopt a resolution (see attachment B) in substantially the same form as the sample resolution provided by the MTC and to make certain commitments, assurances, and certifications described in this memorandum and in the sample resolution.

Additionally, staff wishes to bring to the Council's attention the following grant requirements:

Requirement	Addressed in the following manner:
The City will complete the Project as described in the grant application.	It is the intent of the City to complete the Project.
City must execute the grant agreement within 60 days of award.	Staff will coordinate to execute the agreement within the stipulated time.
Project needs to have a completed E-76 (agreement) request submitted to Caltrans by April 1, 2012 and the E-76 approved by June 30, 2012.	Staff estimates that E-76 should be completed by April 1, 2012.
City is responsible for any increase in project cost.	City will address funding shortfall, if any, through local funding and other grant sources. Staff will notify the City Council if additional funding beyond the allocated budget will be required due to unforeseen circumstances.
City will advance its own funds to complete the project.	This is consistent with most grant programs. Funds to advance the cost of the project will be appropriated through the annual budget process or through a separate City Council memorandum.
Where applicable, the City will comply with all applicable laws and regulations affecting development projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and disabled access laws.	The Project design will be consistent with all known government regulations.
The Project must be open to the public 24 hours a day, seven days a week for the useful life of the Project, except during emergencies, maintenance, or unforeseeable circumstances.	<ul style="list-style-type: none"> ▪ See discussion below.

24 Hour Requirement

VTA developed a Countywide Bike Plan in 2008. During that process, City staff became aware of the agency's desire for 24/7 operation of all trail facilities. Staff participated in discussions and provided written comments to VTA about the likely challenges faced by local agencies if a change in operational hours was required. Many San José trails are within sensitive riparian environments where lighting is not permitted and can be far from urban street lighting. Many trails are not easily monitored because of their weaving alignments and heavy tree cover. City staff reported to the VTA that careful study would be required to evaluate risks associated with travel through dark spaces and potential costs of adding mitigating infrastructure and staffing that arise. City staffs' written comments are included in the Bike Plan, but the document includes a goal for establishment of guidelines for 24 hour trail access.

Staff believed that the Bike Plan's goals were to be implemented over time and that other agencies would offer insights on how to adequately address the issue. As part of this grant application, the VTA is stating that use of CMAQ funds requires that the City commit to 24/7 operations of the trail for the useful life of the trail, except during emergencies, maintenance, and unforeseeable circumstances. Although this grant is only for construction documents, VTA/MTC has indicated that even if future design and construction work were to be funded through alternate funding sources, the 24/7 operations requirement still applies.

Pursuit of CMAQ funds presents a financial risk for the Council to consider. If the recommendations in this memorandum are approved by Council and grant funding is awarded to the City, City will be required to enter into a written agreement with MTC without full knowledge of the future operational costs or liabilities associated with use of the trail for 24 hours. City trails are typically closed one hour after sunset to limit the public access to the trails at night where there are usually limited lighting. If the City is able to secure the grant, the proposed grant agreement will require the City to leave the trail segment open 24 hours and the City will not be able to install any signs along this segment that states the trail is closed one hour after sunset.

Although the Director of Parks, Recreation & Neighborhood Services has authority under Chapter 13.44 of the San José Municipal Code to adopt rules and regulations governing the public use of parks and trails, Staff is seeking City Council approval to keep the trail segment open 24/7, once it is constructed, since this is a shift from the City's standard rule of closing all parks and trails one hour after sunset and could raise various concerns due to noise and limited lighting along this trail segment. Specifically, the City is precluded from installing lights along the trail segment because it is mostly along the riparian corridor.

Staff has done some preliminary analysis of the potential concerns with 24 hour operation of this segment of the trail and believes implementing the following mitigating factors should alleviate some of the concerns:

- The trail segment would be designed such that the pavement shoulders would be striped to define the edge of bank where no lighting sources are nearby.

- Trail segment would have under-crossing illumination (lighting), if approved by applicable regulatory agencies.
- Staff would implement higher levels of tree pruning to maximize ambient light, if approved by applicable regulatory agencies.
- Certain part of trail segment is somewhat visible from three streets (San Carlos St., Montgomery Ave., and Park Ave.).
- Certain part of the trail segment is adjacent to a proposed ball park, Diridon Station, HP Pavilion, proposed high speed rail and planned BART extension which are expected to provide some ambient lighting.

PRNS staff worked with the Police Department to assess the possibility of additional police monitoring on the proposed trail segment during the late evening hours. It has been determined that with the recent budget cuts and possibility of losing sworn police officers in the budget process, additional monitoring by the police officers is not feasible.

Staff has discussed the possibility of forming a Technical Advisory Committee (TAC) during fiscal year 2010-11 to study the issue and provide the Council with a more precise understanding of liabilities and associated costs for mitigation. Representatives from various City departments would participate to define additional mitigation and staff would make appropriate recommendations to Council at a later date.

In addition, the Project will be built on land owned by the Santa Clara Valley Water District (SCVWD). Staff has discussed the 24/7 operational issue with SCVWD staff. SCVWD has raised certain safety issues with operation of the trail at night due to limited lighting along many parts of the trail segment. The parties agreed that SCVWD will be part of the TAC and the parties will address the issue through a Specific Joint Project Agreement that will be prepared at a later date in accordance with the Joint Collaborative Action Plan Agreement approved by the parties in 2003. The Joint Collaborative Action Plan Agreement sets forth the framework for the City and SCVWD to jointly develop trail projects in the City. However, the agreement is silent on rules and regulations of trails and leaves those issues to be addressed in specific agreements for each project that are negotiated and executed under the authority delegated to the City Manager as part of the approval of the Joint Collaborative Action Plan in 2003.

It should be noted that SCVWD reserves the right under the Joint Collaborative Action Plan to request the City to remove part or the entire trail segment in order for them to construct flood control improvements. In such a case, City would be required to construct an alternate trail alignment to meet the grant requirement of VTA/MTC.

At this time, staff understands that the 24/7 requirement is placed upon grant sources derived from CMAQ funds and that the requirement does not impact projects already underway and supported by other federal funding sources (i.e. SAFETEA-LU funds for Lower Guadalupe River, Coyote Creek, Guadalupe Creek and Bay trails).

EVALUATION AND FOLLOW UP

Grant funds, if awarded, will be provided to the City on a reimbursement basis. If the City is awarded the grant for the Project, staff will seek the required appropriation actions through the annual budget process or a separate City Council memorandum to provide "fronting" funds as well as City funds to complete the Project, currently estimated to be \$1.6 million (assuming a grant award of \$1.25 million and a City match of \$350,000).

POLICY ALTERNATIVES

Alternative #1: Do Nothing

Pros: Does not require staff time in the preparation of an application package.

Cons: Inconsistent with City Council's approach of seeking grant funds to develop projects when feasible.

Reason for not recommending: The project is well suited for this funding source and the City would lose an opportunity to seek and receive local grant funding that will help build this Project.

PUBLIC OUTREACH/INTEREST

Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

Criterion 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

Criterion 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The proposed Council action meets criterion 1. This memorandum will be posted on the City Council's Agenda website prior to the August 10, 2010 City Council meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, the Planning, Building and Code Enforcement Department, Risk Management and the Public Works Department.

FISCAL/POLICY ALIGNMENT

This Project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

Based on the most recent cost estimates, a total of \$1,600,000 is anticipated to be required to complete 95% design documents for the Project. This grant application is seeking approximately 78% or \$1,250,000 in funding for the Project. The grant program requires at least 20% local match (\$320,000). Staff will likely recommend that a non-federal local match of \$350,000 or (approximately 22%) be allocated from the Park Trust Fund collected within the three mile nexus of the Project.

The awards are expected to be ratified by the MTC in August 2010. Upon award of the grant, these funds would be recommended to be appropriated as part of the annual budget process or through a future City Council memorandum.

Since grant awards are disbursed on a reimbursement basis, funds would need to be "fronted" from a City source. Therefore, a recommendation will be brought forward as part of a future annual budget process, or through a future City Council memorandum to appropriate up to \$1,600,000 from eligible sources likely within the Park Trust Fund to "front" grant funds in the amount of \$1.25 million as well as to provide the additional \$350,000 needed to complete the Project.

After construction of the Project, the operations and maintenance costs are expected to be \$4,820 per year for maintenance and \$880 per year for the Park Rangers. This funding was included in the 2011-2015 General Fund Forecast, released on February 26, 2010. But given the 24/7 operation of the trail segment, the operations and maintenance costs may be higher. Staff will request additional assets for the budget year the trail segment will become operational and will include additional operations and maintenance needs specified by the TAC.

BUDGET REFERENCE

Not Applicable

CEQA

Mitigated Negative Declaration, File No. PP06-112.

HONORABLE MAYOR AND CITY COUNCIL

07-22-10

Subject: Grant Application for Development of Construction Documents for Los Gatos Creek Reach 5B/C Trail Project

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/s/

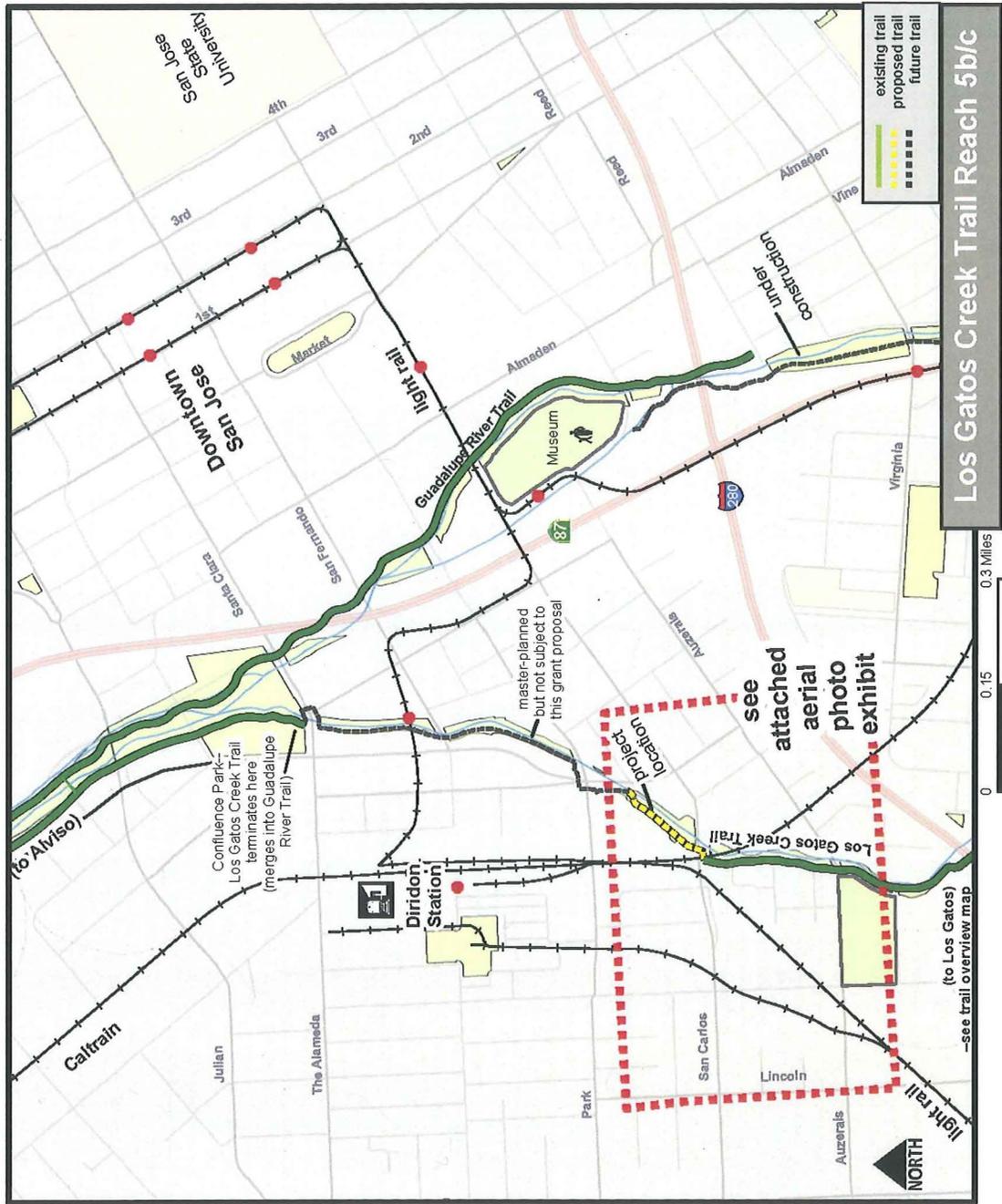
ALBERT BALAGSO
Director of Parks, Recreation and
Neighborhood Services

For questions please contact Rajesh Adoni, Senior Analyst, at 408-793-4184.

Attachment A: Map of Trail

Attachment B: Sample Resolution

Attachment A.1 Map View



Attachment B: Resolution of Local Support

STP/CMAQ Funding **Resolution No.**

Authorizing the filing of an application for federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) funding and committing the necessary non-federal match and stating the assurance to complete the project

WHEREAS, CITY OF SAN JOSE (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$1,250,000 in funding from the federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) program for the Los Gatos Creek Reach 5b/c Trail (herein referred to as PROJECT) for the MTC Resolution, No. 3925, New Federal Surface Transportation Act (FY 2009-10, FY 2010-11 and FY 2011-12) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming (herein referred to as PROGRAM); and

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA) (Public Law 109-59, August 10, 2005) authorized the Surface Transportation Program (23 U.S.C. § 133) and the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) through September 30, 2009; and

WHEREAS, SAFETEA has been extended through December 31, 2010 pursuant to Public Law 111-147, March 18, 2010 and may be subsequently extended pending enactment of successor legislation for continued funding; and

WHEREAS, pursuant to SAFETEA, and the regulations promulgated there under, eligible project sponsors wishing to receive federal Surface Transportation Program and/or Congestion Mitigation and Air Quality Improvement Program (STP/CMAQ) funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, the Metropolitan Transportation Commission (MTC) is the MPO for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of STP/CMAQ funds; and

WHEREAS, CITY OF SAN JOSE is an eligible project sponsor for STP/CMAQ funds; and

WHEREAS, as part of the application for STP/CMAQ funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- 1) the commitment of necessary local matching funds of at least 20%; and
- 2) that the sponsor understands that the STP/CMAQ funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional STP/CMAQ funds; and

- 3) that the project will comply with the procedures specified in Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- 4) the assurance of the sponsor to complete the project as described in the application, and if approved, as included in MTC's TIP; and
- 5) that the project will comply with all the project-specific requirements as set forth in the PROGRAM.; and
- 6) that the project (transit only) will comply with MTC Resolution No. 3866, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region.

NOW, THEREFORE, BE IT RESOLVED that the SAN JOSE CITY COUNCIL is authorized to execute and file an application for funding for the PROJECT under the Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement Program (CMAQ) of SAFETEA, any extensions of SAFETEA or any successor legislation for continued funding; and be it further

RESOLVED that the SAN JOSE CITY COUNCIL by adopting this resolution does hereby state that:

1. CITY OF SAN JOSE will provide \$350,000 in non-federal matching funds; and
2. CITY OF SAN JOSE understands that the STP/CMAQ funding for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional STP/CMAQ funding; and
3. CITY OF SAN JOSE understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
4. PROJECT will be implemented as described in the complete application and in this resolution and, if approved, for the amount programmed in the MTC federal TIP; and
5. APPLICANT (for a transit project only) agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866; and
6. CITY OF SAN JOSE and the PROJECT will comply with the requirements as set forth in the program; and therefore be it further

RESOLVED that APPLICANT is an eligible sponsor of STP/CMAQ funded projects;

and be it further

RESOLVED that APPLICANT is authorized to submit an application for STP/CMAQ funds for the PROJECT; and be it further

RESOLVED that there is no legal impediment to CITY OF SAN JOSE making applications for the funds; and be it further

RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of CITY OF SAN JOSE to deliver such PROJECT; and be it further

RESOLVED that SAN JOSE CITY COUNCIL authorizes its City Manager or designee to execute and file an application with MTC for STP/CMAQ funding for the PROJECT as referenced in this resolution and negotiate and execute any documents to accept grant funding for the PROJECT; and be it further

RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution and to include the PROJECT, if approved, in MTC's TIP.

Approved and adopted the _____ day of _____, 20_____

I, the undersigned, hereby certify that the foregoing Resolution Number _____ was duly adopted by the SAN JOSE CITY COUNCIL following a roll call vote:

Ayes:

Noes:

Absent:

(Clerk or Board Secretary)