



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Julie Edmonds-Mares

**SUBJECT:** SEE BELOW

**DATE:** August 22, 2011

Approved

Date

8/26/11

**COUNCIL DISTRICTS: 5 and 8**

**SUBJECT: GRANT APPLICATIONS FOR CONSTRUCTION OF LOWER SILVER CREEK (ALUM ROCK AVE TO HIGHWAY 680) AND THOMPSON CREEK (TULLY ROAD TO ABORN ROAD) TRAILS AS PART OF THE ENVIRONMENTAL ENHANCEMENT AND MITIGATION PROGRAM**

## RECOMMENDATION

Adopt a resolution that:

- a. Authorizes the City Manager, or designee, to submit two grant applications in an amount not to exceed \$700,000 (\$350,000 per grant) to the State of California Natural Resources Agency under the Environmental Enhancement and Mitigation Program (EEMP) grant to supplement existing funding for the Lower Silver Creek Trail (Alum Rock to Highway 680) and Thompson Creek Trail (Tully Road to Aborn Road) (Projects) with no local match required; and
- b. Certifies that City agrees to comply with assurances in the EEMP application as set forth in this memorandum and the proposed resolution; and
- c. Certifies that the City has or will have sufficient funds to operate and maintain the Projects; and
- d. Delegates the authority to the City Manager, or designee, to accept any grant funding and conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Projects.

## **OUTCOME**

Council approval of the recommended actions will authorize the City Manager, or designee, to seek grant funding totaling \$700,000. The City Manager will have authority to accept grant funding award and negotiate and execute grant agreements, or other necessary documents with the California State Natural Resources Agency for the Project.

If successful, the grant awards will permit the City to construct:

- 1.0 mile of new trail along Lower Silver Creek (Alum Rock to Highway 680), and
- 0.6 miles along Thompson Creek (Tully Road to Aborn Road)

Staff will seek Council authorization for the award of construction contracts and related budget appropriation actions (if necessary) if either grant application is successful.

## **BACKGROUND**

In April 2000, Council approved the City's Greenprint. The Greenprint is a 20-year strategic plan for development of parks, community facilities, and programs. The Greenprint generally defines a 100-mile network as a primary Trail Program goal for the City. It identifies development of the Coyote Creek and Lower Silver Creek Trails as systems within that network. In 2009, the Greenprint Update was adopted which reinforces the importance of developing the individual trail systems and implementing the 100 mile trail network by 2022.

The Environmental Enhancement and Mitigation Program (EEMP) was established by the State Legislature in 1989. It offers a total of \$10 million each year for grants to local, state, and federal governmental agencies and to nonprofit organizations for projects to mitigate the environmental impacts caused by new or modified state transportation facilities. The Resources Agency evaluates grant proposals and submits a list of proposals recommended for funding to the California Transportation Commission (CTC). The CTC annually awards reimbursement grants to fund proposals from the agency's list.

EEMP projects must be directly or indirectly related to the environmental impact of the modification of an existing transportation facility, or the environmental impact of the construction of a new transportation facility.

## **ANALYSIS**

The Council action will support development of two trail Projects.

1. The proposed Lower Silver Creek (Alum Rock to Highway 680) project would provide 1.0 mile of trail access. The master plan documented the Water District's directive to use gravel contained in a retaining fabric to ensure permeability. Since adoption of the master plan, the Water District has changed its guidance and now recommends a typical paved surface that is engineered for its heavier and frequent clean-up work along the channel. From a trail user

perspective, this paved surface alternative is superior to gravel for walking and biking. The gravel trail had been estimated to cost approximately \$1,400,000, which has been allocated in the Council District 5 Construction and Conveyance Tax Fund. The recommended design change will increase the project to an estimated cost of \$1,647,500. Successful pursuit of the \$350,000 grant will address the funding shortfall (\$247,500) as well as allow a portion of the funds (\$102,500) provided in the Council District 5 Construction and Conveyance Tax Fund to return to the Ending Fund Balance and be utilized for other priority park projects. The project would be developed entirely upon Santa Clara Valley Water District property pursuant to a Joint Use Agreement that permits public access for a 25-year period. If the EEMP grant is awarded, 25% of the project's cost will be paid for via the grant.

2. The proposed Thompson Creek (Tully Road to Aborn Road) would be 0.6 miles in length and include a paved surface to support recreational and commute trail usage. The project would also be developed entirely upon Santa Clara Valley Water District property. The project construction is estimated to cost \$870,200 which has been allocated in the Park Trust Fund and the Council District 8 Construction and Conveyance Tax Fund. If the grant funding is awarded, a portion of the funds allocated from these sources will be returned to the respective fund's Ending Fund Balance to be utilized on other priority parks projects. If the EEMP grant award is secured, the project would be 40% funded through the grant.

The EEMP provides grants of up to \$350,000 with no local match required. The EEMP funding supports three categories of projects including Roadside Recreation with trail development as an acceptable project type. San Jose has coordinated with Valley Transportation Authority (VTA) over the past two years to align planned trail projects to the VTA's funded transportation facility improvement projects.

In proposing candidate projects, staff considered the EEMP's following grant criteria:

Parameter	Determination
Must be completed by April 2015.	Design and CEQA have been completed for the projects and if funding is available, staff should be able to complete construction before the deadline
\$350,000 is the maximum grant amount per project.	The relatively small award amount is best suited for the smaller Projects.
Projects should be in close proximity to already funded transportation facility improvement.	<ol style="list-style-type: none"> <li>1. Lower Silver Creek Trail project is in close proximity to planned State Route 130 improvements from Alum Rock Ave and Highway 101 related to BART construction. Work is to occur in late 2012. The VTA is the lead agency.</li> <li>2. Thompson Creek Trail project is in close proximity to Capitol Expressway Pedestrian Improvements from Capitol Avenue to Eastridge Shopping Center. The VTA is the lead agency.</li> </ol>
A letter from lead agency responsible for the "related transportation facility" (RTF)	For both projects, staff will coordinate with the VTA to secure letters. The VTA is the lead agency on the State Route 130 and Capitol Expressway projects noted above.

Based on the criteria set forth above, staff concluded that these two Projects are most competitive for these grant awards.

Pursuant to the EEMP grant guidelines, the City must make the following written assurances as part of the grant application:

<b>EEMP Grant Assurances</b>	<b>Means to Address</b>
Project must enhance mitigations required for the environmental damage caused by the Related Transportation Facility RTF.	Both projects enhance pedestrian and bicycle access beyond what is offered by the transportation facility projects.
Project mitigation must be in addition to mitigation required by CEQA of highway project. Project cannot supplant mitigation required by CEQA.	Both projects are entirely supplemental and were not referenced in environmental documents in order to secure CEQA.
Project must be completed prior to April 30, 2015.	Design work is currently underway for both projects. The Department of Public Works has confirmed that the Projects can be completed by the deadline.
If the property is not managed and maintained for the purposes stated in the Agreement, the City will be required to return the grant funds.	Both Projects would be constructed on Santa Clara Valley Water District property pursuant to Joint Use Agreements. If the District terminates the Joint Use Agreement, City will have to return grant funding to the State.
Comply with provisions of the CEQA and the California Relocation Assistance Act and any other state, and/or local laws, rules and/or regulations.	The City has secured CEQA clearance for both projects. The other requirements are consistent with City policies and practices.

Securing grant funding for either project helps to reduce the City's investment and permit capital funds to be used for other priority projects.

As part of the grant application process for EEMP funds, the City is required to adopt a resolution (see Attachment) in substantially the same form as the sample resolution provided and to make certain commitments, assurances, and certifications described in this memorandum and the attached sample resolution.

**EVALUATION AND FOLLOW UP**

If the City is awarded one or both grants for the Projects, staff will seek Council approval for the authorization for the award of a construction contract and, if need be, approval for the appropriation of funds for the 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)**

Although this item does not meet any of the above criteria, this memorandum will be posted on the City's website prior to the September 13, 2011, City Council meeting.

### **COORDINATION**

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

### **FISCAL/POLICY ALIGNMENT**

The Projects are consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

The Projects are referenced in the Council-adopted Greenprint Update (December 8, 2009, item 5.2). Delivery of these Projects will support 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**

Funding of \$1,325,000 is allocated in 2011-2012 for the design and construction of the Lower Silver Creek Trail project (Council District 5 Construction and Conveyance Tax Fund) and \$891,000 is allocated for the construction of the Thompson Creek Trail project (\$476,000 in the Park Trust Fund and \$415,000 in the Council District 8 Construction and Conveyance Tax Fund). In both cases, the Projects are fully funded (with the exception of unforeseen construction cost overruns that may occur as well as any material change recommended by SCVWD). The grant writing effort seeks to amend the funding sources of the Projects so that a portion of the City resources identified above could be reallocated to the respective fund's Ending Fund Balance and

utilized on other priority parks projects. Once constructed, the anticipated operating and maintenance costs are as follows:

Project	Maintenance	Trail Patrols (Operating)
Lower Silver Creek Trail (1 mile)	\$12,050	\$2,200
Thompson Creek Trail (0.6 mile)	\$7,230	\$1,220

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 28, 2011.

**CEQA**

Thompson Creek: Mitigated Negative Declaration, File No. PP04-283

Lower Silver Creek: Mitigated Negative Declaration, File No. PP06-111

JULIE EDMONDS-MARES  
Acting Director of Parks, Recreation and  
Neighborhood Services

For questions please contact Matt Cano, Acting Deputy Director, at 408-535-3580.

Attachment

Attachment: EEMP Sample Resolution

Resolution No: \_\_\_\_\_

RESOLUTION OF THE SAN JOSE CITY COUNCIL OF THE CITY OF SAN JOSE APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE ENVIRONMENTAL ENHANCEMENT AND MITIGATION PROGRAM UNDER THE SECTION 164.56 OF THE STREETS AND HIGHWAYS CODE FOR THE FOLLOWING PROJECTS: Lower Silver Creek Trail and the Thompson Creek Trail.

WHEREAS, the Legislature of the State of California has enacted AB 471 (Chapter 106 of the Statutes of 1989), which is intended to provide \$10 million annually for a period of 10 years for grant funds to local, state and federal agencies and nonprofit entities for projects to enhance and mitigate the environmental impacts of modified or new public transportation facilities; and

WHEREAS, the Natural Resources Agency has established the procedures and criteria for reviewing grant proposals and is required to submit to the California Transportation Commission a list of recommended projects from which the grant recipients will be selected; and

WHEREAS, said procedures and criteria established by the Natural Resources Agency require a resolution certifying the approval of application by the Applicant's governing body before submission of said application to the State; and

WHEREAS, the application contains assurances that the Applicant must comply with; and

NOW, THEREFORE, BE IT RESOLVED THAT THE SAN JOSE CITY COUNCIL, hereby

1. Approves the filing of an application(s) for the Environmental Enhancement and Mitigation Program for grant assistance.
2. Certifies that said Applicant will make adequate provisions for operation and maintenance of the projects.
3. Appoints CITY MANAGER OR DESIGNEE as agent of the CITY OF SAN JOSE to

Conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).

Approved and Adopted the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

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

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
(CLERK)