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NOV 15 2011

City Manager's Office



# Memorandum

**TO: HONORABLE MAYOR  
AND CITY COUNCIL**

**FROM: Leanna Bieganski**

**SUBJECT: Early Council Packet**

**DATE: November 15, 2011**

Approved

Date

11-15-11

## **EARLY DISTRIBUTION COUNCIL PACKET FOR NOVEMBER 29, 2011**

Please find attached the Early Distribution Council Packet for the November 29, 2011 Council Meeting.

### **4.x Lease Agreement for 1671 Alameda.**

**Recommendation:** Adopt a resolution authorizing the City Manager to execute a five-year lease with The Huang Family Trust and, subject to appropriation of funds, to exercise the option to extend and negotiate an extension term rental rate pursuant to the lease, for the use of approximately 7,903 square feet of office space located at 1671 The Alameda in San José, at a rental rate of \$123,286 for the first year, \$126,985 for the second year, \$130,794 for the third year, \$136,026 for the fourth year, and \$141,467 for the fifth year. The total rental cost for the initial five-year term of this lease is \$658,561. CEQA: Not a Project, File No. PP10-066(f), Agreements/Contracts, including lease of office space with no tenant improvements or change of use. (Economic Development)

### **4.x Permanent Easement Agreement with San Jose Water Company.**

**Recommendation:** Adopt a resolution approving the agreement set forth below and authorizing the City Manager to execute the agreement together with all other documents needed to conclude the transaction.

(a) A permanent easement agreement with the San José Water Company for water facilities installation on the site of the future Fire Station No. 21.

CEQA: An Addendum was issued to EIR, File No. PP08-184 wherein it was concluded that the proposed project would result in no new significant environmental impacts as discussed in the original EIR. Council District 5 and 8. (Economic Development)

**4.x Status of Housing Units Reserved and Allocated For Phase I of the North San José Area Development Policy.**

**Recommendation:**

- (a) Accept the status report of housing unit reservation and allocation in North San José and direct staff to continue to track residential developer progress.
- (b) Request that staff return to the Council with an amendment to the North San José Area Development Policy to reallocate up to 600 unused affordable rate units for projects that:
  - (1) Best implement the North San José Area Development Policy criteria, (b) result in the best results for the affordable housing program, (c) broaden the diversity of residential unit mix, and
  - (2) Are shovel-ready projects that would begin construction within 18 months.
- (c) Request that staff return to the Council at the same meeting with a recommended amendment to the Policy that maintains the overall allocation of affordable units at 20% of total units constructed

CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. Council Districts 3 and 4. (Planning, Building and Code Enforcement/Housing)

**4.x Actions Related to the San Carlos Street Multimodal Streetscape Improvement Project.**

**Recommendation:**

- (a) Adopt a resolution authorizing the Director of Public Works to determine the lowest responsive and responsible bidder for the San Carlos Street Multimodal Streetscape Improvement Project and to either: (i) award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$1,700,000, or (ii) reject all bids and re-bid the Project.
- (b) Approve a contingency equal to ten percent of the award amount.
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund.
  - (1) Increase the appropriation to the Department of Transportation for the above mentioned project by \$326,000;
  - (2) Increase the estimate for Earned Revenue by \$70,000; and
  - (3) Decrease the Ending Fund Balance by \$256,000.

CEQA: File No. PP03-08-254, Re-use of the Downtown Strategy SEIR, Resolution No. 68839. Council District 3. SNI: University. (Public Works/Transportation/City Manager's Office)

**6.x Grant Applications to Metropolitan Transportation Commission for Two Pedestrian and Bicycle Improvement Projects on St. John Street and Park Avenue.**

**Recommendation:** Adopt resolutions to:

- (a) Authorize the City Manager to execute and submit two separate grant applications to the Metropolitan Transportation Commission (MTC) for the Community Design & Transportation (CDT) Capital Grant Program (CIP) in the amount not to exceed \$1,500,000 for the St. John Street Multi-Modal Improvements – Phase 1, with a local match of \$375,000, and in the amount not to exceed \$1,456,000 for the Park Avenue Multi-Modal Improvements, with a local match of \$364,000;
- (b) Make the required assurances to comply with the project applications, deadlines to complete the projects, grant program requirements, and other assurances required by MTC as explained in this memorandum;
- (c) Authorize the City Manager to accept any grant award(s) and negotiate and execute any documents to effectuate the grant(s), including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the projects, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-068(a) Grant Application. (Transportation)

**6.x Relinquishment Agreement with the State of California for the Relinquishment of State Route 82 from I-880 to US 101 and State Route 130 from US 101 to White Road.**

**Recommendation:**

- (a) Approve a Relinquishment Agreement with the State of California for the relinquishment of State Route 82 from I-880 to US 101 (9.92 miles) and State Route 130 from US 101 to White Road (2.6 miles) and Caltrans transfer to the City up to \$12,410,000 of federal programming authority, with a required local match of \$1,450,000 subject to the approval of the California Transportation Commission and appropriation through the Metropolitan Transportation Commission.
- (b) Adopt a resolution in connection with the relinquishment of State Routes 82 and 130 and pursuant to the request of Caltrans to direct the Director of Planning, Building and Code Enforcement to undertake and complete the necessary application and process as required (a) to nominate the underpass bridge located over The Alameda-State Route 82 between Cahill Street and Bush Street (Bridge Number 37-0045) as a historic landmark and (b) to initiate the procedure to designate the Holiday Inn site (CA-SCL-128/H) bounded by San Fernando Street to the north, Market Street to the east, San Carlos Street to the south, and the Guadalupe River to the west, as a historic district pursuant to Chapter 13.48 of the San José Municipal Code.

CEQA: Exemption, 15331: Historical Resource Restoration/Rehabilitation. Council Districts 2, 3, 5, 6, 7 and 10. (Transportation)

**8.x Report on Request for Bids for Self Contained Breathing Apparatus for the Fire Department.**

**Recommendation:**

- (a) Approve award to purchase Self Contained Breathing Apparatus and related equipment to Fisher Scientific Company, LLC (Pittsburgh, PA) for a total cost not to exceed \$1,940,403, including all warranties, training, testing, delivery, and sales tax, and authorize the City Manager to execute the purchase order.
- (b) Authorize the City Manager to execute purchase orders as required for additional quantities of Self Contained Breathing Apparatus equipment, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066 (c), Contract award for purchase of supplies and equipment. (Finance)

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

/s/  
LEANNA BIEGANSKI  
Council Liaison



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Welsh

**SUBJECT:** APPROVAL OF LEASE FOR  
1671 THE ALAMEDA

**DATE:** November 7, 2011

Approved

Date

11/15/11

**COUNCIL DISTRICT:** Citywide

## RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute a five-year lease with The Huang Family Trust and, subject to appropriation of funds, to exercise the option to extend and negotiate an extension term rental rate pursuant to the lease, for the use of approximately 7,903 square feet of office space located at 1671 The Alameda in San José, at a rental rate of \$123,286 for the first year, \$126,985 for the second year, \$130,794 for the third year, \$136,026 for the fourth year, and \$141,467 for the fifth year. The total rental cost for the initial five-year term of this lease is \$658,558.

## OUTCOME

By approving this lease, the Council authorizes the consolidation of four units of the Police Department Community Services Division including the Police Reserve Unit, Volunteer Opportunities and Leadership Training Unit (VOLT), School Safety and Education Unit, and Family Violence Center into a single location and a reduction in the annual rental payment.

Currently, these units are located in two facilities with an annual rental payment of approximately \$348,802 per year. Through the consolidation of the units into a single location the annual rental payment for 2012-2013 will be \$123,286. This reflects a reduction of \$225,515 for 2012-2013 or a savings of approximately 65% of the current annual rental payment. The City's ongoing annual savings will be in the same approximate range per year, subject to a 3-4% annual escalation in rent for the five year lease, with an estimated savings in excess of \$1,000,000.

## **BACKGROUND**

In March 1996, the City entered into a lease with Wen Y. Huang, predecessor to The Huang Family Trust, for approximately 12,600 square feet of space on the ground floor of 1671 The Alameda to house the Police Department's Community Services Division including Crime Prevention, Police Reserve, School Crossing Guards and Police Athletic League. The lease was subsequently renewed in April 2001, September 2003, and December 2006. The current lease term expires on November 30, 2011.

In mid 2011, several units including Crime Prevention and Police Athletic League were relocated from 1671 The Alameda to other Police Department facilities, leaving approximately 75% of the space at 1671 The Alameda vacant. As a result, staff began exploring options for the space, including terminating the lease and relocating the remaining units to other spaces, or moving additional City group(s) into the space.

During that same time the Family Violence Center which has been located at 125 Gish Road in San José since 1997, began searching for a new space and location for its service center. The Family Violence Center required a larger space for its growing services, as well as a more centralized location to house its City Police Department staff, County and non-profit partners, and domestic violence clients. The current lease payment at 125 Gish Road is \$76,642 per year, and the current lease term will expire on March 31, 2012.

After investigating a number of potential new office spaces and locations, it was determined that the Family Violence Center should move into 1671 The Alameda, due to the ability to add approximately 800 square feet of space to the Center as well as the building's centralized location. As a result, the City will lease 7,903 square feet of space at 1671 The Alameda to serve the combined space needs of the Police Department's Police Reserve Unit, VOLT Unit, School Safety and Education Unit, and Family Violence Center. The remaining 4,366 square feet of ground floor space, is excess to the City's space needs, and will be released to the Landlord for rental to third parties.

## **ANALYSIS**

The Police Reserve, VOLT, and School Safety Units will maintain approximately the same square footage occupied under the previous lease, while the Family Violence Center will gain approximately 800 more square feet than under its previous lease.

Prior to this new lease, the City's rental payment for the foregoing Police Units was approximately \$348,802 per year. However, through this lease and the following combined actions the City will be able to achieve significant rental savings: (a) a reduction in the rental rate at 1671 The Alameda, from \$1.80 to \$1.30 per square foot, (b) a reduction in space leased at 1671 The Alameda, from approximately 12,600 to 7,903 square feet, and (c) the expiration of the Family Violence Center lease at 125 Gish Road on March 31, 2012, resulting in an annual

November 7, 2011

**Subject: Approval of Lease for 1671 The Alameda**

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savings of \$76,642. As such, the City's rental payment for said Police Units will be reduced to \$123,286 for the first year, representing a savings of \$225,515 for Fiscal Year 2012-13 which reflects a reduction of approximately 65%. The City's ongoing annual savings will be in the same approximate range, subject to a 3-4% annual escalation in rent under the new lease.

Rent for this lease is \$123,286 for the first year, \$126,985 for the second year, \$130,794 for the third year, \$136,026 for the fourth year, and \$141,467 for the fifth year. The total rental cost for the initial five-year term of this lease is \$658,558. Payment on this lease is anticipated to begin on December 1, 2011.

The initial lease term is for five years. In addition, the City has an option to extend the term for one additional five-year period. The rent due for the first year of the option term will be the greater of (a) the prevailing market rate for property in the metropolitan San José area that is comparable in size and location to the leased premises, or (b) \$1.55 per square foot (representing a four percent (4%) increase above the rental rate from year five of the initial lease term). In addition, the lease contains a "not to exceed" provision stating that in no event shall the monthly rent due for the first year of the option (year six) exceed \$1.80 per square foot, and the escalation rate for any additional years of the option term (years seven-ten) exceed four percent (4%).

Therefore the maximum rental rate during the option term would be \$170,704 for the first year, \$177,532 for the second year, \$184,634 for the third year, \$192,019 for the fourth year and \$199,700 for the fifth year. If the City exercises the option to extend, then the maximum total rent for the ten-year term of this lease would be \$1,721,477.

The lease also contains language allowing for termination of the lease by the City by giving 120 days written notice after the first year of the new lease term. Furthermore, the Landlord has agreed to pay for certain basic tenant improvements at no charge to the City, but which must be reimbursed to the Landlord if the City terminates the lease prior to the end of the five-year term. The reimbursement amount shall not exceed a total of \$180,000, and will be amortized on a straight-line, monthly basis across the five-year term.

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

After the lease is signed, no follow-up action by the Council is anticipated until the lease term (as may be extended) expires and approval of a new lease is required.

### **POLICY ALTERNATIVES**

There are currently no City-owned facilities available to relocate these Police units.

### **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 approval of this agreement could meet Criterion 1 if the options are exercised. The memorandum will be posted on the City's website for the November 29, 2011, Council agenda.

### **COORDINATION**

This item has been coordinated with the Police Department, the City Manager's Budget Office, and the City Attorney's Office.

### **FISCAL/POLICY ALIGNMENT**

This item is consistent with the General Budget Principles in that it protects vital core City services.

### **COST SUMMARY/IMPLICATION**

Rent for this lease is \$123,286 for the first year, \$126,985 for the second year, \$130,794 for the third year, \$136,026 for the fourth year, and \$141,467 for the fifth year. The total rental cost for the five-year term of this lease is \$658,558. Payment on this lease is anticipated to begin on December 1, 2011.

**BUDGET REFERENCE**

Fund #	Appn #	Appropriation Name	Total Appn.	2011-2012 Adopted Operating Budget-Page	Last Budget Action (Date, Ord. No.)
001	0182	Office of Economic Development Non Personal/ Equipment	\$2,849,441	VIII-82	28928 6-21-11

**CEQA**

CEQA: Not a Project, File No. PP10-066(f), Agreements/Contracts, including lease of office space with no tenant improvements or change of use.

/s/  
KIM WALES  
Director of Economic Development  
Chief Strategist

For questions please contact Nanci Klein, Deputy Director, at (408) 535-8184.



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** November 7, 2011

Approved

Date

11/15/11

**COUNCIL DISTRICT:** 5, 8

**SUBJECT: ADOPTION OF A RESOLUTION APPROVING AN EASEMENT AGREEMENT CONVEYING A PERMANENT EASEMENT TO THE SAN JOSE WATER COMPANY FOR WATER FACILITIES INSTALLATION, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE EASEMENT AGREEMENT AND ALL DOCUMENTS NECESSARY TO CONVEY THE EASEMENT AND COMPLETE THE TRANSACTION.**

## RECOMMENDATION

Adopt a resolution approving the agreement set forth below and authorizing the City Manager to execute the agreement together with all other documents needed to conclude the transaction.

- a) A permanent easement agreement with the San José Water Company for water facilities installation on the site of the future Fire Station No. 21.

## OUTCOME

Approval of the delegation of authority to execute this easement agreement with the San José Water Company ("SJW") will provide the property rights necessary to allow for the installation and maintenance of the water infrastructure that are needed for the future Fire Station No. 21.

## BACKGROUND

The Fire Station No. 21 relocation project includes an approximately 9,000 square foot facility consisting of a single engine company fire station with potential future expansion to two engine companies as regional development requires. The new facility will be built on a .97 acre site located on the easterly side of White Road approximately 200 feet south of Cunningham Court. The site is bounded by White Road to the west and a new proposed street to the south, existing

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**Subject: Conveyance of Permanent Easement to San Jose Water Company**

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private residential units to the north, and a proposed private residential development to the east (map attached).

The construction of the off-site and utility improvements for both the proposed Fire Station No. 21 and a planned adjacent private residential development is being undertaken by Ponderosa Homes ("Developer") as part of the Subdivision Improvement Agreement ("SIA") that requires the Developer to construct all public improvements for its residential project, but also provides for City reimbursement of the Developer for additional fire station related work performed for the City. Construction of the utilities and off-site improvements is expected to begin in December 2011.

### **ANALYSIS**

New water services must be installed by SJW to serve the future Fire Station No. 21 and a proposed residential development. The SIA includes reimbursement by the City of the Developer's cost of preparation of the engineering plans, trenching and installation of the appropriate pipes, connections, and other equipment required for water service to the projects. Staff from the Fire Department and Public Works indicate that having the Developer contract directly with SJW to install the water main and stub outs for the pending Fire Station No. 21 project is the most cost effective means to procure this utility. Since the Developer is proceeding with construction of their proposed residential project first, having it install the off-site improvements and utility connections will make the future construction of Fire Station No. 21 more cost effective. In addition, having the contractor for the residential development work with SJW on the installation will avoid the need to cut, trench and patch new asphalt and concrete when installing utilities for the fire station.

The proposed easement is required due to physical limitations that prevent placement of the required water main in the proposed public right-of-way to the south of the planned fire station site. An existing 96" storm line in this right-of-way conflicts with placement of the 6" water line and requires that SJW route the water line to the north of the fire station site's property line. The northerly limits of the proposed easement is between 2' and 6' north of an existing Santa Clara Valley Water District (SCVWD) and overlaps portions of the existing SCVWD easement.

Staff considers this easement essential to complete the proposed project and does not believe granting the proposed easement rights to SJW will adversely affect the design or operations of the proposed Fire Station No. 21.

### **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 memorandum will be posted on the City's website for the November 29, 2011, Council agenda.

### **COORDINATION**

This memorandum and project has been coordinated with the Fire Department, Public Works Department, the City Manager's Budget Office, and the City Attorney's Office.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with the Council approved Budget Strategy to continue with capital investments that spur construction spending in our local economy. The relocation of Fire Station No. 21 to this site is one of a series of fire station relocations, described in the "Eastside Service Delivery Model" section of the Manager's Budget Addendum #8 of the 2004-2005 Adopted Budget, which will significantly improve service levels within the Eastside neighborhoods of the City.

### **COST SUMMARY/IMPLICATIONS**

There are no costs directly associated with the recommended action other than staff time to process the Easement Agreement.

### **CEQA**

An Addendum was issued to EIR. PP08-184 wherein it was concluded that the proposed project would result in no new significant environmental impacts as discussed in the original EIR.

HONORABLE MAYOR AND CITY COUNCIL

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**Subject: Conveyance of Permanent Easement to San Jose Water Company**

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/s/

KIM WALESH

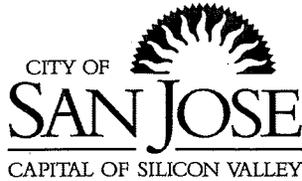
Director of Economic Development

Chief Strategist

For questions please contact Nanci Klein, Deputy Director at (408) 535-8184.

Attachment





# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel  
Leslye Corsiglia

**SUBJECT:** SEE BELOW

**DATE:** November 7, 2011

Approved:

Date:

11/15/11

**COUNCIL DISTRICTS:** 3 and 4  
**SNI AREA:** N/A

**SUBJECT: STATUS OF HOUSING UNITS RESERVED AND ALLOCATED FOR  
PHASE I OF THE NORTH SAN JOSÉ AREA DEVELOPMENT POLICY**

## RECOMMENDATION

It is recommended that the City Council:

- (1) Accept the status report of housing unit reservation and allocation in North San José and direct staff to continue to track residential developer progress.
- (2) Request that staff return to the Council with an amendment to the North San José Area Development Policy to reallocate up to 600 unused affordable rate units for projects that:
  - (a) best implement the North San José Area Development Policy criteria, (b) result in the best results for the affordable housing program, (c) broaden the diversity of residential unit mix, and
  - (d) are shovel-ready projects that would begin construction within 18 months.
- (3) Request that staff return to the Council at the same meeting with a recommended amendment to the Policy that maintains the overall allocation of affordable units at 20% of total units constructed

## OUTCOME

The Council's discussion and acceptance of this report will result in the reallocation of up to 600 units now reserved for affordable housing, enabling shovel ready market-rate housing units to proceed in Phase I. To ensure that affordable housing remains a priority, staff will formalize the criteria and process to select projects that generate the largest affordable housing contribution above

HONORABLE MAYOR AND CITY COUNCIL

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**Subject: Status Of Housing Units Reserved And Allocated For Phase I Of The North San José Area Development Policy**

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and beyond the previous 20% housing requirement and will make recommendations to amend the policy to ensure that the original policy that 20% of the units built under the Policy are affordable to ensure a mix of housing types and affordability.

## **BACKGROUND**

Staff regularly updates the City Council on the status of housing units reserved and allocated for the first 8,000 unit phase of the North San José Area Development Policy (NSJADP). Currently, 7376 units are reserved in the first phase and 2,313 units have been allocated (received Building Permits). In addition, staff maintains a list of projects that include approximately 1,620 units that do not currently have a reservation, but are ready to move forward and are seeking to be included in the first phase (see attachment).

The NSJADP has four phases with a total build out of 32,000 units. In each 8,000 unit phase, 20% of the units are required to be affordable to low- and moderate-income households. The City Council has approved several modifications to the residential reservation and allocation process since it was created in June 2005, and several events occurred that also affected decisions regarding housing in North San José. These include:

- Approval in January 2010 of the Citywide Inclusionary Ordinance and related changes to the City's Inclusionary Policy in Redevelopment Project Areas, in which the City allowed residential developers to choose from several options. These options included paying an in-lieu fee rather than building the required affordable residential units in each project. This option changed the base assumption in North San José that affordable housing units would be accounted for in each individual project receiving a development permit and unit reservation.
- Splitting of each of the four residential phases into Market-rate and Affordable unit reservations in June 2009 to ensure that affordable units are built in each phase to address the broader affordable housing in-lieu fee.
- Extension of the life of development permits in June 2009 for up to two additional years due to the on-going recession that eliminated the necessary financing support developers needed to move forward with projects.
- The City Council's action in June 2010 to amend the Redevelopment Inclusionary Policy in order to temporarily exempt rental housing developments, mirroring the action taken with the Citywide Ordinance.
- The City Council's approval in November 2010 of development incentives for multi-phase projects in North San José that guaranteed that future phases would not be subject to reinstated

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affordable housing requirements if they broke ground by September 30, 2011, started their last phase by September 30, 2014 (for projects with four or more phases), and met other time requirements, which eliminated the payment of in-lieu fees for these rental units ("Housing Incentive Program"). The City entered into Satisfaction Agreements with five developers that specify the dates and milestones that must be met to obtain these incentives.

- Approved a "loan" of up to 220 affordable housing units in May 2011 for the first phase of the Century Court towers if the project broke ground by July 1, 2012 and completed the building superstructure by July 1, 2013. The "loaned" units were assumed to be returned to the affordable unit pool when the development permits for market rate units expired.
- Approved up to 275 units for the first phase of the Fox Markovits property by a "loan" of affordable housing units.

Since the last review of housing development in North San José in May of this year, many of the projects with a Phase I allocation have begun construction in order to comply with the requirements of the Satisfaction Agreements that they obtain Building Permits and commence construction by September 30<sup>th</sup>. While the Crescent Village development has progressed on a very aggressive development pace, some have moved at a very anemic pace, raising questions of the level of conformance with the Satisfaction Agreement requirements. Others that are single phase projects that did not benefit from the Satisfaction Agreement provisions have started the plan check process. The specific accounting of all the projects with Phase I reservations and allocations are shown in Attachment 1 – NSJ Approved Residential Unit Allocations Phase I.

In recent months, staff has received several inquiries from developers without Phase I units asking if there was a means by which they could obtain Phase I units. During those discussions, staff has explained the NSJADP phasing constraints, but asked what types of extraordinary offers the developers might be willing to make for Phase I units. It is clear from those discussions that the apartment market is now much stronger and that developers are willing to not only pay the full previous affordable requirement that the City waived with the Satisfaction Agreements, but some offered to exceed those requirements and make contributions to the affordable housing fund. Should the Council wish to pursue the policy revision proposed, staff would return to Council with the appropriate documents to implement the change and memorialize the unit reservation.

Several affordable housing developments in North San José are now under construction or are seeking final funding commitments. The amount of funding available for future developments has been hampered by reductions in property valuations, the payment of the FY 2010 and 2011 SERAF monies to the State of California, and the ongoing uncertainty of the future of redevelopment. Given these constraints, and given the current pipeline of affordable developments outside of North San José that are awaiting funding, it may be several years before funding would be available to finance new developments in this area.

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## **ANALYSIS**

Staff has identified three policy alternatives that the City Council should consider related to residential unit reservations in the phases. These are: allowing allocation now reserved for affordable units to be used for market rate units; maintaining the current reservation system; and, eliminating the separation of affordable and market-rate units. Each of these policy alternatives is explained and analyzed below.

### **Option 1: Allow some portion of the units reserved for affordable housing to be used for market-rate projects for developers willing to meet or exceed the inclusionary requirement.**

The strength of the rental market has brought new interest in building additional units in Phase I that do not have a reservation. As noted above, the City approved five Satisfaction Agreements with developers of multi-phase projects that allowed them to proceed with construction without including affordable units. The result is that all of the remaining units in Phase I are reserved for affordable housing. Those market-rate developers that have approached the City to request inclusion in Phase I have made offers to meet or exceed the 20% affordable housing requirement.

Pros: Option 1 would allow construction to move forward now, generating new jobs and economic activity. Additionally, an affordability component would be included, allowing affordable units to move forward now at a time when the City's traditional source of funding—redevelopment funding—is scarce. This could be achieved either by integrating the affordable units in a development or by generating funds through an in lieu payment to allow other affordable projects to break ground. One proposal for 600 units would have the developer contributing approximately \$8,800,000 to the affordable housing fund. Beyond providing funds that would allow a previously approved affordable project to proceed, it would also reset the economic base related to the need of the City to continue to offer incentives to housing in North San José through the use of Satisfaction Agreements or similar vehicles. The other proposal would set aside one building for an affordable housing development, and might include other affordability mixed in to the market components.

Cons: This Option would reduce the amount of affordable housing units built in Phase I below the 20% level. Most of the housing now under construction is rental, with anticipated rents that will require higher incomes. In order to ensure a balanced community, where people can afford to live near where they work, it is important to ensure that the NSJADP includes a balance of housing types and affordability. This will result in the need for more affordability in future phases.

**Option 2: Maintain current reservation system.** Staff would continue to use the criteria established with the creation of the NSJADP in reserving residential units. As permits expire from inactivity, new projects could compete for these remaining units or the allocation could be reserved for affordable units. Currently, the full 6,400 market-rate units are reserved with an additional 544

HONORABLE MAYOR AND CITY COUNCIL

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market rate units reserved “loaned” from the affordable unit pool. Of the 6,944 market-rate units reserved, 2,171 units are now allocated as those units have been issued Building Permits.

Pros: The development community understands and has relied upon the current system in making financial decisions. The current system also has approved some large multi-phase projects, which by their definition would take several years to come on-line. The current NSJADP recognizes the need for a balanced community with both market rate and affordable units.

Cons: The current reservations preserve entitlements for developments that may not be feasible in the mid-term, and eliminate possible developments that could proceed in the next year, adding jobs and economic activity at a time when the construction industry is struggling. Also, the lack of financing for affordable housing likely means a significant delay in meeting the 20% requirement. If shovel ready market rate projects with an affordable component proceed, more affordable units will get built in the short term.

**Option 3: Eliminate the separation of affordable and market rate units.** In 2009, the City Council approved a distinction between affordable units and market-rate units in the 8,000 NSJ pipeline in Phase I under the ADP. The intent of this separation was to ensure that with each 8,000 units of approved residential permits, the affordable housing production would be achieved consistent with the State law requirements in Redevelopment Project Areas and would not be left to occur in the last phase of development in North San José, if at all.

Pros: The consolidation of all units in each respective phase gives greater flexibility in approving residential projects so as to focus on those that can proceed in the near-to mid-term.

Cons: It is important to have a balanced community where people of different incomes can afford to live. The original plan to require that 20% of the units in the NSJADP be affordable is a strong one. Affordable housing advocates were supportive of the plan with this requirement, and have been supportive of the Council’s recent actions that allowed shovel ready market rate developments to move forward using the reservation for affordable developments, but have done so with the understanding that the overall 20% allocation has not changed. They would likely oppose any further allocation adjustments should the overall allocation be altered in this manner.

### **STAFF’S PREFERRED POLICY ALTERNATIVE**

Staff supports **Option 1: Allow some portion of the units reserved for affordable housing to be used for market-rate projects** for the reasons listed under that Option.

November 7, 2011

**Subject: Status Of Housing Units Reserved And Allocated For Phase I Of The North San José Area Development Policy**

Page 6

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

If these recommendations are supported by the City Council, staff would return with policy amendments that establish guidelines for approving development offers from market rate developers seeking to begin construction now, and that lay out how affordability will be ensured going forward.

### **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 amendments meet Criterion 2 and have been posted on the City's website and emailed to interested parties. Staff has discussed these options with the major North San José developers. Based on the Council's direction, the North San José website will be updated so all interested parties can stay current with the Policy's implementation.

### **COORDINATION**

The preparation of this memorandum was coordinated with the Redevelopment Agency and the City Attorney's Office.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with applicable General Plan policies

HONORABLE MAYOR AND CITY COUNCIL

November 7, 2011

**Subject: Status Of Housing Units Reserved And Allocated For Phase I Of The North San José Area Development Policy**

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**CEQA**

Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos.

/s/

JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

/s/

LESLYE CORSIGLIA  
Director of Housing

For questions please contact Joseph Horwedel at 408-535-7900 or Leslye Corsiglia at 408-535-3851.

Attachment: North San José Approved Residential Unit Allocations Phase I

### NSJ Approved Residential Unit Allocations Phase 1

Project Applicant	File No.	Original Expiration Date	Permit Extension Approval	Revised Permit Expiration Date	Total Unit Count	Units Resv'd Market	Units Resv'd Afford.	Satisf. Agrmt Approved?	Plan Check Submittal	Plan Check Approval	Units Allocated Market*	Units Allocated Afford.	Found. Permit Issued	Building Permit Issued	Project / Phase Status
Kerley - Charities Hsing	PD08-058	12/5/10	Yes		42		42		Y	Y		42	Y	Y	Under Construction
Brokaw - Oyama	PD08-063	8/2/11	Yes		3		3		Y	Y	2		Y	Y	Under Construction 2 of 3 units
Rosemary - ROEM	PD08-053	7/30/11	Yes		290		290		Y	Y					Seeking project funding
Seely Ave - Essex	PD08-056	1/23/11	AD10-068	1/23/13	769	761		Y	Y	Y					Foundation under construction. Adjustment reduced units to
Baypointe - LCOR	PD08-023	8/1/10	AD10-523	8/1/12	229	174			Y	Y					Adjustment filed to reduce units to 174. Plan Check filed
River Oaks - Baywest	PD08-036	8/29/10	AD10-667	8/29/12	297	297			Y	Y	293				293 units Plan Check submit in Dec
Crescent Village - Irvine	PD07-006	1/29/10	AD10-058	1/31/12	1750	1750		Y							
Phase 1 - 380 units									Y	Y	380		Y	Y	Under Construction
Phase 2 - 370 units									Y	Y	370		Y	Y	Under Construction
Phase 3 - 357 units									Y	Y	357		Y	Y	Under Construction
Phase 4									Y	Y					
Phase 5									Y	Y					
4th Street - First Community	PD06-011	1/30/10	AD10-057	1/31/12	100		100		Y	Y		100		Y	Under Construction
Baypointe - Fairfield	PD07-036	1/30/10	AD10-060	1/31/12	183	183			Y	Y					
Tasman (Northpoint) - Fairfield	PD07-033	1/31/10	AD10-042	1/31/12	704	704			Y	Y					
Phase 1 - 498 units									Y	Y	498		Y	Y	Under Construction
Phase 2 - 206 units															
North 1st - Thompson Dorfman / Wyse -	PD07-090	4/4/10	AD10-077	4/15/12	1579	1579		Y							
Parcel 1 - 407 Units									Y	Y					
Parcel 2 - 293 units									Y	Y					
Parcel 3 - 233 units									Y	Y					
Parcel 4 - 271 units									Y	Y					
Parcel 5 - 216 units									Y	Y					
Parcel 6 - 133 units									Y	Y					
Vista Montana - Equity Residential	PD07-082	3/21/10	AD10-106	4/1/12	444	444		Y	Y	Y			Y	Y	Under Construction
Vista Montana - Equity Residential	PD07-091	4/24/11	AD10-105	4/24/13	554	554		Y	Y	Y					DA and PDC revisions underway
Fox Markovits - Brokaw	PD11-007				650	275			Y	Y					PD Permit in process for up to 275 units
Century Court - BSB	PD08-046	4/29/15			220	220			Y	Y					7/1/12 reqmt for concrete in ground
Total Approved To Date					7814	6944	432				1900	142			
Phase One Capacity					6400	1600					6400	1600			
Remaining Units						-544	1168				4500	1458			

\* Allocated - Building Permit issued for complete building shell for that number of units.

Updated Nov 15, 2011

### NSJ Residential Projects Awaiting Phase 1 Reservations

Project Applicant	Zoning File No.	Permit File No.	Permit Expiration Date	Total Unit Count	Units Resv'd Market	Units Resv'd Afford.	Project / Phase Status
Oyama - Brokaw	PDC07-088			31			Balance of project
Fox Markovits - Brokaw	PDC07-010			375			Balance of project
Crescent 6 - Irvine	PDC11-018			450			New request on River Oaks
Hyundai	PDC05-099			575			PD Permit expired and Plan Check done 5 years ago
BSB - Century Court	PD08-046	4/29/15		220	220		Pending completion of Phase One tower
Total Pending To Date				1620	220	0	
Phase Two Capacity				6400	1600		
Remaining Units				6180	1600		



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** David Sykes  
Hans F. Larsen  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** November 7, 2011

Approved

Date

11/15/11

**COUNCIL DISTRICT:** 3

**SNI AREA:** University

**SUBJECT: SAN CARLOS STREET MULTIMODAL STREETScape IMPROVEMENT  
PROJECT – FEDERAL PROJECT NO. RPSTPLE-5005(101)**

## RECOMMENDATION

- a) Adopt a resolution authorizing the Director of Public Works to determine the lowest responsive and responsible bidder for the San Carlos Street Multimodal Streetscape Improvement Project and to either: (i) award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$1,700,000, or (ii) reject all bids and re-bid the Project.
- b) Approve a contingency equal to ten percent of the award amount.
- c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund:
  1. Increase the appropriation to the Department of Transportation for the above mentioned project by \$326,000;
  2. Increase the estimate for Earned Revenue by \$70,000; and
  3. Decrease the Ending Fund Balance by \$256,000.

## OUTCOME

Approval of this item will allow the City to award and execute the contract within the timeframes noted on the California Transportation Commission (CTC) award letter. This project will provide enhanced pedestrian accessibility to public transit including Santa Clara Valley Transportation Authority (VTA) light rail and bus system that will link San José State University (SJSU) and Downtown San José and supports the City goal to provide viable transportation

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Subject: San Carlos Street Multimodal Streetscape Improvement Project- Federal Project No. RPSTPLE-5005(101)

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choices. Approval of a ten percent contingency will provide funding for any unanticipated work necessary for the proper completion and/or construction of the project.

## **BACKGROUND**

On March 2, 2010, the Council adopted Resolution No. 75295 authorizing the City Manager to execute and submit an application to the Metropolitan Transportation Commission (MTC) for the 2010 Regional Transportation Improvement Program (RTIP) grant, and negotiate and execute all documents necessary to effectuate the grant.

The Metropolitan Transportation Commission (MTC), as the Metropolitan Planning Organization (MPO) for the nine counties of the San Francisco Bay region, provides discretionary federal and state transportation funds such as the Regional Transportation Improvement Program (RTIP) for qualifying programs through the VTA. One such program is the Community Design and Transportation (CDT) Capital Program which is a reimbursable grant program. The CDT Capital Program supports transportation projects that provide connections with transit facilities, employ innovative and high-quality design, improve the pedestrian environment, enhance economic vitality, make better use of the land, infrastructure, and resources, and improve community connectivity, livability, sustainability, and sense-of-place.

Based on these conditions, the City and the San José Redevelopment Agency jointly submitted the San Carlos Multimodal Streetscape Improvement Project (Project) grant proposal for the south side of the street from Second Street to Fourth Street. A map of the project location is attached. The primary goal of the project is to encourage pedestrian mobility by providing accessible connections between transit, bike facilities, businesses, SJSU, housing and downtown. The scope of the project includes narrowing the roadway width, widening the sidewalk, enhanced crosswalks, upgrades of wheelchair ramps to ADA compliance, street level lighting, in-fill street trees, drainage facilities, asphalt & concrete work, traffic signal relocation, site furniture, bus stop enhancements, directional/destination signage and striping. The proposed improvements will create a safer pedestrian route and provide a more pedestrian-friendly environment between public transportation and SJSU. This project is also part of an overall plan to make pedestrian improvements in downtown San José.

## **ANALYSIS**

On June 23, 2011, the California Transportation Commission (CTC) allocated funding in the amount of \$1,500,000 for the construction components of the Project. The CTC requirements related to the grant include the necessity to award the construction contract within six months of the allocation date.

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**Subject: San Carlos Street Multimodal Streetscape Improvement Project- Federal Project No. RPSTPLE-5005(101)**

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In addition, the CTC allocation award letter stipulates that a separate request for authorization to proceed (E-76) is required prior to proceeding with any reimbursable work under federally funded grants. On September 8, 2011, the Federal Highway Administration (FHWA) approved the E-76 authorizing work to begin on the subject project.

In order to ensure meeting the deadlines described above, staff is asking Council to delegate authority for the Director of Public Works to award this contract. Delegation would include the authority decide any bid protests in accordance with applicable requirements, to make the City's final determination as to the lowest responsive and responsible bidder, or to reject all bids and re-bid the project.

The specifications for the project will include the following process regarding bid protests:

1. Bid results and a Notice of Intent Regarding Contract Award to the Apparent Low Bidder by the Director of Public Works will be posted on BidSync, the on-line service used by the City for bid notifications and submissions.
2. All bidders will be e-mailed or faxed a copy of the Notice of Intent Regarding Contract Award and will have five working days to file a formal written bid protest.
3. The Director of Public Works will take appropriate action in response to any bid protest.

Council Policy provides for a standard contingency of five percent on public works street projects. However, on this project a contingency of ten percent is recommended due to unknown conditions related to underground work involved in the construction of this project. The funds budgeted for this project are sufficient to provide for the recommended contingency.

Also included in this memorandum is a recommended increase to the San Carlos Street Multimodal Streetscape Improvement Project in the amount of \$326,000. This increase is recommended to cover the costs of project design, Valley Transportation Authority (VTA) and National Environmental Protection Act fees, and construction management. \$256,000 of this increase is not reimbursable from California Transportation Commission (CTC) grant funds, therefore a reduction to the Building and Structure Construction Tax Fund Ending Fund Balance is recommended. The remaining \$70,000, however, is eligible for reimbursement from CTC grant funds; therefore a recommendation to recognize grant funds in the Building and Structure Construction Tax Fund is included in this memorandum.

Bids for this project were opened on November 3, 2011, and are currently under review.

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

This project is currently within budget and on schedule. No additional follow up action is expected at this time.

### POLICY ALTERNATIVES

*Alternative #1:* Council could elect not to delegate authority to the Director of Public Works.

**Pros:** The Council would have the opportunity to make a final decision as to the award of the project after the City has received bids.

**Cons:** The purpose of the delegated authority is to award the project as soon as possible to avoid potential loss of federal grant funding.

### 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 meets Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This project was presented to the surrounding community and local businesses on two different occasions for their information and input (August 12, 2010 and February 4, 2011). To solicit contractors, this project was listed on BidSync and advertised in the *San José Mercury News* and *San José Post Record*. This memo will be published on the City's website for the November 29, 2011 Council Agenda.

### COORDINATION

This project has been coordinated with the Department of Planning, Building and Code Enforcement, Finance, and the City Attorney's Office.

### FISCAL/POLICY ALIGNMENT

This project is consistent with the Guiding Principles for Budget and Financial Management, Mayor's 2006-2007 Revised June Budget Message, in that it supports Economic Recovery and job creation and is also consistent with initiatives identified in the Economic Development Strategy adopted by Council in November 2003. 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 also aligns with the Transportation and Aviation Services CSA outcomes to provide viable transportation choices that promote a strong economy and to provide a transportation system that enhances community livability.

**COST IMPLICATIONS**

The recommended action will increase the project appropriation by \$326,000 in the Building and Structure Construction Tax Fund in the Traffic Capital Program for consultant services. Of this amount, \$70,000 will be received from the California Transportation Commission (CTC) while \$256,000 will be allocated from the Ending Fund Balance in the Building and Structure Construction Tax Fund.

1. AMOUNT OF RECOMMENDATION / COST OF PROJECT:

Project Design (DPW)	\$ 370,400
Project CM (DPW)	264,400
Project Coordination (DOT)	90,000
VTA/NEPA Fees	25,000
Construction (Engineer's Estimate)	1,292,000
Contingency (10%)	<u>129,200</u>
<b>TOTAL PROJECT COST:</b>	<b>\$ 2,171,000</b>
 Prior Year Expenditures	 \$ 479,000
 <b>REMAINING PROJECT COSTS</b>	 <b>\$ 1,692,000</b>

2. COST ELEMENTS OF CONSTRUCTION CONTRACT

Adjustments of Utilities	\$ 6,650
Storm Drainage Facilities	113,080
Asphalt Concrete	283,778
Concrete Work	111,025
Traffic Signal Work	345,722
Electrical Work	128,950
Landscape Work	77,810
Miscellaneous Items of Work	<u>224,985</u>
<b>TOTAL CONTRACT AMOUNT</b>	<b>\$ 1,292,000</b>

3. SOURCE OF FUNDING: 465 – Construction Excise Tax Fund  
429—Building and Structure Construction Tax Fund

4. OPERATING COSTS: The proposed operating and maintenance costs of this project have been reviewed and will have no significant adverse impact on the General Fund operating budget.

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Subject: San Carlos Street Multimodal Streetscape Improvement Project- Federal Project No. RPSTPLE-5005(101)

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**BUDGET REFERENCE**

The table below identifies the appropriation and funds proposed to fund the agreement recommended as part of this memorandum.

Fund #	Appn #	Appn. Name	RC #	Total Appn	Amount For Contract	2011-2012 Adopted Capital Budget	Last Budget Action (Date, Ord. No.)
<b>Remaining Project Costs</b>			<b>\$1,692,000</b>				
<b>Current Funding Available</b>							
429	7158	San Carlos Street Multimodal Streetscape Improvement	162805	\$1,366,000	\$1,292,000	V-765	10/18/2011 Ord.28979
<b>Additional Funding Recommended</b>							
429	7158	San Carlos Street Multimodal Streetscape Improvement	162805	\$70,000*	N/A	V-765	V-765
429	7158	San Carlos Street Multimodal Streetscape Improvement	162805	\$256,000*	N/A	V-765	V-765
<b>Total Funding for Remaining Project Costs</b>			<b>\$1,692,000</b>		<b>\$1,292,000</b>		

\* The recommended actions in this memorandum will increase the San Carlos Street Multimodal Streetscape Improvement Project by \$326,000. \$70,000 would be reimbursed by the grant while the \$256,000 is non-reimbursable and would be offset by a decrease to the Ending Fund Balance in the Building and Structure Construction Tax Fund. The Ending Fund Balance in the Building and Structure Construction Tax Fund in the 2011-2012 Adopted Budget is \$555,261.

**CEQA**

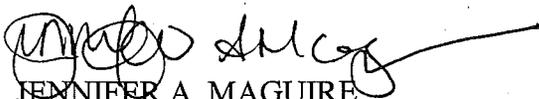
CEQA: PP03-08-254, Re-use of the Downtown Strategy SEIR, Resolution No. 68839.

/s/

DAVID SYKES  
Director of Public Works

/s/

HANS F. LARSEN  
Director of Transportation

  
JENNIFER A. MAGUIRE  
Budget Director

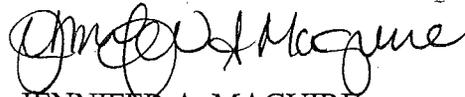
HONORABLE MAYOR AND CITY COUNCIL

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**Subject: San Carlos Street Multimodal Streetscape Improvement Project- Federal Project No. RPSTPLE-5005(101)**

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I hereby certify that there will be available for appropriation in the Building and Structure Construction Tax Fund in the Fiscal Year 2011-2012 moneys in excess of those heretofore appropriated therefrom; said excess being at least \$70,000.

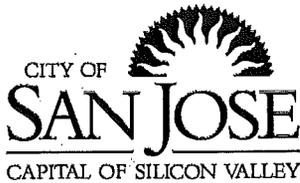


JENNIFER A. MAGUIRE

Budget Director

For questions please contact Michael O'Connell, Acting Deputy Director, Public Works Department, at 408-535-8300.

MO:CM:jt  
Attachment



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Hans F. Larsen

**SUBJECT:** MTC GRANTS APPLICATION  
FOR CDT PROGRAM

**DATE:** 11-07-11

Approved

Date

11/10/11

**COUNCIL DISTRICT:** 3 & 6

## RECOMMENDATION

Adopt two separate resolutions to:

1. Authorize the City Manager to execute and submit two separate grant applications to the Metropolitan Transportation Commission (MTC) for the Community Design & Transportation (CDT) Capital Grant Program (CIP) in the amount not to exceed \$1,500,000 for the St. John Street Multi-Modal Improvements – Phase 1, with a local match of \$375,000, and in the amount not to exceed \$1,456,000 for the Park Avenue Multi-Modal Improvements, with a local match of \$364,000;
2. Make the required assurances to comply with the project applications, deadlines to complete the projects, grant program requirements, and other assurances required by MTC as explained in this memorandum;
3. Authorize the City Manager to accept any grant award(s) and negotiate and execute any documents to effectuate the grant(s), including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the projects, subject to the appropriation of funds.

## OUTCOME

Council approval of the recommended actions will facilitate pedestrian and bicycle improvement projects valued at \$3,695,000. The projects support the City's transportation goal to provide viable transportation choices and the economic development goal to create more walkable, vibrant, mixed-use environments to spur interaction and attract talent.

## **BACKGROUND**

The Metropolitan Transportation Commission (MTC), as the Metropolitan Planning Organization (MPO) for the nine counties of the Bay Area region, provides discretionary federal and state transportation funds such as the Regional Transportation Improvement Program (RTIP) for qualifying programs through the Valley Transportation Authority (VTA). One such program is the Community Design and Transportation (CDT) Capital Program.

The CDT Capital Program supports transportation projects that provide connections with transit facilities; employ innovative and high-quality design; improve the pedestrian environment; enhance economic vitality; make better use of the land, infrastructure, and resources; and improve community connectivity, livability, sustainability and sense-of-place. This is a reimbursable grant program and requires 20% local matching funds.

On July 2011, VTA issued the CDT Call for Projects. In response, the Department of Transportation submitted the following two candidate transportation projects. Maps for the two projects are attached.

### ▪ **St. John Street Multi-Modal Improvements - Phase I (\$1,875,000)**

The proposed project encompasses pedestrian-oriented improvements along the north side of St. John Street between North Almaden Blvd and North Market Street. This project is intended to enhance pedestrian and bike accessibility to public transit including VTA's light rail and bus system and provide a multi-use pedestrian/bike realm connecting to the San Pedro Square Urban Market, Little Italy commercial area, HP Pavilion, Guadalupe River Trail, and the greater Downtown San José area. The goal of the project is to encourage pedestrian/bike mobility by providing accessible, safe and comfortable connections between transit, businesses, housing, and recreation and to enhance the vitality of the commercial, residential, and the greater Downtown business districts.

The scope of the project includes narrowing the roadway width, widening the sidewalk, enhancing crosswalks, upgrading wheelchair ramps for ADA compliance, installation of street level lighting, and the installation of in-fill street trees. Other aspects of the project include installation of drainage facilities, asphalt concrete work, adjusting utility box/cover to grade, site furniture, signage, and striping along St. John Street as well as pedestrian/bike friendly enhancement and directional/destination signage enhancements. The total funding allocated for this project will be \$1,875,000, with \$1,500,000 as a reimbursable grant and \$375,000 as the City's local match.

### ▪ **Park Avenue Multi-Modal Improvements (\$1,820,000)**

The proposed project encompasses pedestrian and bicycle improvements along both sides of Park Avenue between Hedding Street and Montgomery Street. These improvements will enhance pedestrian and bicycle accessibility to public transit including VTA's light rail and bus system and provide a multi-use pedestrian and bicycle realm connecting residential

November 7, 2011

**Subject: MTC Grants for CDT Program**

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and business districts, the Guadalupe River Trail, and the greater Downtown San José area. The scope of work includes final plan completion and construction of the pedestrian/bicycle improvements including bike lanes, lighting upgrades, ADA curb ramps, street trees, and sidewalk upgrades. The total funding allocated for this project will be \$1,820,000, with \$1,456,000 as a reimbursable grant and \$364,000 as the City's local match.

## ANALYSIS

Recently, the City received notice from VTA that both transportation projects the City submitted are qualified to receive CDT funding and these projects were approved by the VTA Board on November 3, 2011. The grants in the amount of \$2,956,000 would likely come to the City through the 2014/2015 CDT funding source and possibly sooner if funding is available. A total local match of \$739,000 will be required to obtain the grants. However, if additional funds are required to complete the project, the City's local match would increase. Additionally, if MTC has additional funding available, the City may receive additional grant funding for the two projects, which would require an additional 20% local match for the additional grant funding. Therefore, staff is requesting authority for the City Manager to execute grant agreements for the two projects requiring a total local match more than the anticipated \$739,000, subject to the appropriation of funds, to address possible increase in the project costs or increase in grant funding from MTC.

## MTC Grant Agreements

In order to formally accept the City's grant applications, VTA needs the Council to adopt a resolution authorizing the City Manager to execute and submit the grant applications and negotiate and execute all grant documents necessary to effectuate the grants. Upon receiving the Council's resolution and the City's grant applications, VTA can obligate the funds through a Transportation Improvement Program (TIP) amendment.

The 2012-2016 CIP programmed funds for the Reserve for Transportation Grants for each of the next four years. However, funding for this reserve is subject to Council approval as part of the annual budget process. Upon notification that the grant has formally been awarded to the City, it is anticipated that a recommendation will be brought forward for Council consideration to recognize \$2,956,000 in revenue from the VTA and appropriate related expenditures for these projects. In order to ensure grant award, it will be necessary to meet certain pre-design requirements. Staff will recommend related appropriation actions for these projects at a later date. If funding is secured, funds would be used to accomplish the design and construction of the projects.

As a condition of the grant, VTA requires that the funds necessary to complete the project are allocated at the time of formal grant acceptance. As stated previously, the total cost of these

projects is estimated at \$3,695,000; however, \$2,956,000 would be reimbursed to the City by VTA as the projects progress.

Additionally, staff wishes to bring to the Council’s attention the following additional grant requirements for both projects:

Requirement	Addressed in the following manner:
The City will complete the project as described in the grant application. The project requires both design and construction.	It is the intent of the City to complete the project. The City will manage both the design and construction.
City must execute the grant agreement within 30 days of award.	Staff will coordinate to execute the agreement within the deadline.
Project needs to have a completed E-76 request submitted to Caltrans by Sept. 2014 and the E-76 approved by Feb. 2015.	Staff estimates that E-76 should be completed by Aug. 2014.
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.
Where applicable, the City will comply with all applicable laws and regulations affecting project development, 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.
There is no legal impediment to make the application and no pending or threatened litigation which would affect the project.	Staff is not aware of any legal impediment or pending or threatened litigation that would affect the project.

**EVALUATION AND FOLLOW-UP**

Staff will report back to Council when the projects are ready for award of construction contracts in 2014 or sooner if funding is available from VTA. The projects will be developed in coordination with City and community stakeholders.

### **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)**

In accordance with Criterion 1, this memorandum will be posted on the City's website for the November 29, 2011 Council agenda.

### **COORDINATION**

Preparation of this report was coordinated with the City Attorney's Office and the City Manager's Budget Office.

### **FISCAL/POLICY ALIGNMENT**

The recommended action aligns with the Transportation and Aviation Services CSA Outcome related to providing viable transportation choices and with the City's economic development strategies to "create more walkable, vibrant, mixed-use environments to spur interaction and attract talent."

### **COST SUMMARY/IMPLICATIONS**

The recommendations in this memo would initiate the process required for the MTC to grant funds to the City of San José in the amount of \$2,956,000. A local match in the amount of \$739,000 is required for the grants. It is anticipated that upon formal award of these grants, staff will come back to Council requesting to recognize grant funds and appropriate the funds for these two projects. Some design work will need to be completed in advance of the grant award; therefore, a recommendation to allocate funding towards these projects is anticipated once a schedule for these projects is developed. The total cost for both grants is \$3,695,000. Since this is a monthly reimbursable grant, the reimbursable expenditures for the project (\$2,956,000) normally occur within the same fiscal year and provide a net zero result on the CIP.

HONORABLE MAYOR AND CITY COUNCIL

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**Subject: MTC Grants for CDT Program**

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The projects will not have a significant effect on ongoing maintenance and operating costs. The implementation of new more efficient streetlights will reduce ongoing energy costs for the General Fund.

**CEQA**

Exempt under the provisions of Section 15301(c) and (d) and 15304(h) - Exempt, File Nos. PP11-094, 095

/s/

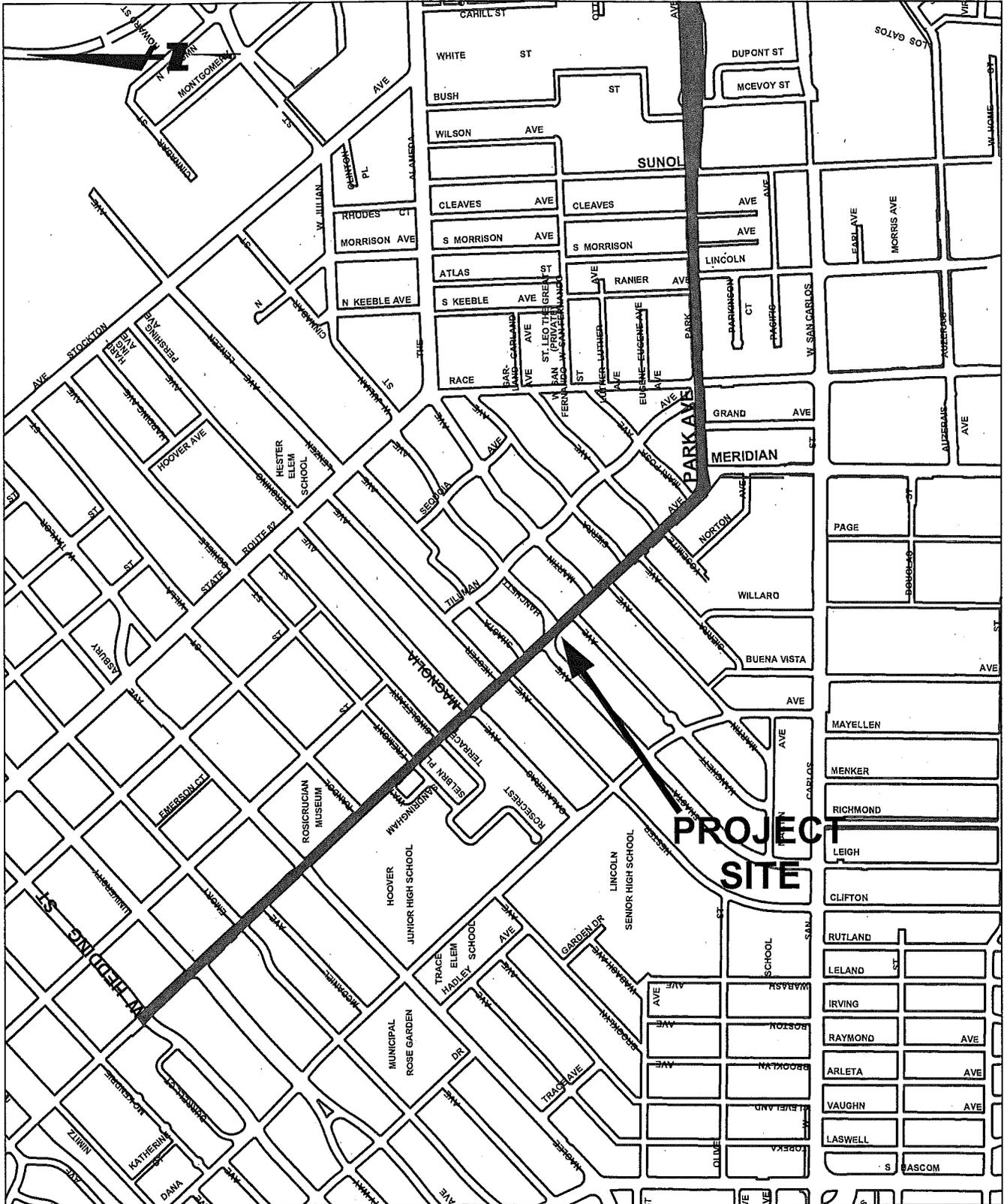
HANS F. LARSEN  
Director of Transportation

For questions please contact Manuel Pineda, Deputy Director, at 975-3295.

Attachments



# Attachment "B"



**PROJECT  
SITE**

**PARK AVENUE MULTI-MODAL  
IMPROVEMENTS  
FROM W HEDDING ST TO S MONTGOMERY ST**

**CITY OF SAN JOSE  
DEPARTMENT OF TRANSPORTATION  
NOVEMBER 9, 2011**



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Hans F. Larsen

**SUBJECT: RELINQUISHMENT OF  
STATE ROUTES 82 AND 130**

**DATE:** November 7, 2011

Approved

Date

11/15/11

**COUNCIL DISTRICT:** 2, 3, 5, 6, 7 & 10

## RECOMMENDATION

1. Approve a Relinquishment Agreement with the State of California for the relinquishment of State Route 82 from I-880 to US 101 (9.92 miles) and State Route 130 from US 101 to White Road (2.6 miles) and Caltrans transfer to the City up to \$12,410,000 of federal programming authority, with a required local match of \$1,450,000 subject to the approval of the California Transportation Commission (CTC) and appropriation through the Metropolitan Transportation Commission (MTC).
2. Adopt a resolution in connection with the relinquishment of State Routes 82 and 130 and pursuant to the request of Caltrans to direct the Director of Planning, Building and Code Enforcement to undertake and complete the necessary application and process as required (a) to nominate the underpass bridge located over The Alameda-State Route 82 between Cahill Street and Bush Street (Bridge Number 37-0045) as a historic landmark and (b) to initiate the procedure to designate the Holiday Inn site (CA-SCL-128/H) bounded by San Fernando Street to the north, Market Street to the east, San Carlos Street to the south, and the Guadalupe River to the west, as a historic district pursuant to Chapter 13.48 of the San José Municipal Code.

## OUTCOME

The relinquishment of State Route 82 (primarily consisting of The Alameda and Monterey Road) and State Route 130 (Alum Rock Avenue) will provide the City of San José with local control of the design, construction, operations and maintenance of these roadways without the constraints of Caltrans design standards and encroachment permit process. The City's authority will streamline the process for a wide range of street related activities including facilitation of adjoining private development, authorization of special events, and approval of projects that include the Santa Clara/Alum Rock Bus Rapid Transit (BRT) project and streetscape improvements along The Alameda Neighborhood Business District.

The Envision San José 2040 General Plan identifies The Alameda, Monterey Road, and Alum Rock Avenue as among the City “Grand Boulevards” that contribute to the City’s overall identity. Relinquishment of these roads from Caltrans to San José will allow for the City to implement over time a new “complete street” and locally focused vision (rather than State focused) for the roads consistent with the General Plan.

**BACKGROUND**

State Route 82 (SR-82) and State Route 130 (SR-130) are among the oldest state highways in the San José area. Fifty years ago these routes were important for regional mobility. Today, the regional significance of these “local” state highways has been superceded through the development of the state freeway network serving the San José area.

In 2009, the City’s Department of Transportation (DOT) initiated active discussions with Caltrans senior management concerning relinquishment of SR-82 and SR-130. The total length of the streets proposed for relinquishment is approximately 12.5 miles. They are shown on Attachment A and described as:

- SR-82 from I-880 to U.S. 101: includes The Alameda, portions of Autumn and Montgomery Streets near the Diridon Station and portions of San Carlos Street, Market Street, Monterey Road and Blossom Hill Road.
- SR-130 from U.S. 101 easterly to the City limits: includes Alum Rock Avenue within City limits.

Caltrans was interested in relinquishing these local state routes, which were deemed to be of limited statewide significance, in an effort to reduce state operating costs. The City was interested in accepting the routes in an effort to facilitate local design control for a growing number of projects along these highway corridors as identified in Figure 1. Collectively, these projects significantly support the City’s economic development and transportation goals.

*Figure 1 – Planned Projects Along SR-82 and SR-130*

The Alameda “The Beautiful Way” Streetscape The Alameda/El Camino Real Bus Rapid Transit Diridon Station Station Area Plan Autumn Parkway Extension San Carlos/Stevens Creek Bus Rapid Transit	Convention Center Expansion Monterey Highway Bus Rapid Transit California High Speed Rail (Monterey Road Corridor) Santa Clara/Alum Rock Bus Rapid Transit Alum Rock Form Based Zoning District
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However, a key issue for San José DOT was the generally “poor” condition of the street infrastructure due to decades of deferred maintenance. The discussions led to an understanding that Caltrans would pursue one-time funding to improve the pavement conditions to a “state of good repair” as a provision of a proposed relinquishment agreement.

### Legislative Authority for Relinquishment and Assembly Bill 321 (Beall)

A first step in the state route relinquishment process is to obtain the appropriate legislative authority. On December 15, 2009, the City Council approved the *2010 Legislative Guiding Principles, Priorities and Advocacy Issues* report, which included a City policy priority action to initiate legislation that supports the relinquishment of SR-82 and SR-130 from Caltrans to the City of San José.

The City subsequently sought the support from local Assemblymember Jim Beall to author relinquishment legislation and on January 20, 2010, Assembly Bill 1670 (Beall) was introduced. AB 1670 was signed into law and became effective on January 1, 2011, authorizing the California Transportation Commission (CTC) to enter into an agreement with the City of San José for the relinquishment of SR-82 and SR-130.

Over the past year, staff from the City and Caltrans have developed the terms, conditions, cost and financing elements associated with a relinquishment agreement. At this time, a proposed relinquishment agreement has been completed and is recommended for approval, to be followed by the CTC's action at its December 2011 meeting.

### ANALYSIS

#### Relinquishment Process

The removal of a state highway from the State Highway System requires a relinquishment approval by the California Transportation Commission (CTC). As part of the relinquishment legislative enactment process, the State of California and local agency have to negotiate a relinquishment agreement setting forth the terms and conditions of the relinquishment for CTC approval. The State of California, acting through Caltrans, and the City have negotiated the subject relinquishment agreement for Council review and approval. CTC will review the proposed agreement at its next meeting on December 7 and 8, 2011. If CTC agrees with the relinquishment terms they will take action to approve the agreement and resolution of relinquishment with the proper legal description to be recorded.

Under the terms of the proposed agreement the City will accept ownership and all operating and maintenance responsibilities for all the relinquished facilities once the Relinquishment Resolution is recorded.

#### Cost Assessment to Achieve "State of Good Repair"

As part of the relinquishment process, Caltrans and the City completed a condition assessment of SR-82 and SR-130. Through the assessment, it was estimated that approximately \$20,000,000 would be needed to bring these two corridors to a state of good repair in regards to pavement condition and ADA (Americans with Disabilities Act) sidewalk access improvements (e.g., curb ramps). Of this amount, approximately \$6,140,000 of improvements to the roadway will be completed as part of upcoming projects including the VTA's Santa Clara/Alum Rock and El

Camino Rapid Transit projects, the grant funded pedestrian improvements on The Alameda and the High Speed Rail project on Monterey Road. The remaining funding needed to achieve a state of good repair for both of these facilities is approximately \$13,860,000.

The relinquishment corridors will be incorporated as part of the City's maintenance priority lists and coordinated with upcoming construction projects. At this time, it is understood that while the full scope of The Alameda and BRT projects are still being developed, the improvements associated with these projects supplemented by the funding associated with the relinquishment will improve the condition of the infrastructure along SR-82 and SR-130 to an acceptable state of good repair and mitigate the near-term maintenance costs.

#### Source of Relinquishment Funding From Caltrans' Allocation of Federal/MTC Grants

In consideration of the City's acceptance of the relinquished facilities, Caltrans has agreed to transfer to the City up to \$12,410,000 of federal programming authority set aside for Caltrans projects. This funding will require a City match of 11.47% or approximately \$1,450,000 for a total amount of \$13,860,000. The local match for the relinquishment will come from gas tax funds already earmarked for pavement maintenance projects in the City.

To make the \$12,410,000 available to the City, Caltrans will notify the Metropolitan Transportation Commission (MTC), in writing, of the assignment of increased federal programming authority to the City. The additional federal programming authority, which will be programmed in MTC's Federal Transportation Improvement Program (FTIP), will be available for the City for pavement maintenance and ADA improvements along SR-82 and SR-130.

Over the last few months staff has worked with Caltrans, Valley Transportation Authority, and MTC staff to develop the process for the City to receive the relinquishment funding. In summary the process is as follows:

- Modification of a Transportation Improvement Program (TIP) amendment with MTC to include pavement and ADA improvements on the relinquished corridors (completed)
- CTC approval of relinquishment and programming of funds (December)
- Caltrans submits letter to MTC of increased federal programming authority to the City (December)
- MTC programming of the funds through its standard process (February/March)
- City identifies local funds and submits request for Authorization to Proceed

While unlikely, if MTC does not program the funds after the relinquishment has been recorded, the City could be at risk of not receiving the \$12,410,000 required to upgrade the facilities. While this unlikely occurrence would add to the City's significant maintenance backlog, staff still recommends the relinquishment be approved because of the economic benefit that the City can realize by owning these facilities and the number of key projects that require it for construction. To help ensure MTC policy actions are consistent with the terms of the relinquishment agreement, City staff will coordinate closely with MTC Boardmember Sam Liccardo. Should the City be successful in securing these funds, these funds will be programmed in the 2012-2013 Proposed Capital Budget and 2013-2017 Capital Improvement Program.

### Use of Funding for Future Pavement Maintenance Projects

The Relinquishment Agreement will allow the City to obtain federal grant funds for pavement maintenance projects along the state routes valued at approximately \$13.9 million. Staff has developed the following preliminary expenditure plan for use of the grant funds:

- *The Alameda Resurfacing (\$3.5 million)*: Project includes pavement repair and street resurfacing between I-880 and Stockton Avenue. Pavement rehabilitation work is proposed for integration together with The Alameda “The Beautiful Way” streetscape project with construction beginning in summer 2012.
- *Alum Rock Avenue Resurfacing (\$3.0 million)*: Project includes pavement repair and street resurfacing between US 101 and Capitol Avenue. Pavement rehabilitation work is proposed for integration with the Santa Clara/Alum Rock BRT project being administered by the VTA.
- *Monterey Road Resurfacing (\$7.4 million)*: Project includes pavement repair, ADA curb ramp construction, and street resurfacing between I-280 and Capitol Expressway. The pavement maintenance project is proposed for implementation in summer 2013.

### Risk Management Considerations

The Relinquishment Agreement states that the City accepts the relinquished facilities “as is.” In an effort to assess and minimize potential risk, staff has evaluated the following issues:

- *Roadway Safety* - The roadways have been designed per Caltrans design standards which are generally consistent with City of San José design criteria. Staff has also completed a review of accident data for the facilities and determined that the data appears to be consistent with similar roads in San José.
- *Hazardous Materials* - As part of this relinquishment, Caltrans provided the City with several environmental documents including an environmental historical data report of sites with regulatory listings in the vicinity of the Routes and historical aerial photographs. Caltrans did not provide an evaluation of the data or a comprehensive Phase I Environmental Site Assessment summarizing potential recognized environmental conditions. The City’s Environmental Services Department (ESD) conducted a limited review of the information provided and performed supplemental regulatory research. The objective was to determine if there are any known significant environmental liabilities on, or in, the immediate vicinity of the Routes that the City would incur as part of this relinquishment.

ESD’s limited environmental review did not reveal any high priority known or suspected environmental concerns that could cause the City to incur significant liabilities. However, there are various environmentally impaired properties currently under the oversight of regulatory agencies, with already determined responsible parties that are adjacent or within the vicinity of both State Routes. These sites are known or suspected contaminated sites, such as generators or handlers of hazardous waste, storage facilities of hazardous waste and permitted underground storage tank sites. The review revealed that some of these adjacent

November 7, 2011

**Subject: Relinquishment of State Route 82 and 130**

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sites have existing contamination that has migrated near or beneath the State Routes. In addition, both State Route 130 and 82 have several decades of developed history that includes agriculture, industrial and commercial operations that operated at the time when limited records were kept and hazardous substances were not as stringently regulated. The proposed pavement maintenance projects should not be of concern; however, in the future if the City requires excavation at these locations, the City would be required to take all necessary measures to mitigate any possible impacts.

- Right-of-Way Acceptance - The City is accepting the roadways "as is" without regard to the actual parcel environmental conditions. However, the City is not liable for any losses or damages that occurred prior to the date of the recordation of the relinquishment resolution.

### Historic Considerations

Caltrans has deemed it of high importance to assure that historic facilities along state corridors are protected as allowed by Federal and State requirements. For the relinquishment project Caltrans has identified two locations adjacent or on the facilities that are already identified in the National Register of Historic Places (NRHP) and/or the California Register of Historical Resources (CRHR):

- San José Underpass (Bridge No. 37-0045) – The bridge, located on the Alameda between Cahill Street and Bush Street, is listed on the National Register of Historic Places as a component of the San José Southern Pacific Depot (Diridon Station). The bridge, as originally constructed in 1932 by the Southern Pacific Railroad, includes the bridge superstructure which carries three sets of railroad tracks, three concrete bents that support the superstructure, two concrete abutments at the north and south ends of the bridge, and retaining walls, sidewalk, and sidewalk railings along the roadway. There are three lampposts on the railings of the bridge that appear to be original. The four lampposts on the sidewalk railings to the east of the bridge are modern replicas.
- "Holiday Inn" Site (CA-SCL-128H) – The site is situated in downtown San José bounded by San Fernando Street to the north, Market Street to the east, San Carlos Street to the south, and the Guadalupe River to the west. Much of the site is located beneath the current Crown Plaza Hotel site (formerly a Holiday Inn). The developed environment obscures any visual historical indications; however the site has yielded over 57 burials and an array of prehistoric cultural material.

Caltrans completed a Historical Resources Compliance Report (HRCR), in compliance with the provisions of the California Environmental Quality Act (CEQA) and the California Public Resources Code (PRC), Section 5024. The HRCR identified the above historical resources in the City of San José as listed in the NRHP and the CRHR, and are historical resources for purposes of CEQA. Although the state and national register provides a higher level of historical protection than any City requirements, Caltrans has requested that the Underpass be designated as a City historic landmark and the Holiday Inn site as a City historic district.

The relinquishment agreement requires the City Council to adopt a resolution to direct the Director of Planning, Building, and Code Enforcement to undertake and complete the necessary application and process to nominate the San José Underpass (Bridge No. 37-0045) as a historic landmark and initiate the procedure to designate the Holiday Inn site (CA-SCL-128H) as a historic district pursuant to Chapter 13.48 of the Municipal Codes. By adopting the proposed resolution, the Director of Planning, Building, and Code Enforcement will initiate the required outreach process and review by the Historic Landmark Commission and Planning Commission for future City Council consideration.

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

Staff will report back to Council when the funding for the pavement improvement projects are ready for award of construction contracts.

### **POLICY ALTERNATIVES**

#### ***Alternative #1: Do not approve the Relinquishment Agreement***

**Pros:** Reduce future operating cost and decrease tort liability opportunities due to not accepting 12.5 miles of additional street infrastructure.

**Cons:** Local control of planned development activities of significant interest and economic benefit is dependent upon the relinquishment of these state routes.

**Reason for not recommending:** Not in the best interest of the City to have State control of these streets.

### **PUBLIC OUTREACH/INTEREST**

The purpose of this section is to describe discussions that have occurred with the public, stakeholders, community groups and/or other governmental agencies. Staff will be asked to use the following checklist to determine if items are to be considered items of "Significant Public Interest" thus requiring additional notification per the matrix below. Please note the outreach that was done.

- ✓ **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)**

Meets Criteria 1 and will be included on the City Council agenda website.

### **COORDINATION**

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

### **FISCAL/POLICY ALIGNMENT**

Relinquishment of the SR-82 and SR-130 is consistent with the City's legislative priorities and it facilitates various economic development and transportation goals.

### **COST SUMMARY/IMPLICATIONS**

Under the existing maintenance agreement between the City and Caltrans, Caltrans reimburses the City up to \$275,000 and \$15,400 annually for certain operating and maintenance activities along the SR 82 and 130 respectively. In anticipation of these relinquishments, the 2011-2012 Adopted Budget assumed that the City would be responsible for these operating and maintenance costs and no reimbursement was assumed.

The proposed relinquishment funding in conjunction with upcoming projects will bring the facilities to a near term state of good repair for approximately a 10 year period. However future maintenance of the facilities will need to be incorporated as part of the City's maintenance programs.

### **CEQA**

Exemption 15331: Historical Resource Restoration/Rehabilitation

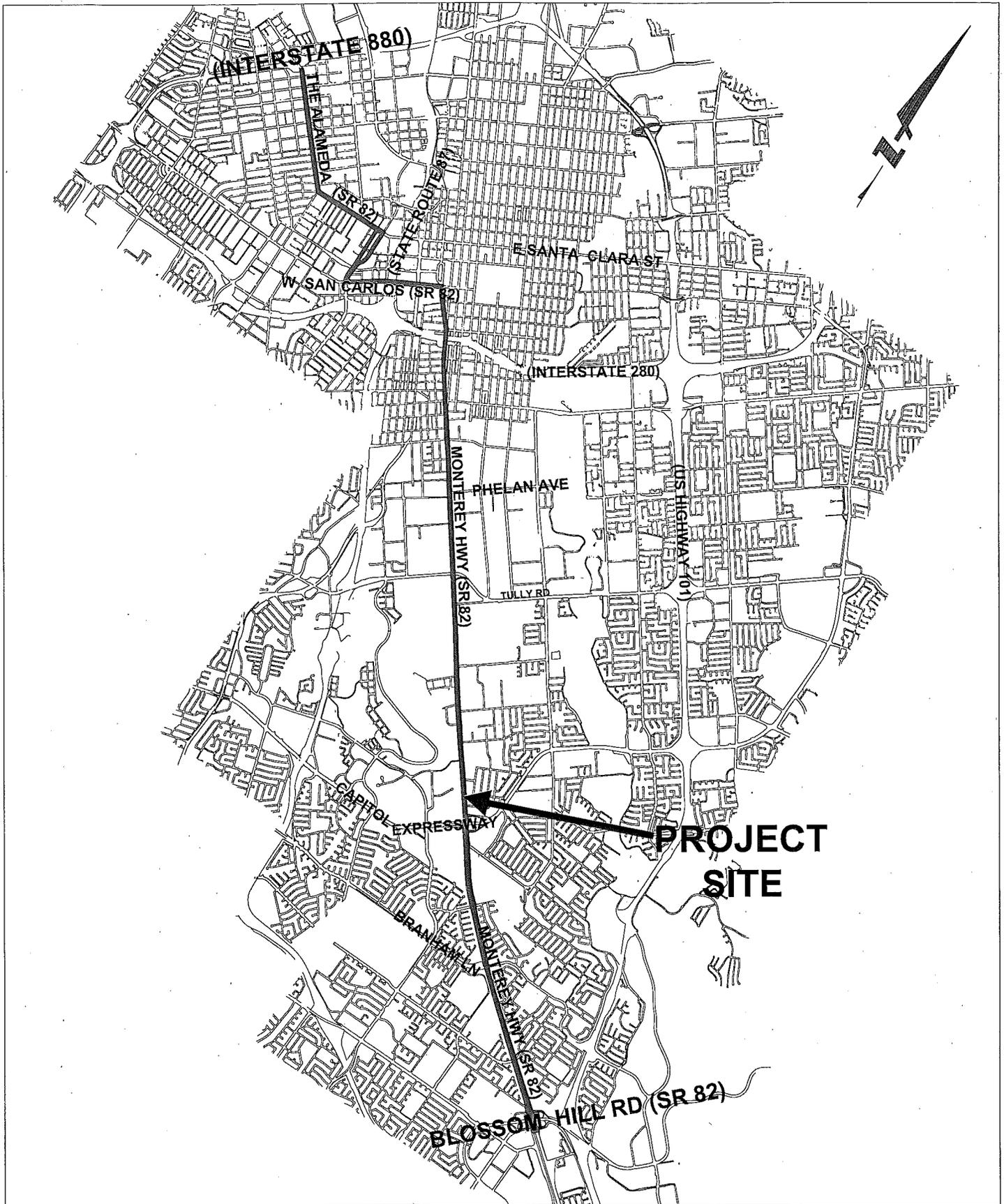
/s/

HANS F. LARSEN  
Director of Transportation

For questions please contact Manuel Pineda, Deputy Director, at 975-3295

Attachments

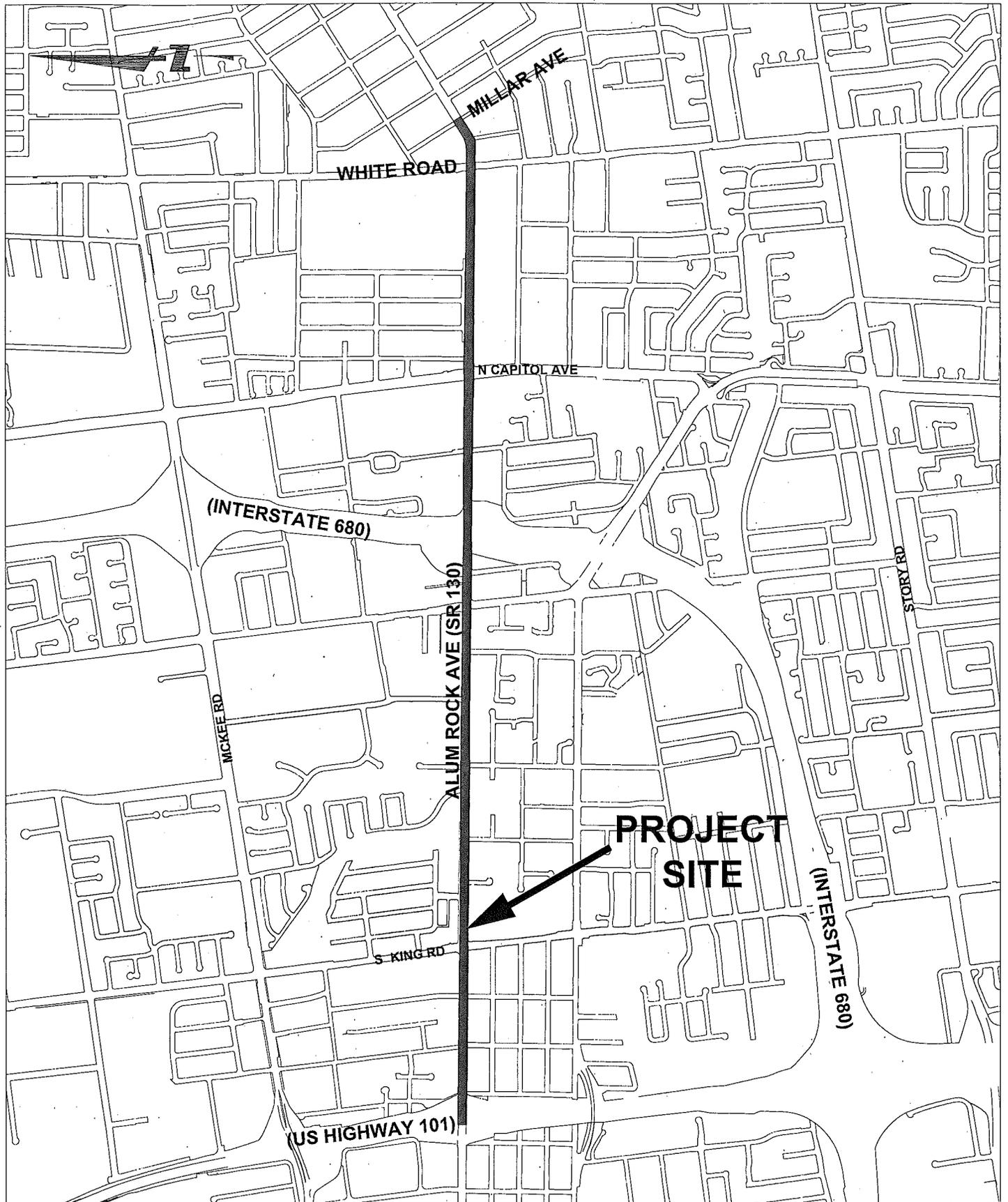
# Attachment "A-1"



**RELINQUISHMENT OF  
STATE ROUTE 82  
FROM I-880 TO US 101 (9.92 MILES)**

CITY OF SAN JOSE  
DEPARTMENT OF TRANSPORTATION  
NOVEMBER 7, 2011

**Attachment "A-2"**



**RELINQUISHMENT OF  
STATE ROUTE 130  
FROM US-101 TO WHITE ROAD (2.6 MILES)**

**CITY OF SAN JOSE  
DEPARTMENT OF TRANSPORTATION  
NOVEMBER 7, 2011**



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Julia H. Cooper

**SUBJECT:** SEE BELOW

**DATE:** November 7, 2011

Approved

Date

11/10/11

**SUBJECT: REPORT ON REQUEST FOR BIDS FOR SELF CONTAINED BREATHING APPARATUS FOR THE FIRE DEPARTMENT**

## RECOMMENDATION

1. Approval of award to purchase Self Contained Breathing Apparatus and related equipment to Fisher Scientific Company, LLC (Pittsburgh, PA) for a total cost not to exceed \$1,940,403, including all warranties, training, testing, delivery, and sales tax, and authorize the City Manager to execute the purchase order.
2. Authorize the City Manager to execute purchase orders as required for additional quantities of Self Contained Breathing Apparatus equipment, subject to the appropriation of funds.

## OUTCOME

Replace the Fire Department's aging inventory of Self Contained Breathing Apparatus (SCBA) and related support equipment; providing firefighters with new state of the art breathing equipment.

## BACKGROUND

The Assistance to Firefighters Grant (AFG) Program is a program of the Federal Emergency Management Agency (FEMA). The primary goal of AFG funding is to provide grants to help firefighters and other first responders obtain critically needed equipment, training, and other resources.

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**Subject:** Report on RFB for Self Contained Breathing Apparatus

Page 2

The SCBA is an integral part of firefighter safety gear. Its use is mandatory anytime a firefighter is subject to a dangerous life or health environment. The Fire Department's SCBA inventory is approximately 15 years old. Due to the age of the equipment and its frequent use, the breathing apparatus has been in constant need of repair. In addition, the SCBA equipment currently in-use is no longer manufactured or under warranty, therefore replacement parts are expensive and difficult to acquire.

In April 2009, the Fire Department applied for AFG funding to replace its existing SCBA inventory. FEMA awarded the Fire Department an "Assistance to Firefighters Grant" in the amount of \$1,716,388, for this purpose, effective July 2010, with a period of performance of July 23, 2010 to February 29, 2012, to receive and pay for all equipment, as well as implement the equipment into daily operations.

The City appropriated an additional \$458,612 in 2010-2011 to fund the matching-fund requirement of the grant.

### **ANALYSIS**

On July 27, 2011, the Finance Department released a Request for Bid (RFB) on the City's e-procurement system (BidSync) for the purchase of a quantity of 373, 45-minute self contained breathing apparatus; a quantity of 20, 60-minute self contained breathing apparatus with spare air cylinders; a quantity of 614 additional 45-minute spare air cylinders; 349 additional facepieces; 270 voice amplifiers; 20 Handheld firefighter locator systems; 20 Rescue Air Packs, training, warranty, ongoing maintenance and service, and mask fit testing.

A total of 25 companies viewed the RFB and two bids were received by the September 19, 2011, bid deadline as follows:

<b>Rank</b>	<b>Bidder</b>	<b>Base Bid (excluding sales tax)</b>
1	Fisher Scientific Company, LLC (Pittsburgh, PA)	\$1,792,519.80
2	Municipal Emergency Services (San Diego, CA)	\$3,019,177.00

All bid pricing is fixed for three years from the date of the initial purchase order. Any price increases after three years are subject to approval by the City with a maximum increase of 3% per year.

***Local and Small Business Preference (10%):*** The funding source for this purchase is a grant from the Assistance to Firefighters (AFG) through the Federal Emergency Management Agency (FEMA). The grant provisions do not allow local preferences. Therefore, the City's Local and Small Business Preference was not applied to this RFB.

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**Subject:** Report on RFB for Self Contained Breathing Apparatus

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**Protest Period:** The RFB process included a ten-day protest period from the day that the Notice of Intended Award was published. No protests were received.

**Recommendation Summary:** Staff recommends award of contract to Fisher Scientific Company LLC as the lowest responsive responsible bidder in accordance with SJMC section 4.12.310.

### **COST IMPLICATIONS**

The warranty period for parts and labor ranges from one to 15 years depending on the specific item. Generally, electronics have a one to three year warranty, and cylinders and facepieces carry a five to ten year warranty. All items under warranty must be repaired or replaced within two weeks. The two week time to repair shall start upon receipt of the product and end upon delivery to the SJ Fire Department. All shipping and handling costs are borne by Fisher.

Out of warranty repairs and ongoing operations and maintenance costs are the responsibility of the City and will be funded by the Fire Department using a current Construction and Conveyance (C&C) Tax fund appropriation.

In the event that the City requires the purchase of additional or replacement items, the cost of such items will be the responsibility of the City if grant funds are no longer available.

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

This memo will not require any follow-up from staff.

### **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 meets Criterion 1; this memorandum will be posted on the Council Agenda for the November 29, 2011 Council meeting.

HONORABLE MAYOR AND CITY COUNCIL

November 7, 2011

**Subject:** Report on RFB for Self Contained Breathing Apparatus

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**COORDINATION**

This memorandum was coordinated with the Fire Department, the City's Manager's Budget Office, and the City Attorney's Office.

**FISCAL/POLICY ALIGNMENT**

This action is consistent with the following General Budget Principles: "We must focus on protecting our vital core city services for both the short - and long-term"

**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	Total Appn.	Amount for Contract	2011-12 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
001	3705	Fire Self-Contained Breathing Apparatus	\$2,175,000	\$1,940,403	IX-26	28928 6/21/2011

**CEQA**

Not a Project, File No. PP10-066(c) Contract Award for purchase of supplies and equipment.

*/s/*  
JULIA H. COOPER  
Acting Director of Finance

For questions please contact Mark Giovannetti, Purchasing Division Manager, at (408) 535-7052.