



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Norberto Duenas

SUBJECT: SEE BELOW

DATE: 05-31-11

Approved

Date

6/3/11

COUNCIL DISTRICT: 4

SUBJECT: GRANT AGREEMENT WITH SANTA CLARA VALLEY WATER DISTRICT FOR THE PENITENCIA CREEK REACH 1B PROJECT

RECOMMENDATION

Adopt a resolution authorizing the City Manager to accept, negotiate, and execute a grant agreement with the Santa Clara Valley Water District (SCVWD) in the amount of \$300,000 for the Penitencia Creek Reach 1B (Dorel Drive to Noble Avenue) Trail project ("Project") with a City contribution of \$1,200,000 and to make the required commitments and assurances as set forth in this memorandum.

OUTCOME

Approval of the recommendation will allow for the construction of the Penitencia Creek trail segment between Dorel Drive and Noble Avenue that will provide the community with a defined pedestrian and bicycle access along the creek. The 0.5 mile project extends the existing Penitencia Creek trail system.

BACKGROUND

On October 31, 2006, the City Council approved the master plan for the Penitencia Creek Trail from Alum Rock Park to Noble Drive (Reach 1).

On October 30, 2007, the City Council adopted the Green Vision, a 15-year plan to transform San José into a world center of Clean Technology innovation, promote cutting-edge sustainable practices, and demonstrate that the goals of economic growth, environmental stewardship and fiscal responsibility are inextricably linked. Goal 10 of the Vision is to provide a 100-mile network of interconnected trail systems.

On December 8, 2009, the City Council adopted an update to the Greenprint, a 20-Year Strategic Plan for Parks and Community Facilities and Programs. The plan identified a goal of developing a 100-mile trail network. The Penitencia Creek Trail system is identified as one of the 35 trail systems located in the City that will lead to achieving this goal.

On February 23, 2010, the City Council authorized the City Manager to submit a grant application in the amount not to exceed \$300,000 to the SCVWD under the 2010 Trail and Open Space Grant program for the Project with a local contribution of \$100,000.

In June 2010, SCVWD formally notified the City that a \$300,000 grant would be made available for development of the Project.

ANALYSIS

The action recommended in this Council memorandum will allow for the construction of the Penitencia Creek trail segment between Dorel Drive and Noble Avenue. The Project is along Penitencia Creek and is part of an existing trail system that is substantially developed.

The Project is estimated to cost \$1.5 million per the Engineer's estimate. In the Proposed 2011-2012 Capital Budget, \$1.2 million has been recommended to be appropriated from the Sub Division Park Trust Fund (Fund 375) and \$300,000 from the Council District 4 Construction and Conveyance Tax Fund (Fund 381). Once grant funding is received through reimbursements, the grant amount will replenish Fund 381.

The SCVWD grant agreement requires the City to meet the following requirements:

Requirement	Addressed in the following manner:
The City shall complete the Project and submit final documentation within 5 years of Trail Grant Agreement.	Once funded, the Project will be managed by a team of Department of Public Works professionals that develop trail projects in a timely manner on a regular basis.
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 is consistent with all known government regulations.
The City shall complete CEQA within one year from the date of grant award.	CEQA was secured as part of the Council-adopted master plan (October 31, 2006).
The City shall operate and maintain the Project for a period of no less than 25 years.	The Greenprint defines the Penitencia Creek Trail alignment as a long-term element of the city's park system. The Water District's current plan for flood control along the creek

Requirement	Addressed in the following manner:
	includes a flood wall structure on the residential side of the roadway. This approach will not impact the trail alignment.
The City must certify adequate control and land tenure for the Project site.	Development of the trail will occur on City or Water District property. The City will process a Joint Trail Agreement as authorized by the Collaborative Action Plan for any required right of way.
The City shall use the property only for the purpose for which the grant was made.	The master planning process determined that the land is ideal for trail development. If awarded grant funds, the City will comply with the grant requirement for use of the property.

As part of the grant execution process, the City is required to adopt a resolution (see attachment) and to make certain commitments, assurances, and certifications described in this memorandum and the attached resolution.

EVALUATION AND FOLLOW UP

Staff will actively pursue reimbursement of grant funds for eligible expenditures in the amount of \$300,000. Staff will update the City Council and community on the status of this and other trail projects through the Trail Program’s Annual Report (released in July) and through an annual Trail Program update to the Parks and Recreation Commission (Winter) and Transportation & Environment Committee (Fall).

POLICY ALTERNATIVES

Alternative #1: Do not execute the grant agreement

Pros: Saves staff time and reduces the impact of new trail development to General Fund

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

Reason for not recommending: It is inconsistent with City Council policy not to make use of available grant funds and is inconsistent with the development plan outlined by the Greenprint Update (2009), and San José’s Green Vision.

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 June 21, 2011 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, 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.

The Project is referenced in the Council-adopted Greenprint Update (December 8, 2009, item 5.2). Delivery of the Project supports Goal 10 of the Council-adopted Green Vision (October 30, 2007, item 9.1) to provide a 100-mile Trail Network by 2022.

COST SUMMARY/IMPLICATIONS

Based on the most recent cost estimates, a total of \$1.5 million is anticipated to be required to complete the Project. The grant agreement will provide \$300,000 towards the Project. Construction of the Project will result in a 0.5 mile trail. The annual cost to maintain the trail would be \$4,000. These operating and maintenance costs were included in the 2012-2016 Five-Year Forecast and Revenue Projections for the General Fund, which was released February 2011, as the Forecast includes funding for 3.3 miles of new (unidentified) trails each year.

BUDGET REFERENCE

Fund #	Appn #	Appn Name	Total Appn	2012-16 Proposed Capital Improvement Program
375	NEW	Trail: Penitencia Creek Reach 1B (Noble Avenue to Dorel Drive)	\$1,200,000	V-477
381	NEW	Trail: Penitencia Creek Reach 1B (Noble Avenue to Dorel Drive)	\$300,000	V-341
Total Proposed Appropriation			\$1,500,000	

CEQA

Mitigated Negative Declaration, File No. PP06-111



NORBERTO DUENAS
Deputy City Manager/Acting Director of
Parks, Recreation and Neighborhood Services

For questions please contact Matt Cano, Division Manager, at 408-535-3580.

Attachment

ATTACHMENT

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO ACCEPT, NEGOTIATE, AND EXECUTE GRANT AGREEMENT WITH THE SANTA CLARA VALLEY WATER DISTRICT IN AN AMOUNT OF \$300,000, AWARDED UNDER THE TRAILS AND OPEN SPACE GRANT PROGRAM UNDER THE CLEAN, SAFE CREEKS AND NATURAL FLOOD PROTECTION PROGRAM OF 2000 FOR THE PENITENCIA CREEK REACH 1 (DOREL DRIVE TO NOBLE DRIVE) TRAIL PROJECT

WHEREAS, the Santa Clara Valley Water District has enacted the Trails and Open Space Grant Program, which provides funds for the acquisition and development of neighborhood, community, and regional parks and recreation lands and facilities; and

WHEREAS, the Santa Clara Valley Water District's Watershed Planning Unit has been delegated the responsibility for the administration of the grant program, and setting up necessary procedures; and

WHEREAS, said procedures established by the Santa Clara Valley Water District require the San José City Council ("Council") to certify by resolution the approval of the City of San José ("City") to apply for Trails and Open Space Grant Program funds; and

WHEREAS, the City will enter into a Grant Agreement with the Santa Clara Valley Water District for an amount of \$300,000; and

WHEREAS, the City will be required to provide \$1,200,000 and any other necessary funds to complete the Project;

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN JOSE HEREBY:

1. Approves the acceptance for local assistance funds from the Trails and Open Space Grant Program under the Clean, Safe Creeks and Natural Flood Protection Program of 2000; and
2. Certifies that the City of San José has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the City of San José has reviewed, understands and agrees to the Special Provisions, General Provisions and Financial Provisions contained in the Agreement; and
4. Authorizes the City Manager or Designee to negotiate and execute a grant agreement with the Santa Clara Valley Water District under the 2010 Trail and Open Space Grant program for the Penitencia Creek Reach 1 (Dorel Drive to Noble Drive) Trail project in an amount not to exceed \$300,000; and
5. Appoints the City Manager or Designee as agent to conduct all negotiations, execute and submit all documents including, but not limited to Applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

ADOPTED this _____ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS HAWKINS, MMC
City Clerk