



Sent to Council:

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AUG - 9 2011  
City Manager's Office

# Memorandum

**TO: HONORABLE MAYOR  
AND CITY COUNCIL**

**FROM: Leanna Bieganski**

**SUBJECT: Early Council Packet**

**DATE: August 9, 2011**

Approved

Date

8/9/11

## EARLY DISTRIBUTION COUNCIL PACKET FOR AUGUST 23, 2011

Please find attached the Early Distribution Council Packet for the August 23, 2011 Council Meeting.

### **3.x 2011 Redistricting Advisory Commission Report.**

#### **Recommendation:**

- (a) Conduct a Public Hearing on the 2011 Redistricting Advisory Commission recommendations
- (b) Accept the Redistricting Commission's report and recommendations dated May 31, 2011
- (c) Approve an ordinance establishing and declaring the Boundaries of the City Council Districts Using 2010 Federal Census Data as recommended by the Commission in its report and the Recommended Redistricting Plan, identified as "Plan B, dated May 23, 2011",
- (d) Direct City staff to take the necessary steps to implement changes to Council District boundaries as soon as possible

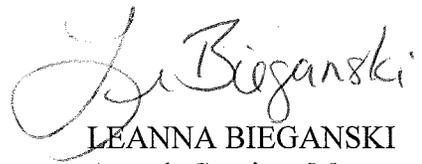
CEQA: Not a Project, File No. PP10-069, City administrative and organizational activities. (City Clerk)

**TO BE HEARD IN THE EVENING**

**4.x Netflix Participation Agreement.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute a Participation Agreement with Netflix that will provide funding to Netflix in an amount equal to 50% of the net new sales tax revenue received by the City from the Netflix operation in year one, 40% of the net new sales tax revenue received in year two, and 30% of the net new sales tax revenue received in year three, to be capped at a total of \$5,000,000 over three consecutive years. CEQA: Not a Project, File No. PP10-069(a), Participation Agreement. Council District 3. (Economic Development)

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

  
LEANNA BIEGANSKI  
Agenda Services Manager



# Memorandum

**TO: HONORABLE MAYOR  
AND CITY COUNCIL**

**FROM: DENNIS HAWKINS**

**SUBJECT: TRANSMITTAL OF THE 2011  
REDISTRICTING  
ADVISORY COMMISSION  
REPORT**

**DATE: August 9, 2011**

**COUNCIL DISTRICT: Citywide  
SNI AREA: All**

## **RECOMMENDATION**

1. Conduct a Public Hearing on the 2011 Redistricting Advisory Commission recommendations
2. Accept the Redistricting Commission's report and recommendations dated May 31, 2011
3. Approve an ordinance establishing and declaring the Boundaries of the City Council Districts Using 2010 Federal Census Data as recommended by the Commission in its report and the Recommended Redistricting Plan, identified as "Plan B, dated May 23, 2011",
4. Direct City staff to take the necessary steps to implement changes to Council District boundaries as soon as possible

## **BACKGROUND**

### **A. Charter Requirements**

Pursuant to Section 403, the Redistricting Advisory Commission was appointed by the City Council on January 11, 2011, effective February 1, 2011. The Commission is composed of one member nominated by each Councilmember to represent each Council District, with the Chair nominated by the Mayor. The Commission is responsible every ten years, following the federal decennial census, to review and recommend the appropriate boundaries for City Council districts based upon Federal Census data. The Commission must complete its work within 120-days of its effective date. The Commission included the following members:

<b>District</b>	<b>Member</b>
Mayor	Rich De La Rosa, Chair
1	Cynthia Cobb
2	Forrest Williams
3	Erik Schoennauer
4	Mike Flaughner
5	Andrea Flores Shelton
6	Christopher Schumb
7	Dustin De Rollo
8	Bonnie Mace
9	Judy Chirco, Vice-Chair
10	Dave Fadness

## **B. Summary of Commission's Workplan**

### **1. Commission Meetings and Public Hearings**

Beginning on February 7 and through May 26, 2011, the Commission met and deliberated 15 times, including 10 "public hearings" at locations in each Council district, for the purpose of obtaining public input, analyzing Census data and alternatives based upon available data, and compiling its recommendations. While the Charter only requires that three public hearings be conducted, the Commission members felt it important that a meeting be conducted in each Council District to allow maximum participation and access to its deliberations by the public. Meetings with the highest attendance included those in Districts 4, 6, and 8. Attendance at meetings varied from a low of approximately 15 to a high estimated to be between 200 – 300 residents. The public hearings and meetings were conducted at:

<b>District</b>	<b>Date</b>	<b>Location</b>
1	May 16	Cypress Senior Center
2	May 19	Edenvale Community Center
3	February 7, March 14, March 28, April 11, May 23 and May 26	City Hall
4	April 14	Berryessa Community Center
5	May 2	Mexican Heritage Plaza
6	May 9	Willow Glen Community and Senior Center
7	April 4	Seven Trees Community Center
8	April 25	Evergreen Community Center
9	April 18	Camden Community Center
10	May 18	Almaden Community Center

## **2. Commission Process**

Staff from the Offices of the City Clerk, City Attorney, and City Manager along with the Department of Planning, Building, and Code Enforcement, provided support for the Commission's meetings and public hearings. The Commission's activities were conducted in a way to maximize opportunities for City residents to engage in the process and express their opinions. Members of the public were given an opportunity to speak at all of the Commission's meetings and public hearings. The Commission heard testimony from over 100 individuals and one dozen organizations. Additionally, the Commission received and reviewed over 175 letters and emails from members of the public concerning redistricting issues.

The Commission utilized significant improvements in technology in its efforts to reach out to the community for input and to convey the redistricting options under consideration for public review and comment. A robust website was developed as the primary portal for the dissemination of technical information to the public for their review and comment. Agendas, minutes, and audio recordings of Commission meetings were posted on the City's website, as were custom maps, data tables and other technical analysis as requested by the Commission. Generally, such technical information was available on the website within 24 hours. Advertisements of the Commission's meeting schedule were published several times and in multiple languages using various media outlets, and *Redistricting 2011* was a "headline listing" on the main page of the City of San Jose website. The audio recordings of the meetings are currently available for review in the Office of the City Clerk and through the City website. In addition, all plans, plan exercises, and alternatives were displayed and written comments from the public were featured on the website: <http://www.sanjoseca.gov/redistricting/2011redistricting.asp>.

The Planning Department provided staff support for a "Redistricting Desk". Any Commissioner or interested member of the public could schedule an appointment with staff to review Census data and use the computer software programs to explore, model, and test different potential "population transfer areas" (PTAs) or other concepts. As a result, some transfer areas were developed and brought forward by Commissioners for formal consideration by the full Commission. In addition, the Redistricting Desk provided a convenient and accessible method for the public to obtain additional information regarding Census data and trends as well as to develop their own alternatives to present to the Commission as it reviewed various options. Staff assisted individuals in approximately 20 working sessions of 1-2 hours during the redistricting process.

## **3. Commission Guidelines**

The Commission adopted Guidelines, which included the principles set forth in the Mayor's memo of January 7, 2011 and the Council's action on January 11, 2011. The adopted guidelines are shown in the Commission's report on pages 4 – 6.

#### **4. Census Data**

The City Charter requires that the 10 Council Districts be as nearly equal in population as practicable, or each one tenth of the City's total population. According to the 2010 Census, the City's total population was 945,942 persons on April 1, 2010 (see Table 1, attached). This figure represents an increase of 51,000 persons from 2000, or 5.7%, during the 2000 - 2010 period (2000 population = 894,943 persons).

Staff brought to the Commission's attention the issue of population contained in areas that had recently been annexed to the City. The Commission determined that because Census data for those residents included in the recent annexations were readily available, it was appropriate to include them in the citywide population total. Therefore, after the 2010 data was released, the Commission voted to include in the City's population for redistricting purposes former unincorporated County pockets that had been annexed by the City after the Census count, but prior to the 2011 redistricting process. The Commission's action included only those pockets that were already annexed prior to the start of the Redistricting process, but not those pockets that were still in the process of annexation, but not finalized, such as Cambrian 36. It should be noted that these County pockets were located almost entirely within District 5, raising the population of District 5 by 6,647 persons.

The addition of the annexed areas brings the City's population to 952,612. Using this citywide population total, the mean population for San Jose Council Districts in 2011 is 95,261 persons. This is computed by dividing the total citywide population by the number of Council Districts (i.e.,  $952,612 \div 10 = 95,261$  persons per District).

#### **ANALYSIS**

During the last decade, all San Jose City Council Districts experienced some population growth. However, the growth was not evenly distributed throughout the City. The Commission's target was to be within 10% of the mean population. With a mean of 95,261 persons per District, the target population range is between 90,498 and 100,024. The recommended plan has a deviation of 9.7% and all Districts are within the target range.

The Commission's report, pages 10 – 15, contains detailed information regarding the recommended changes in District boundaries. Under the recommended plan, only 22,067 residents will change Council Districts, which represents just 2.3% of the City's population. By comparison, 38,937 residents changed Council Districts under the plan approved following the 2000 Census, or approximately 4% of the total population. Boundary lines changed in nine of the ten Council Districts, with only District 5 being unaffected.

In addition to a count of persons, the decennial Census provides data on major race groups and Hispanic ethnicity that are a key consideration in redistricting efforts. These data indicate that five (5) Council Districts have a single race/ethnic group majority (see Tables 4 and 5 of the Commission's report). Two Council Districts contain a Hispanic majority (District 3 = 52.7% and District 5 = 62.1%), two Districts contain an Asian majority (District 4 = 61.0% and District 8 = 53.2%) and one District contains a White majority (District 9 = 59.2 %.) It should be noted that for Census data provided for redistricting purposes, all Asian populations are totaled together (e.g. Chinese, Vietnamese, Korean, Japanese, etc.).

### **PUBLIC OUTREACH**

The Redistricting Advisory Commission conducted a series of 15 public meetings and hearings from February 7 through May 26, 2011. The Office of the City Clerk will post this item on the City's Website as part of the August 23, 2011 Council Agenda.

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

The transmittal of the Redistricting Advisory Commission's report and recommendations has been coordinated with the Offices of the City Clerk, City Attorney and City Manager, and the Department of Planning, Building, and Code Enforcement.

### **COST IMPLICATIONS**

No additional implementation costs are anticipated at this time. However, if there are any, staff will return to the Council for further action.

HONORABLE MAYOR AND CITY COUNCIL

**Subject:** Implementation of the 2011 Redistricting Advisory Commission Recommendations

August 8, 2011

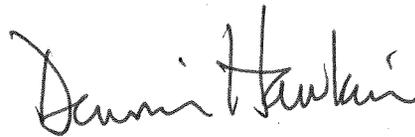
Page 6

**CEQA**

Not a project, File No. PP10-069, City administrative and organizational activities.

**SUMMARY**

The Redistricting Advisory Commission has concluded its work as prescribed by the City Charter and in conformance with applicable State and Federal law. Upon adoption of the recommended Ordinance, the new boundaries will be implemented within the Charter timeline. Overall, the objectives of the Commission are met and the desired outcomes have been achieved consistent with the Council's direction.



**DENNIS D. HAWKINS, CMC**  
CITY CLERK

For questions please contact Dennis Hawkins, City Clerk, at 408.535.1275 or Lisa Herrick, Senior Deputy City Attorney, at 408.535.1963.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JOSE  
ESTABLISHING AND DECLARING THE BOUNDARIES  
OF THE CITY COUNCIL DISTRICTS USING 2010  
FEDERAL CENSUS DATA**

**WHEREAS**, City Charter Section 403 establishes the Redistricting Advisory Commission (“Commission”), whose purpose shall be to study and make appropriate recommendations to the City Council about redistricting Council District boundaries; and

**WHEREAS**, on January 11, 2011, the City Council, pursuant to City Charter Section 403, appointed eleven (11) members to the Redistricting Advisory Commission, effective February 1, 2011, to study and make appropriate recommendations about redistricting Council District boundaries using the 2010 federal decennial census data; and

**WHEREAS**, the Commission met and deliberated for fifteen (15) meetings, including ten (10) public hearings, and issued its Redistricting Advisory Commission Report (“Report”) on May 31, 2011; and

**WHEREAS**, the City Council has considered the Report and recommendations of the Redistricting Advisory Commission and the testimony and discussion during a public hearing conducted on August 23, 2011; and

**WHEREAS**, the City Council, in establishing the boundaries of the Council Districts as provided in Section 403 of the City Charter, has established such Districts as nearly equal in population as practicable, and has given consideration to (a) natural boundaries, street lines and/or City boundaries; (b) geography; (c) cohesiveness, contiguity, integrity and compactness of territory; and (d) community of interests within each District;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:**

SECTION 1. The City Council of the City of San José hereby establishes and declares the ten (10) Council Districts of the City of San José and their boundaries to be as shown on that map entitled and identified as “Plan B, dated May 23, 2011,” attached as Exhibit 1 and on file in the Office of the City Clerk.

SECTION 2. Plan B incorporates the following district boundary changes:

District 1: Population Transfer Area 6-1(a), which is bounded by South Winchester Boulevard on the west, Interstate 280 on the north, Highway 17 on the east, and the San José municipal boundary (adjacent to the City of Campbell) on the south (Hamann Park neighborhood).

District 2: Population Transfer Area 2-10(ba), which is bounded by Blossom Avenue on the west, Calero Avenue on the north, Snell Avenue on the east, and the Almaden ridge on the south; and Population Transfer Area 7-2(b), which is bounded by Senter Road on the west, Sylvandale Avenue/Yerba Buena Road on the north, Highway 101 on the east, and Hellyer Avenue on the south.

District 3: Population Transfer Area 4-3(b), which is bounded by Highway 101 on the southwest, East Brokaw Road/Murphy Avenue on the northwest, and a combination of Ringwood Avenue, Sajak Avenue, Coyote Creek, and Berryessa Road on the northeast/southeast (specifically excluding the area further southeast, between Berryessa and Mabury Roads, and north of Highway 101 to Coyote Creek).

District 4: Population Transfer Area 4-3(b), as described above.

District 5: No change.

District 6: Population Transfer Area 6-1(a), as described above; Population Transfer Area 6-9(b), which is bounded by Old Almaden Road on the west, Foxworthy/Hillsdale Avenues on the north, Highway 87 on the east, and Capitol Expressway on the south; and Population Transfer Area 6-9(aaa), which consists of school grounds only (Bagby Elementary School and Grace Christian School) with no resident population.

District 7: Population Transfer Area 8-7(c), which is bounded by Highway 101 on the west, Capitol Expressway on the north, Silver Creek Road on the east, and Yerba Buena Road on the south (Dove Hill neighborhood); and Population Transfer Area 7-2(b), as described above.

District 8: Population Transfer Area 8-7(c), as described above.

District 9: Population Transfer Area 6-9(b), as described above; Population Transfer Area 6-9(aaa), as described above; and Population Transfer Area 10-9(ab), which is bounded by Highway 87 on the west, Hillsdale Avenue on the north, Canoas Creek on the east, and Capitol Expressway on the south (including the Colonial Manor and Mountain Shadows Mobilehome Parks).

District 10: Population Transfer Area 2-10(ba), as described above; and Population Transfer Area 10-9(ab), as described above.

RD:LH  
08-03-11

SECTION 3. Attached as Exhibit 2 is a table that uses 2010 census geography of census tracts and blocks to further describe the boundaries of the ten (10) Council Districts identified in Plan B.

SECTION 4. Ordinance No. 26466, passed for publication of title on August 21, 2001, is hereby repealed in its entirety.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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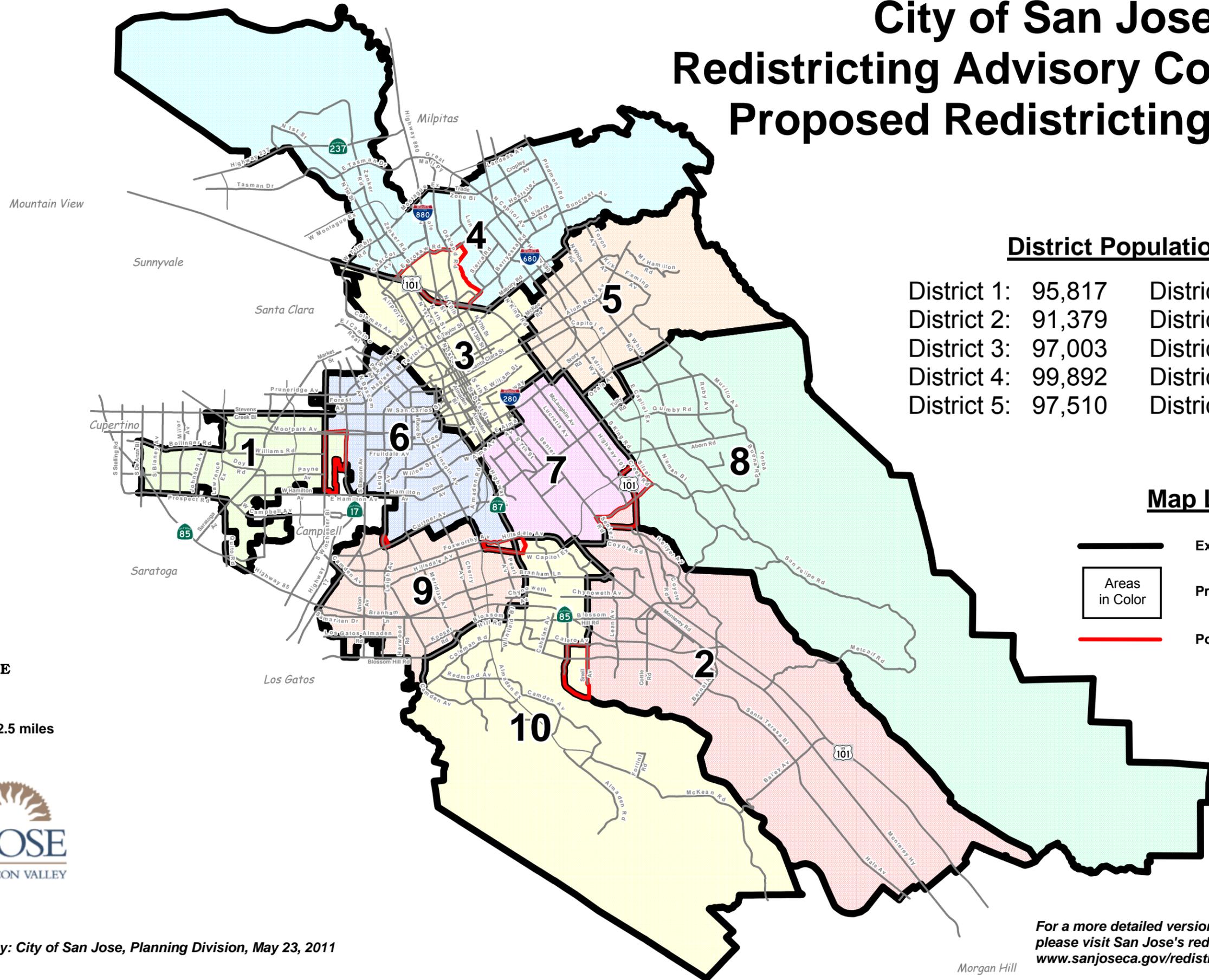
CHUCK REED  
Mayor

ATTEST:

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DENNIS D. HAWKINS, CMC  
City Clerk

# City of San Jose Redistricting Advisory Commission Proposed Redistricting Plan B



**District Population**

District 1: 95,817	District 6: 91,837
District 2: 91,379	District 7: 99,030
District 3: 97,003	District 8: 97,336
District 4: 99,892	District 9: 90,714
District 5: 97,510	District 10: 92,094

**Map Legend**

-  Existing District Boundary
-  Proposed District Boundary
-  Population Transfer Area



Scale: 1 inch = 2.5 miles



Map Prepared by: City of San Jose, Planning Division, May 23, 2011

For a more detailed version of redistricting plans and maps, please visit San Jose's redistricting website at: [www.sanjoseca.gov/redistricting/2011redistricting.asp](http://www.sanjoseca.gov/redistricting/2011redistricting.asp)

Morgan Hill

**City of San Jose  
Redistricting Advisory Commission  
Correspondence of Proposed Redistricting Plan B  
with 2010 Census Geography (Census Tracts and Blocks)**

Council District	Census Tracts			Census Blocks ("split tracts" only) <sup>1</sup>
<b>District 1</b>	5062.02	5064.02	5074.02	5064011001, 5064011002, 5064011003, 5064011004, 5064011005, 5064011006, 5064011007, 5064011008, 5064011009, 5064011010, 5064011011, 5064011012, 5064011013, 5064011014, 5064011015, 5064011016
	5062.03	5065.01	5078.07	
	5062.04	5066.01	5078.08	
	5063.01	5066.03	5079.03	
	5063.02	5066.04	5079.04	
	5063.04	5066.05	5079.05	
	5063.05	5066.06	5079.06	
	5064.01 (part) <sup>1</sup>	5067.01	5080.04	
<b>District 2</b>	5032.07 (part) <sup>1</sup>	5120.31	5120.43	5032071008, 5032071009, 5032071010, 5032071011, 5032071012, 5032071013, 5032071016, 5032071017, 5032102003, 5032102004, 5032102005, 5032102006, 5032102007, 5032102008, 5032102009, 5032102010, 5032102011, 5032102012, 5032102013, 5120011011, 5120011014, 5120011021, 5120011034, 5120011035, 5120011036, 5120011038, 5120011039, 5120011040, 5120011041, 5120011042, 5120011043, 5120011047, 5120011048, 5120011049, 5120011050, 5120011052, 5120011054, 5120011055, 5120011060, 5120012000, 5120012001, 5120012002, 5120012003, 5120012004, 5120012005, 5120012006, 5120012007, 5120012008, 5120012009, 5120012010, 5120012011, 5120013000, 5120013001, 5120013002, 5120013004, 5120013005, 5120212005, 5120212006, 5120212007, 5120212008, 5120212009, 5120212010, 5120212011, 5120212012, 5120212014, 5120212015, 5120212016, 5120212017, 5120212018, 5120212019, 5120212020, 5120212021, 5120212022, 5120212023, 5120213000, 5120213001, 5120213002, 5120213003, 5120213004, 5120213005, 5120213006, 5120213007, 5120213008, 5120213009, 5120213010, 5120214001, 5120214002, 5120214003, 5120214004, 5120214005, 5120214006, 5120214007, 5120214008, 5120214009, 5120214010, 5120214011, 5120214012, 5120214014, 5120214015, 5120214016, 5120214017, 5120214018, 5120214019, 5120214020, 5120214021, 5120214023, 5121001007, 5121001011, 5121001018, 5121001027, 5121001031, 5121001035, 5121001037, 5121001039, 5121001042, 5121001049, 5121001051, 5121001061, 5121001064, 5121001069, 5121001083, 5121001098, 5121001105, 5121001107, 5121001119, 5121001120
	5032.08	5120.32	5121.00 (part) <sup>1</sup>	
	5032.10 (part) <sup>1</sup>	5120.33	5123.11	
	5120.01 (part) <sup>1</sup>	5120.34		
	5120.17	5120.35		
	5120.21 (part) <sup>1</sup>	5120.36		
	5120.22	5120.37		
	5120.23	5120.38		
	5120.29	5120.39		
	5120.30	5120.42		

EXHIBIT 2

Council District	Census Tracts			Census Blocks ("split tracts" only) <sup>1</sup>
<b>District 3</b>	5001.00 5002.00 5003.00 (part) <sup>1</sup> 5008.00 (part) <sup>1</sup> 5009.01 5009.02 5010.00 5011.01 5011.02 5012.00	5013.00 5014.01 5014.02 5015.01 5015.02 5016.00 5017.00 5018.00 (part) <sup>1</sup> 5031.12 5031.13	5036.01 5037.09 5043.11 (part) <sup>1</sup> 5043.18 (part) <sup>1</sup> 5050.06 (part) <sup>1</sup> 5051.00 5052.03 (part) <sup>1</sup>	5003001001, 5003001013, 5003001014, 5003001015, 5003001016, 5003001021, 5003001025, 5003001033, 5003001038, 5003001039, 5003001040, 5003001041, 5003001049, 5003001059, 5003001064, 5003001065, 5003001066, 5003001070, 5008001000, 5008001004, 5008001011, 5008001013, 5008001018, 5008001022, 5008001027, 5008001031, 5008001033, 5008001039, 5008001040, 5008001043, 5008001048, 5008002001, 5008002003, 5008002008, 5008002009, 5008002010, 5008002011, 5008002012, 5008002013, 5008002016, 5008002017, 5008002018, 5008002019, 5008002020, 5008002021, 5008002023, 5008002024, 5008002025, 5018001000, 5018001002, 5018001003, 5018001007, 5018002000, 5018002001, 5018002002, 5018002003, 5018002004, 5018002005, 5018002013, 5043111004, 5043113007, 5043113009, 5043113010, 5043113011, 5043113012, 5043113013, 5043181028, 5043181037, 5043181039, 5043181041, 5043181042, 5043181043, 5043181047, 5043181048, 5043181049, 5043182000, 5043182001, 5043182002, 5043182003, 5043182013, 5043183000, 5043183001, 5043183002, 5043183003, 5043183004, 5043183007, 5043183008, 5043183009, 5043183010, 5043183011, 5043183012, 5043183013, 5043183014, 5043183015, 5043183016, 5043183017, 5043183018, 5043183019, 5043183020, 5043183021, 5043183022, 5043183023, 5050062067, 5052031008, 5052031009, 5052031010, 5052031011, 5052031012, 5052031013, 5052031014, 5052031015, 5052031016, 5052031030
<b>District 4</b>	5037.08 (part) <sup>1</sup> 5038.03 5038.04 (part) <sup>1</sup> 5042.01 (part) <sup>1</sup> 5043.07 5043.08 5043.11 (part) <sup>1</sup> 5043.14 5043.15 5043.16	5043.17 5043.18 (part) <sup>1</sup> 5043.19 5043.20 5043.21 5043.22 5043.23 5044.10 5044.11 5044.17	5046.02 5050.06 (part) <sup>1</sup> 5050.08 5050.09	5037081007, 5037082000, 5037082001, 5037082002, 5037082003, 5038041004, 5038041005, 5038041006, 5038041007, 5038041008, 5038043000, 5038043001, 5038043002, 5038043010, 5038043011, 5038043012, 5042011004, 5042011005, 5042011006, 5043111000, 5043111001, 5043111002, 5043111006, 5043111007, 5043111008, 5043111009, 5043111010, 5043111011, 5043111012, 5043111013, 5043111014, 5043111015, 5043111016, 5043111017, 5043111018, 5043111019, 5043112000, 5043112001, 5043112002, 5043112003, 5043112004, 5043112005, 5043112006, 5043112007, 5043112008, 5043112009, 5043112010, 5043112011, 5043112012, 5043112013, 5043112014, 5043112015, 5043112016, 5043112017, 5043112018, 5043112019, 5043113000, 5043113001, 5043113002, 5043113003, 5043113004, 5043113006, 5043113014, 5043113016, 5043181000, 5043181001, 5043181002, 5043181003, 5043181004, 5043181005, 5043181006, 5043181007, 5043181008, 5043181009, 5043181010, 5043181011, 5043181013, 5043181014, 5043181015, 5043181018, 5043181019, 5043181020, 5043181021, 5043181022, 5043181023, 5043181024, 5043181025, 5043181026, 5043181036, 5043181044, 5043181045, 5043181046, 5043181050, 5043181051, 5043181052, 5043181054, 5043181055, 5043181056, 5043181057, 5043182005, 5050061012, 5050061014, 5050061015, 5050061020, 5050061025, 5050061026, 5050061027, 5050061028, 5050062039, 5050062040, 5050062042, 5050062043, 5050062044, 5050062062, 5050062063, 5050062075

EXHIBIT 2

Council District	Census Tracts			Census Blocks ("split tracts" only) <sup>1</sup>
<b>District 5</b>	5033.12 (part) <sup>1</sup>	5037.10	5042.01 (part) <sup>1</sup>	5033123000, 5033123001, 5033123002, 5033123003, 5033123004, 5033123005, 5033123006, 5035041000, 5035041001, 5035041002, 5035041003, 5035041004, 5035041005, 5035042000, 5035042001, 5035042002, 5035042003, 5035042004, 5035042005, 5035042006, 5035042007, 5035043000, 5035043001, 5035043002, 5035043003, 5035043004, 5035044000, 5035044001, 5035044002, 5035044003, 5035091000, 5035091001, 5035091002, 5035091003, 5035091004, 5035091005, 5035091006, 5035091007, 5035091008, 5035091009, 5035092000, 5035092001, 5035092002, 5035092003, 5035092004, 5035092005, 5035092006, 5035112000, 5035112001, 5035112002, 5035112003, 5035112004, 5035112005, 5035112006, 5035112007, 5035112008, 5035112009, 5035112010, 5035112011, 5035112012, 5035112013, 5037081000, 5037081001, 5037081002, 5037081003, 5037081004, 5037081005, 5037081006, 5037081008, 5038041000, 5038041001, 5038041002, 5038041003, 5038041009, 5038041010, 5038041011, 5038041012, 5038041013, 5038041014, 5038041015, 5038041016, 5038041017, 5038041018, 5038041019, 5038042000, 5038042003, 5038042004, 5038042006, 5038042008, 5038042009, 5038042010, 5038042011, 5038042012, 5038042013, 5038042015, 5038042016, 5038042017, 5038043004, 5038043005, 5038043006, 5038043007, 5038043008, 5038043009, 5038043013, 5042011000, 5042011008, 5042011023, 5042011033, 5042011034, 5042011035, 5042012019, 5042013004, 5042013012, 5042013013, 5042013015, 5042013016
	5035.04 (part) <sup>1</sup>	5037.11	5042.02	
	5035.06	5037.12		
	5035.07	5037.13		
	5035.08	5038.02		
	5035.09 (part) <sup>1</sup>	5038.04 (part) <sup>1</sup>		
	5035.10	5039.02		
	5035.11 (part) <sup>1</sup>	5039.03		
	5036.02	5040.01		
	5037.03	5040.02		
	5037.07	5041.01		
	5037.08 (part) <sup>1</sup>	5041.02		

EXHIBIT 2

Council District	Census Tracts			Census Blocks ("split tracts" only) <sup>1</sup>
<b>District 6</b>	5003.00 (part) <sup>1</sup> 5004.00 5005.00 5006.00 5008.00 (part) <sup>1</sup> 5018.00 (part) <sup>1</sup> 5019.00 5020.01 5020.02 5021.01 5021.02 5022.01 5022.02	5023.01 5023.02 5024.00 5025.00 5026.01 5029.02 (part) <sup>1</sup> 5029.03 (part) <sup>1</sup> 5030.01 (part) <sup>1</sup> 5031.08 (part) <sup>1</sup> 5031.23 5052.03 (part) <sup>1</sup> 5057.00 5058.00	5059.00 5064.01 (part) <sup>1</sup>	5003002001, 5003002005, 5003002009, 5003002010, 5003002011, 5003002012, 5003002013, 5003002014, 5003002015, 5003002016, 5003002017, 5003002018, 5003002019, 5003002020, 5003002021, 5003002022, 5003002023, 5003002024, 5003002025, 5003002026, 5003002027, 5003002028, 5008002022, 5008002026, 5008002027, 5008002028, 5008002029, 5008002030, 5008002031, 5018001004, 5018001005, 5018001006, 5018001008, 5018001009, 5018001010, 5018001011, 5018001012, 5018001014, 5018001015, 5018001016, 5018002007, 5018002008, 5018002009, 5018002010, 5018002011, 5018002012, 5018003000, 5018003001, 5018003002, 5018003003, 5018003004, 5018003005, 5018003006, 5018003007, 5018003008, 5018003009, 5018004000, 5018004001, 5018004002, 5018004003, 5018004005, 5018004006, 5018004007, 5018004008, 5018004009, 5018004010, 5018004011, 5018004012, 5029021000, 5029021001, 5029021002, 5029021003, 5029021004, 5029021005, 5029021006, 5029021007, 5029021008, 5029021009, 5029021010, 5029021011, 5029021012, 5029021013, 5029021014, 5029021015, 5029021016, 5029021017, 5029021018, 5029021019, 5029021020, 5029021027, 5029031000, 5029031001, 5029031002, 5029031003, 5029031004, 5029031005, 5029031006, 5029031007, 5029031008, 5029031009, 5029031010, 5029031013, 5029031014, 5029031015, 5029031016, 5030011000, 5030011001, 5030011002, 5030011003, 5030011004, 5030011005, 5030011006, 5030011007, 5030011008, 5030011009, 5030011010, 5030011011, 5030011012, 5030011013, 5030011014, 5030011015, 5030011016, 5030011017, 5030011018, 5030011019, 5030013000, 5030013001, 5030013002, 5030013003, 5030013004, 5030013005, 5030013006, 5030013007, 5030013008, 5030013009, 5030013010, 5030013011, 5030013012, 5030013013, 5030013014, 5031081001, 5031081002, 5031081004, 5031081007, 5031081012, 5031082000, 5031082001, 5031082002, 5031082003, 5031082006, 5031082007, 5031082008, 5031082009, 5031082010, 5031082011, 5031082012, 5031082013, 5031082014, 5031082015, 5031082016, 5031082017, 5031082018, 5031082019, 5031082020, 5031082021, 5031082022, 5031082023, 5031082024, 5031082025, 5031083000, 5031083001, 5031083002, 5031083003, 5052031017, 5052031055, 5052031057, 5052032000, 5052032001, 5052032002, 5052032003, 5052032004, 5052032005, 5052032006, 5052032007, 5052032008, 5052032009, 5052032010, 5052032011, 5052032013, 5052032014, 5052032015, 5064012000, 5064012001, 5064012002, 5064012003, 5064012004, 5064012005, 5064012006, 5064012007, 5064012008, 5064012014, 5064012015, 5064012016
<b>District 7</b>	5031.05 5031.10 5031.11 5031.15 5031.17 5031.18 5031.21	5031.22 5032.04 5032.07 (part) <sup>1</sup> 5032.10 (part) <sup>1</sup> 5032.11 5032.12 5032.13	5032.14 5032.17 5032.18 5033.04 5033.37 5034.01 5034.02	5032071000, 5032071001, 5032071002, 5032071003, 5032071004, 5032071005, 5032071006, 5032071007, 5032072000, 5032072002, 5032072003, 5032072005, 5032072006, 5032072007, 5032072008, 5032072009, 5032101000, 5032101001, 5032101002, 5032101003, 5032101005, 5032101006, 5032101007, 5032101008, 5032101009, 5032101010

EXHIBIT 2

Council District	Census Tracts			Census Blocks ("split tracts" only) <sup>1</sup>
<p><b>District 8</b></p>	<p>5033.05 5033.06 5033.12 (part)<sup>1</sup> 5033.13 5033.15 5033.21 5033.22 5033.23</p>	<p>5033.24 5033.25 5033.26 5033.27 5033.29 5033.30 5033.31 5033.32</p>	<p>5033.33 5033.34 5033.36 5035.04 (part)<sup>1</sup> 5035.09 (part)<sup>1</sup> 5035.11 (part)<sup>1</sup> 5120.01 (part)<sup>1</sup> 5135.00</p>	<p>5033121001, 5033122009, 5033122015, 5033122017, 5033122019, 5033122021, 5033122022, 5033122023, 5033122024, 5033122025, 5033122026, 5033122027, 5033122028, 5033122029, 5033122030, 5033122031, 5033122032, 5033122033, 5033122035, 5033122041, 5035045000, 5035045001, 5035045002, 5035045003, 5035045004, 5035093000, 5035093001, 5035093002, 5035093003, 5035093004, 5035093005, 5035093006, 5035093007, 5035111000, 5035111001, 5035111002, 5035111003, 5035111004, 5035111005, 5035111006, 5035111007, 5035111008, 5120011000, 5120011001, 5120011026, 5120011028, 5120011029, 5120011030, 5120011031, 5120011032, 5120011033, 5120011061</p>
<p><b>District 9</b></p>	<p>5026.03 5026.04 5027.01 5027.02 5028.00 5029.01 5029.02 (part)<sup>1</sup> 5029.03 (part)<sup>1</sup> 5029.06 5029.07 5029.08 5029.09</p>	<p>5029.10 5030.01 (part)<sup>1</sup> 5030.02 5030.03 5031.08 (part)<sup>1</sup> 5031.16 (part)<sup>1</sup> 5068.02 5068.03 5068.04 5069.00 5119.16 (part)<sup>1</sup> 5120.05 (part)<sup>1</sup></p>	<p>5120.24 5120.27 (part)<sup>1</sup></p>	<p>5029021021, 5029021022, 5029021023, 5029021024, 5029021025, 5029021026, 5029021028, 5029022000, 5029022001, 5029022002, 5029022003, 5029022004, 5029022005, 5029022006, 5029022007, 5029022008, 5029022009, 5029022010, 5029022011, 5029022012, 5029022013, 5029022014, 5029022015, 5029022016, 5029022017, 5029022018, 5029022019, 5029022020, 5029022021, 5029022022, 5029022023, 5029022024, 5029022025, 5029023000, 5029023001, 5029023002, 5029023003, 5029023004, 5029023006, 5029023007, 5029023008, 5029023009, 5029023010, 5029023011, 5029023012, 5029023013, 5029023014, 5029023015, 5029023016, 5029023017, 5029023018, 5029023019, 5029023020, 5029023021, 5029023022, 5029023023, 5029023024, 5029031011, 5029031012, 5029031017, 5029031018, 5029031019, 5029031020, 5029031021, 5029031022, 5029031023, 5029031024, 5029031025, 5029031026, 5029031027, 5029032000, 5029032001, 5029032002, 5029032003, 5029032004, 5029032005, 5029032006, 5029032007, 5029032008, 5029032009, 5029032010, 5029032011, 5029032012, 5029032013, 5029032014, 5029032015, 5029032016, 5029032017, 5029032018, 5029032019, 5029032020, 5029032021, 5029033000, 5029033001, 5029033002, 5029033003, 5029033004, 5029033005, 5029033006, 5029033007, 5029033008, 5029033009, 5029033010, 5029033011, 5029033012, 5029033013, 5029033014, 5029033015, 5029033016, 5029033017, 5029033018, 5029033019, 5029033020, 5030012000, 5030012001, 5030012002, 5030012003, 5030012004, 5030012005, 5030012006, 5030012007, 5030012008, 5030012009, 5030012010, 5030012011, 5030012012, 5030012013, 5030012014, 5030013015, 5030013016, 5030013017, 5030013018, 5030013019, 5030013020, 5030013021, 5030013022, 5031084000, 5031084001, 5031084002, 5031084003, 5031084004, 5031084005, 5031084006, 5031161003, 5031161004, 5031161005, 5031161006, 5031161007, 5031161008, 5031161010, 5031161011, 5031161012, 5031161013, 5031161014, 5031161015, 5119161000, 5119161002, 5119161003, 5119161004, 5119161005, 5119161006, 5119161007, 5119161008, 5119161009, 5119161010, 5119161011, 5119161012, 5119161013, 5119161014, 5119161015, 5119161017, 5120051000, 5120051001, 5120051002, 5120051003, 5120051004, 5120051005, 5120051006, 5120051007, 5120052000, 5120052001, 5120052002, 5120052003, 5120052004, 5120052005, 5120053000, 5120053001, 5120053002, 5120053003, 5120053004, 5120053005, 5120054000, 5120054001, 5120054002, 5120054003, 5120054004, 5120054005, 5120054006, 5120054007, 5120054008, 5120054009, 5120054010, 5120271002, 5120271003, 5120271004, 5120271005, 5120271008</p>

EXHIBIT 2

Council District	Census Tracts			Census Blocks ("split tracts" only) <sup>1</sup>
<b>District 10</b>	5031.16 (part) <sup>1</sup>	5119.15	5120.45	5031161000, 5031161001, 5031161002, 5031161016, 5031161017, 5031161018, 5031161019, 5031161020, 5031161021, 5031161022, 5031161023, 5031161024, 5031161026, 5031161027, 5031162000, 5031162001, 5031162003, 5031162004, 5031162006, 5031162007, 5031162008, 5031162009, 5031162010, 5031162012, 5031162013, 5031162014, 5119161016, 5119162000, 5119162001, 5119162002, 5119162003, 5119162004, 5119162005, 5119162006, 5119162007, 5119162008, 5119162009, 5119162010, 5119162011, 5119162012, 5119162013, 5119162014, 5119162017, 5119162018, 5119162020, 5119162021, 5119162022, 5119162023, 5119162024, 5119162025, 5120055000, 5120055001, 5120055002, 5120055003, 5120055004, 5120055005, 5120055006, 5120055007, 5120055008, 5120055009, 5120055011, 5120055012, 5120055013, 5120055014, 5120055015, 5120055016, 5120055017, 5120055018, 5120055019, 5120055020, 5120055021, 5120211001, 5120211002, 5120211003, 5120211004, 5120211005, 5120211007, 5120211008, 5120211009, 5120211010, 5120211011, 5120212002, 5120212003, 5120272000, 5120272002, 5120272003, 5120272004, 5120272005, 5120272006, 5120272007, 5120272008, 5120272009, 5120272010, 5120272011, 5120272012, 5120272013, 5120272014, 5120272015, 5120272016, 5120272017, 5120272019, 5121001076
	5119.05	5119.16 (part) <sup>1</sup>	5120.47	
	5119.07	5120.05 (part) <sup>1</sup>	5120.52	
	5119.09	5120.19	5120.53	
	5119.10	5120.20	5121.00 (part) <sup>1</sup>	
	5119.11	5120.21 (part) <sup>1</sup>	5122.00	
	5119.12	5120.25		
	5119.13	5120.26		
	5119.14	5120.27 (part) <sup>1</sup>		

<sup>1</sup>"Split tracts" are those census tracts not wholly contained within a single City Council District, and are denoted in the census tracts listing with a "(part)" suffix. In these instances, for clear boundary identification, a complete listing and allocation of census blocks by City Council District is provided.



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** August 1, 2011

Approved

Date

8/8/11

**COUNCIL DISTRICT:** #3  
**SNI AREA:** N/A

**SUBJECT: PARTICIPATION AGREEMENT WITH NETFLIX**

## RECOMMENDATION

Staff recommends that the Council adopt a resolution authorizing the City Manager to negotiate and execute a Participation Agreement with Netflix that will provide funding to Netflix in an amount equal to 50% of the net new sales tax revenue received by the City from the Netflix operation in year one, 40% of the net new sales tax revenue received in year two, and 30% of the net new sales tax revenue received in year three, to be capped at a total of \$5,000,000 over three consecutive years.

## OUTCOME

Approval of this resolution will assist Netflix in relocating and improving the site for their new DVD operations at 1732 N. First Street. Netflix will invest \$1,600,000 in improvements at their new San José facility and will locate 225 jobs to San José.

## BACKGROUND

A top priority for San José is regaining jobs and City revenue as the economy recovers regionally and nationally. Staff are actively engaged with companies seeking to expand, consolidate or move to San José and have succeeded with companies like C8 Medisensors, Maxim Integrated Products, and SunPower in the last six months. San José offers quality real estate at a competitive cost and access to distinct benefits of a big city location, including proximity to transportation options, housing, workforce, and cultural/sporting amenities.

Netflix was founded in 1997 in Scotts Valley, California and moved to their current headquarters in Los Gatos two years later. Netflix is a subscription-based service that allows users to stream movies and TV shows over the internet. Through partnerships and continuous technological improvements, users either receive DVD's via mail or stream movies through their computers, TV's, digital recorders and game consoles.

In addition to San José, Netflix studied alternative locations to expand in Silicon Valley. Location of the Netflix DVD operation in San José is a unique opportunity among Driving Industry expansions because of the associated sales tax revenue.

### ANALYSIS

The Netflix headquarters is currently located at 100 Winchester Circle in Los Gatos. The company has a lease through 2018 for 86,200 square feet of office space that accommodates approximately 800 employees. Netflix is leasing 55,000 sq ft at 1732 N. First Street for an initial term of five years to relocate their DVD operation and alleviate overcrowded conditions in their Los Gatos office. The DVD operation will focus on growing the DVD service and is also responsible for software/R&D technological enhancements and improvements to the Netflix web site.

Initially the company will invest \$1,600,000 in lease improvements.

Netflix has requested financial assistance to assist with the necessary tenant improvements at 1732 N. First Street and to cover permitting fees associated with relocating the DVD operation. As a charter city under its municipal and police powers, the City of San José may provide financial assistance to Netflix in order to benefit the residents of San José. The Netflix facility will expand the number of jobs and the amount of General Fund revenue in San José and improvement of the site is necessary to accomplish these ends.

The City's proposed assistance to Netflix is as follows:

The Council may adopt a resolution authorizing the City Manager to negotiate and execute a Participation Agreement with Netflix that will provide funding to Netflix in an amount equal to 50% of the net new sales tax revenue received by the City from the Netflix operation in year 1, 40% of the net new sales tax revenue received in year two, and 30% of the net new sales tax revenue received in year three, to be capped at a total of \$5,000,000 over three consecutive years. For the remaining two years of Netflix's lease agreement, the City will retain 100% sales tax revenue allocated to the City from the Netflix operation.

It is important to note that the City can only rebate money to Netflix after Netflix generates sales tax revenue and the City receives the sales tax revenue. Netflix will submit copies of the State Board of Equalization Form 401 indicating the amount of sales tax collected for each quarter as evidence of payment of the sales tax. The City will confirm and validate the information submitted by Netflix. Such reimbursement will be made on a quarterly basis 60 days following

the quarter in which Netflix paid the State Board of Equalization. If no new sales tax revenue is generated from Netflix, the City would have no obligation to reimburse Netflix.

The final executed City documents will be filed with the City Clerk.

### **EVALUATION AND FOLLOW-UP**

City staff will monitor Netflix's expansion and employment contributions. City staff will provide progress updates to the Community and Economic Development Committee.

### **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)**

This item will be discussed at the August 23, 2011, City Council meeting.

### **COORDINATION**

This memo has been coordinated with the City Attorney's Office and the Budget Office.

### **FISCAL/POLICY ALIGNMENT**

The project aligns with the City's Economic Development Strategy #1 "Encourage Companies and Sectors that Can Drive the San José/Silicon Valley Economy and Generate Revenue for City Services and Infrastructure."

### **COST IMPLICATIONS**

Funding for this agreement will be generated from General Fund sales tax revenue recognized by the City from Netflix, up to a maximum of \$5,000,000 over a three-year period. If Netflix does not generate new sales tax revenue, there will be no reimbursement.

### **BUDGET REFERENCE**

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL  
Date: August 1, 2011  
Subject: Participation Agreement with Netflix, Inc.  
Page 4

**CEQA**

Not a Project, File No. PP10-069(a), Participation Agreement.

/S/  
KIM WALESH  
Director of Economic Development  
Chief Strategist

For questions please contact Nanci Klein, Division Manager, at 408-535-8184.