



Sent to Council:

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MAR 27 2012

City Manager's Office  
*Memorandum*

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Leanna Bieganski

**SUBJECT:** Early Council Packet

**DATE:** March 27, 2012

Approved

Date

3-27-12

**EARLY DISTRIBUTION COUNCIL PACKET FOR**  
**APRIL 10, 2012**

Please find attached the Early Distribution Council Packet for the April 10, 2012 Council Meeting.

**4.x Actions Related to the Building Equity and Growth in Neighborhoods Funds.**

**Recommendation:** Adopt a resolution authorizing the Director of Housing to accept Building Equity and Growth in Neighborhoods (BEGIN) funds from the California Department of Housing and Community Development and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following BEGIN grants:

- (a) A \$4,000,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in the Pepper Lane (Phase 1) townhome development.
- (b) A \$1,500,000 grant to fund down payment assistance loans to first-time homebuyers purchasing in the proposed Westmount Square single family/townhome development.

CEQA: Not a Project File No. PP10-068(a), Grant Application. Council Districts 3 and 4. SNI: 13th Street. (Housing)

**5.x Ordinance Amending Chapter 9.44 of the San José Municipal Code to Regulate Outdoor Smoking.**

**Recommendation:** Approve an ordinance amending Chapter 9.44 of Title 9 of the San José Municipal Code to regulate outdoor smoking. CEQA: Exempt; File No. PP12-010. (City Attorney's Office)

**6.x Actions Related to the Downtown Bike Lanes Project.**

**Recommendation:** Approve the following actions to install eight miles of new bike lanes and associated pavement maintenance treatments in the Downtown San José area in support of implementing a Downtown Bike Share system in 2012 using various grant funding sources:

- (a) Authorize the removal of vehicle travel lanes on specified segments of Almaden Boulevard, Third Street, Fourth Street, Tenth Street and Eleventh Street and installation of bicycle lanes consistent with Envision 2040 goals for developing “complete streets” as described in this memorandum.
- (b) Adopt a resolution to repeal Resolution No. 74835 and authorize the installation of bicycle lanes on the following streets in accordance with California Vehicle Code section 21207:
  - (1) Almaden Boulevard between Grant Street and Santa Clara Street;
  - (2) Notre Dame Street between Santa Clara Street and St. John Street;
  - (3) Third Street between Julian Street and Reed Street;
  - (4) Fourth Street between Julian Street and Reed Street;
  - (5) Tenth Street between Hedding Street and Keyes Street; and
  - (6) Eleventh Street between Hedding Street and Keyes Street.
- (c) Adopt a resolution for implementation of new Downtown area bike lane projects and associated pavement maintenance treatments that:
  - (1) Authorizes the City Manager to determine the lowest responsive and responsible bidder, to award a construction contract in an amount not to exceed \$1,897,500, and/or to reject all bids and re-bid the project; and
  - (2) Authorizes the Director of Public Works to decide any timely bid protests, including issues of bidder responsiveness or responsibility.

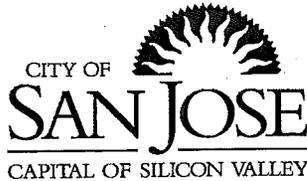
CEQA: Negative Declaration, File No. PP02-115. Downtown Strategy 2000 EIR, File No. GP05-03-01, Resolution No. 72767. Council District 3. (Transportation)

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



LEANNA BIEGANSKI  
Council Liaison





# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Leslye Corsiglia

**SUBJECT:** BEGIN PROGRAM GRANTS

**DATE:** March 19, 2012

Approved

Date

3-27-12

**COUNCIL DISTRICT:** 3 & 4  
**SNI AREA:** 13<sup>th</sup> Street

## RECOMMENDATION

Adopt a Resolution Authorizing the Director of Housing to accept Building Equity and Growth in Neighborhoods (BEGIN) funds from the California Department of Housing and Community Development (HCD) and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following BEGIN grants:

- a. A \$4,000,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the Pepper Lane (Phase 1) townhome development.
- b. A \$1,500,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the proposed Westmount Square single family/townhome development.

## OUTCOME

The City of San José will receive \$5,500,000 million in state grant funds that will be used to provide low-interest mortgage loans to low- and moderate-income families in targeted new housing communities. In addition to providing families with housing opportunities, these funds will help stimulate the local housing market.

## BACKGROUND

The BEGIN Program is funded by Proposition 1C, which was approved by the voters in 2006. The funds, which are managed by the State's Department of Housing and Community Development (HCD), are offered on a competitive basis to cities that have demonstrated that they have significantly reduced housing development cost to builders through various regulatory relief and development incentives such as modification of density standards,

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Subject: **BEGIN Program Grants**

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flexible parking standards, streamlined project review, and fee waivers or deferrals. Since the inception of the BEGIN Program, the Department of Housing has applied for and received over 18 competitive grants totaling over \$27,000,000. The City of San José is the largest beneficiary of BEGIN Program funds in the state.

The BEGIN grant will be used to assist approximately 65 first-time homebuyer households in the following new for-sale developments: (1) Pepper Lane; and (2) Westmount Square. HCD requires approval by the Council to accept these new funds. Upon Council approval, the Director of Housing will execute two new BEGIN agreements with HCD.

### ANALYSIS

Upon approval of this recommendation, the City will use the BEGIN funds to make deferred payment loans for low- and moderate-income first-time homebuyers purchasing homes in the new housing developments for which the City receives a BEGIN award. Maximum BEGIN Program loan amounts can be as high as 20% of the sales price – providing much needed gap financing for first-time homebuyer households. All BEGIN loans are structured as 3% simple-interest loans with no monthly payment requirements for 30 years, or until the home is sold or transferred to an ineligible household. BEGIN Program grants will continue to be offered to income-eligible families until either the grant funds are depleted, or three years from the date of the award, whichever occurs first. The 2012 moderate income limits are shown below (subject to change annually):

Income Range	Household Size					
	1	2	3	4	5	6
Moderate-Income	\$88,200	\$100,800	\$113,400	\$126,000	\$136,100	\$146,150

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

### NEW DEVELOPMENTS:

Prior to submitting its BEGIN application, the Housing Department researched for-sale developments that were in the advanced stage of obtaining building permit approval, under construction, or recently completed. After identifying candidate projects that could be completed and funded within the timeframe mandated by the state, staff contacted the developers of these projects to garner their interest in participating in the program. Through this process, the following two projects were selected. Funding applications were completed with the assistance of the developers and subsequently approved by the state.

#### Pepper Lane/Phase 1:

The first phase of Pepper Lane is a mix of 158 condominiums and townhomes. The project is located in City Council District 4 on Jackson Avenue and Berryessa Road. Construction is

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Subject: **BEGIN Program Grants**

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complete on the first few buildings and the developer (Pulte Homes) is awaiting the approval of BEGIN funds to begin offering to homebuyers. The sales price ranges from \$429,000 to \$589,000 depending on the size of the townhomes, which are two to four bedroom units with two to three and one-half bathrooms.

Over the next few years, the total project will include a total of 371 units and will have a commercial component along Berryessa Road. The City opted to apply for Phase 1 only so it could be eligible to apply again in future years for the additional phases.

Westmount Square:

Westmount Square is a proposed 60 unit project (30-attached and 30-detached) that will be located in the 13<sup>th</sup> Street Strong Neighborhoods Initiative (SNI) Area at East Mission Street/North 10<sup>th</sup> Street. The project will also be subject to the City's Inclusionary Housing Policy. The \$1,500,000 in BEGIN funds will be used to assist 18 homebuyers. There is the potential of combining the affordable homes under the inclusionary policy with the BEGIN assisted homes. The project is at the Final Map stage of the entitlement process and the developer is currently Arcadia Homes.

**EVALUATION AND FOLLOW-UP**

Upon approval of this memo, staff from the Department of Housing will work with HCD to negotiate and execute the BEGIN grant awards and related documents and amendments. Recommendations to recognize and appropriate the \$5,500,000 grant will be brought forward for Council approval as part of the 2012-2013 Proposed Operating Budget.

**POLICY ALTERNATIVES**

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

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

**Pros:** By accepting the funds, the City will be partnering with the two developers to provide home buying opportunities to low- and moderate-income households that otherwise may not be able to afford homes in San José.

**Cons:** Declining to accept the BEGIN funds will prevent significant financial assistance to first-time homebuyers in need of downpayment assistance.

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**Reasons for Not  
Recommending:**

Despite the housing market downturn, the City of San José remains one of the most expensive housing markets in the nation. Providing homebuyers with much needed financial assistance will help increase affordability for low- and moderate-income first-time homebuyer households and help stimulate home sales of new construction homes. Further, future BEGIN loan repayments may be utilized by the City to create a sustainable revolving loan program to assist future first-time homebuyers.

**PUBLIC OUTREACH/INTEREST**

This action meets Public Outreach Criterion #1. This memo will be posted to the City Council Agenda for April 10, 2012, via the City's website. In addition, the developers with new construction for-sale housing projects have been notified of these current and future grant funds and are working closely with staff from the Department of Housing to market these funds to homebuyers in an effort to sell their units. Housing Department staff has also notified prospective homebuyers and the City's primary housing partners, such as Project Sentinel, the Santa Clara County Association of Realtors (SCCAOR), and the Housing Trust of Santa Clara County (HTSCC) of this agenda item via a posting on the Department of Housing website at [www.sjhousing.org](http://www.sjhousing.org), and various outreach and training events.



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



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



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

**COORDINATION**

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

**FISCAL/POLICY ALIGNMENT**

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

**COST SUMMARY/IMPLICATIONS**

In 2011-2012, funds were appropriated and the existing funds are sufficient to meet the needs for down payment assistance loans for first-time homebuyers; therefore, no budget actions are being recommended as part of this memorandum. Recommendations to recognize and appropriate the \$5,500,000 of anticipated BEGIN grant funding from the California Department of Housing and Community Development will be brought forward for Council approval as part of the 2012-2013 Proposed Operating Budget.

**BUDGET REFERENCE**

The table below identifies the fund and appropriation proposed to provide down payment assistance loans for first-time homebuyers in 2011-2012.

Fund #	Appn #	Appn. Name	Total Appn		2011-2012 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord No.)
448	3312	CalHome (BEGIN) Program	\$2,071,254		N/A	02/14/2012, Ord No. 29036

**CEQA**

Not a Project File No. PP10-068(a) Grant Application.

/s/  
LESLYE CORSIGLIA  
Director of Housing

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



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Ordinance Regulating Outdoor  
Smoking in San Jose

**DATE:** March 23, 2012

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## **RECOMMENDATION**

Approval of an Ordinance amending Chapter 9.44 of the San Jose Municipal Code to regulate outdoor smoking.

## **OUTCOME**

The Ordinance will amend San Jose's smoking regulations to prohibit smoking in outdoor dining areas, outdoor common areas of apartments, condominiums and mobilehome parks and in service lines.

## **BACKGROUND**

San Jose has a long history of regulating smoking in most enclosed areas of buildings that are generally accessible to the public. The County of Santa Clara received grant funds from the Centers for Disease Control and Prevention, for the purpose of implementing population-based approaches to tobacco prevention and control. The County in turn offered to use some of these funds to reimburse the City of San Jose for the cost to prepare the ordinance. The County and Breathe California also offered to assist with the education and ordinance implementation if adopted by Council. The City agreed to participate in this effort to test new models of collaboration.

On August 30, 2011, the City Council approved a set of ten priority ordinances, including direction to the City Attorney to draft an ordinance to extend smoking prohibitions to outdoor areas of restaurants, public service lines and unenclosed common areas of multi-family residential properties. Following Council action, the City Attorney's Office met with PBCE staff and with County of Santa Clara staff to discuss the proposed ordinance.

A draft ordinance was placed on the City website and presented for discussion and comment at a public meeting held on December 8, 2011.

## **ANALYSIS**

San Jose's smoking regulations are set forth in Chapter 9.44 of the Municipal Code. Section 9.44.030 generally prohibits smoking in most indoor areas of the City with a few very limited exceptions. The Code also currently prohibits smoking in the seating and

outdoor areas of stadiums and sports arenas and City parks (excluding golf courses) and within 25 feet of the entrance to a City library or community center.

The proposed Ordinance would expand the prohibition on smoking outdoors to the following areas:

**Outdoor Dining Areas** which are defined as “any privately owned or public owned area, including streets, sidewalks, and Side Walk Cafes ... which is available or customarily used by the general public and which is designed, established, or regularly used for consuming food or drink.” This regulation would prohibit smoking in many outdoor areas of bars and restaurants that currently allow smoking in such outdoor areas.

**Service Lines** which are defined as “ any outdoor line or queue at which one or more persons are waiting for service of any kind, whether or not such service involves the exchange of money.” This regulation would prohibit smoking in many outdoor areas where people gather to wait for services, such as ATM's, food stands or trucks, bus stops, and ticket lines.

**Outdoor areas of multifamily housing residential projects** which include apartments, condominiums and mobilehome parks. San Jose already prohibits smoking in the indoor common areas of these types of uses. The proposed Ordinance would expand the smoking prohibition to the outdoor common areas of such uses. The owners of these properties would be authorized to designate certain permitted smoking areas on the property as long as the designated area remained unenclosed and at least 30 feet away from doorways, windows or air intakes.

The existing Municipal Code provisions require that no smoking signs be posted *in* buildings where smoking is prohibited. The proposed Ordinance will require the posting of no smoking signs *at* any building where smoking is prohibited. This amendment is intended to include outdoor areas of building premises such as bars and restaurants and residential complexes. It may also include certain service line areas directly adjacent to buildings. Staff intends to work with the County and with the VTA about no smoking signs for services lines for mobile vendors and at bus stops.

#### **NEXT STEPS/FOLLOW UP**

At the outset of this project, the County offered to assist with education and implementation of the Ordinance, if adopted by the City Council. The partnership for implementation would also extend to interested non-profits such as Breath California. The County of Santa Clara's Department of Environmental Health has committed to assist with outreach and training on the implementation of this Ordinance. The Administration is also finalizing a memorandum of understanding with Breathe California to provide education and outreach related to policy implementation and assistance in the intake and handling of complaints.

**PUBLIC OUTREACH/INTEREST**

A community meeting was held in the City Hall Council Chambers on December 8, 2011. Public outreach included newspapers, an announcement on the City's webpage and a flyer included with the annual mailing to property owners/managers of multi-family rentals with Residential Occupancy Permits. In response to the public notice about the community meeting, seven emails were received. All were in favor of the proposed Ordinance and most recommended additional restrictions on smoking. More than forty people attended the community meeting.

Code Enforcement Official Mike Hannon and Janie Burkhart, Santa Clara County Public Health Program Manager, made a presentation about the draft ordinance. The PowerPoint was posted on Code Enforcement's website at <http://www.sanjoseca.gov/codeEnforcement/PDF/OutdoorSmokingOrdinancePresentation.pdf>

Breathe California submitted a petition with 190 signatures in support of smoke-free dining in outdoor restaurant/bar seating area. Members present spoke in favor of the ordinance and some recommended additional restrictions on smoking. Five members of the community, including Charles Janigian, Present of the California Association of Retail Tobacconists, Inc. opposed the draft ordinance. Twenty people provided public comments or questions during the meeting.

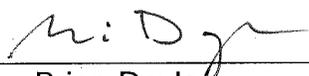
**COORDINATION**

This memorandum was coordinated with the City Manager's Office and the Department of Planning, Building and Code Enforcement

**CEQA**

Categorically exempt, PP 12-010.

RICHARD DOYLE  
City Attorney

By   
\_\_\_\_\_  
Brian Doyle  
Sr. Deputy City Attorney

cc: Debra Figone

For questions please contact Brian Doyle, Senior Deputy City Attorney, at 535-1908

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING  
CHAPTER 9.44 OF TITLE 9 OF THE SAN JOSE  
MUNICIPAL CODE TO REGULATE OUTDOOR SMOKING**

**WHEREAS**, on December 8, 2010, the Rules and Open Government Committee (“Committee”) of the City Council of the City of San José considered a memorandum from Vice Mayor Chirco and Councilmembers Kalra, and Licardo recommending the preparation of a draft ordinance to amend the San José Municipal Code to prohibit smoking in outdoor areas of restaurants, public service lines and unenclosed common areas of multi-family properties; and

**WHEREAS**, the Committee agreed to evaluate the ordinance as part of the priority setting in February, 2011; and

**WHEREAS**, on August 30, 2011, the City Council approved a set of ten priorities, including direction to the City Attorney to draft an ordinance to extend smoking prohibitions to outdoor areas of restaurants, public service lines and unenclosed common areas of multi-family residential properties; and

**WHEREAS**, on December 8, 2011, a meeting was held in the City Hall Council Chambers to receive public comments on the proposed Ordinance; and

**WHEREAS**, on February 28, 2012, the City Council of the City of San José considered this Ordinance for approval; and

**WHEREAS**, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15061(b)(3) of the California Environmental Quality Act of 1970, as amended, under File No. PP 12-010;

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

**SECTION 1.** Chapter 9.44 of Title 9 of the San José Municipal Code is amended by adding a new section to be numbered and entitled and to read as follows:

**9.44.019 Outdoor Dining Area**

“Outdoor Dining Area” means any privately owned or publicly owned area, including streets, sidewalks, and Sidewalk Cafes as defined in Section 20.200.1120 of the San José Municipal Code, which is available or customarily used by the general public and which is designed, established, or regularly used for consuming food or drink.

SECTION 2. Chapter 9.44 of Title 9 of the San José Municipal Code is amended by adding a new section to be numbered and entitled and to read as follows:

**9.44.020 Service Line**

“Service Line” means any outdoor line or queue at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

SECTION 3. Chapter 9.44 of Title 9 of the San José Municipal Code is amended by adding a new section to be numbered and entitled and to read as follows:

**9.44.021 Designated Smoking Area**

“Designated Smoking Area” means such portion of an Outdoor Common Area that has been designated for smoking by the person with legal control over the common area and which complies with all of the following:

- A. The area is unenclosed.
- B. The area is located at least thirty (30) feet from any operable doorway, window opening or other vent into an enclosed area.
- C. The perimeter of the area is clearly demarcated.
- D. Signs indicate that the area is designated for smoking.

SECTION 4. Section 9.44.030 of Chapter 9.44 of Title 9 of the San José Municipal Code is amended to read as follows:

**9.44.030 General Prohibition**

Smoking is prohibited in the following places located within the City of San José except as provided in Section 9.44.040:

- A. *Buildings:* All enclosed areas of buildings which are open to the public or which are places of employment.
- B. *Public and common areas of multifamily residential areas:* All enclosed areas of apartments, condominiums and mobilehome parks which are open to public access or to unrestricted common access by the residents of such places.
- C. *Motor vehicles used in work:* In motor vehicles which meet one (1) of the following conditions:

1. Common carriers for public transit;
  2. Vehicles for hire, such as taxicabs;
  3. Vehicles which are operated in the course of employment for the use of more than one (1) person at a time during the time of employment.
- D. *Hotel and motel guest rooms:* The enclosed areas of at least fifty percent (50%) of the guest rooms located in a hotel or motel. To the greatest extent feasible the smoke free rooms shall be grouped together to each other and separated from rooms where smoking is permitted.
- E. *Stadium and sports arenas:* The seating and eating areas of any outdoor stadium or sports arena. Smoking may be permitted only in specifically designated areas which are not located in close proximity to seating or eating areas.
- F. *City parks:* Park is defined in Chapter 13.44 of Title 13 of the San José Municipal Code, as it may be amended. Without limitation of any other provision of this Code, the definition of "park" for purposes of this Section includes sidewalks, trails and pathways in or around park facilities, park strips and other grounds of any park.
- G. In any the following outdoor areas:
1. Areas within twenty-five (25) feet horizontally or vertically of any entrances, exits, operable windows, or air intake openings of any community center or library owned, leased or occupied by the City;
  2. All unenclosed common areas of apartments, condominiums and mobilehome parks which are open to public access or to unrestricted common access by the residents of such places, except for areas that have been designated as a Designated Smoking Area by the owner of the property;
  3. Outdoor Dining Areas;
  4. Service Lines.

SECTION 5. Section 9.44.040 of Chapter 9.44 of Title 9 of the San José Municipal Code is amended to read as follows:

**9.44.040 Exceptions**

Smoking may be permitted in the following locations:

- A. Private residences, except where state law prohibits smoking.
- B. Retail tobacco stores which sell primarily tobacco products.
- C. Meeting and banquet rooms which meet the standards set forth in Section 6404.5(d)(3) of the California Labor Code.
- ~~D. Outdoor areas of restaurants.~~
- ED. At such areas of the San José International Airport as provided for in Section 9.44.045 of this Chapter.
- FE. On a stage in a theater during a theatrical performance where a performer is smoking when smoking is part of the performance.
- GF. Any property owned or leased by other governmental agencies and used for governmental purposes.
- HG. Upon any outdoor area of any golf course owned or operated by the City that is more than twenty-five (25) feet from any entrance, exit, operable window or air intake opening of any building.

SECTION 6. Section 9.44.055 of Chapter 9.44 of Title 9 of the San José Municipal Code is amended to read as follows:

**9.44.055 Enforcement**

- A. To the extent that these provisions are duplicative of Labor Code Section 6040.5, any enforcement shall be pursuant to the Labor Code.
- B. The following provisions of this Chapter shall be enforced directly:
  - 1. Subsection A. of Section 9.44.030 in those areas where there is no exception under this Chapter corresponding to an exception to the definition of "place of employment" as set forth in Labor Code Section 6404.5.
  - 2. Subsections B., C., ~~D.~~, ~~and E.~~, F. and G. of Section 9.44.030.

- C. The provisions of this Code which are duplicative or less stringent than Labor Code 6405.5 are hereby suspended and should Labor Code 6404.5 ever be repealed or modified, those suspended sections of this Chapter shall then be enforced.

**SECTION 7.** Section 9.44.060 of Chapter 9.44 of Title 9 of the San José Municipal Code is amended to read as follows:

**9.44.060 Posting of Signs**

- A. "No Smoking" signs shall be conspicuously posted ~~in~~ at every building, where smoking is prohibited pursuant to this Chapter, by the owner, operator, manager or other person having control of such room, building, or other place.
- B. In any building where smoking is partially permitted "No Smoking" signs shall be placed in the lobby or in conspicuous places near each entrance to the building stating that smoking is prohibited in the building except in the areas designated as smoking areas.
- C. "Smoking Permitted" signs shall be posted at the entrance to and in any room in an air terminal building in which smoking is expressly permitted under Section 9.44.045. All such signs shall conform to the standards for appearance of signs established by the Director of Aviation.
- D. Movie theaters shall indicate on the movie screen prior to each feature motion picture that smoking is prohibited.
- E. "Smoking Permitted" shall be posted in any Designated Smoking Area as permitted pursuant to Section 9.44.021 of this Chapter.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

CHUCK REED  
Mayor

ATTEST:

---

DENNIS D. HAWKINS, CMC  
City Clerk



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Hans F. Larsen

**SUBJECT: DOWNTOWN BIKE LANES  
PROJECT**

**DATE:** March 19, 2012

Approved

Date 3/27/12

**COUNCIL DISTRICT: 3**

## RECOMMENDATION

Approve the following actions to install eight miles of new bike lanes and associated pavement maintenance treatments in the Downtown San José area in support of implementing a Downtown Bike Share system in 2012 using various grant funding sources:

1. Authorize the removal of vehicle travel lanes on specified segments of Almaden Boulevard, Third Street, Fourth Street, Tenth Street and Eleventh Street and installation of bicycle lanes consistent with Envision 2040 goals for developing “complete streets” as described in this memorandum.
2. Adopt a resolution to repeal Resolution No. 74835 and authorize the installation of bicycle lanes on the following streets in accordance with California Vehicle Code section 21207:
  - a. Almaden Boulevard between Grant Street and Santa Clara Street;
  - b. Notre Dame Street between Santa Clara Street and St. John Street;
  - c. Third Street between Julian Street and Reed Street;
  - d. Fourth Street between Julian Street and Reed Street;
  - e. Tenth Street between Hedding Street and Keyes Street; and
  - f. Eleventh Street between Hedding Street and Keyes Street.
3. Adopt a resolution for implementation of new Downtown area bike lane projects and associated pavement maintenance treatments that:
  - a. Authorizes the City Manager to determine the lowest responsive and responsible bidder, to award a construction contract in an amount not to exceed \$1,897,500, and/or to reject all bids and re-bid the project;
  - b. Authorizes the Director of Public Works to decide any timely bid protests, including issues of bidder responsiveness or responsibility.

## **OUTCOME**

The recommended actions support timely implementation of a comprehensive network of convenient bikeways in the Downtown San José area consistent with the City's policy goals identified in Envision 2040 and San José Bike Plan 2020. In the summer of 2012, the Santa Clara Valley Transportation Authority (VTA) is implementing a bike share system in the Downtown area. An enhanced Downtown bikeway network is needed to ensure the bike share system is successful. The source of project funding for the bike lanes is from state grants having an expenditure deadline of June 30, 2012.

## **BACKGROUND**

The Council has adopted a bold set of policy goals that support increased travel by bicycling. Additionally, several plans and projects have been approved that focus on enhancing the Downtown San José area for bicycling. Listed below is a summary of key policies and projects.

- *Bike Plan 2020* – Approved on November of 2009, the plan established a vision where bicycling is safe, convenient and commonplace. Two key elements of the plan included the implementation of an enhanced primary bikeway network and a goal to increase bike mode share from 1% to 5% by 2020.
- *Envision 2040* – The recently approved Envision 2040 aims to promote San José as a walking and bicycling first city by providing and prioritizing projects that enhance and improve bicycle and pedestrian facilities. It includes aggressive goals and policies to reduce vehicle use by 40% by 2040 including increasing bike mode-share to at least 15%.
- *Couplet Conversions* – Approved in 2002, the Downtown Circulation and Access Study approved the conversion of a number of streets in the downtown from one-way to two-way travel. The goal of the Study was to promote more livable neighborhoods along these corridors and encourage increased walking and bicycling. The adopted plan included reducing vehicle lanes and adding bike lanes on segments of 3<sup>rd</sup>/4<sup>th</sup> Streets and 10<sup>th</sup>/11<sup>th</sup> Streets.
- *Complete Streets* – Envision 2040 policies support the development of Complete Streets. Complete Streets need to be designed or modified to make them accessible for everyone supporting a full range of activities, including bicycles.
- *San Fernando Enhanced Green Bike Lanes* – The City has received grant funds to install green bike lanes along the San Fernando Street corridor between Diridon Station and San Jose State University to enhance the visibility and safety of this route as a primary bikeway. The project is scheduled for construction in summer 2012.

March 19, 2012

**Subject: Downtown Bike Lanes Project**

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- *Downtown Public Bike Share* – In fall 2012, a public bike share system will be implemented in Downtown San José, as part of a five city regional pilot project funded by regional grants. Downtown San José will host approximately 15 bike stations with 150-200 bikes available for public use. Proposed locations include: Diridon Station, San José State University, San Pedro Square, SOFA District, Convention Center, Chavez Plaza, and City Hall.

*Example of Public Bike Share System (Washington DC)*



## ANALYSIS

### Downtown Bike Lanes

The implementation of the Bike Share System provides a unique opportunity in achieving San José's Envision 2040 mode-shift goals. With the addition of 150-200 bikes throughout the Downtown, having appropriate facilities and connections so people can choose to ride a bicycle will be imperative for the success of the system. The completion of the San Fernando Green Bikeway provides one element for success, however, the Bike Share System requires better connectivity and a more comprehensive bike network. As such, staff reviewed the downtown area for opportunities, specifically focusing on the north-south connections where bike facilities are currently limited, to determine key corridors in support of Bike Share implementation. The

proposed corridors provide connections to the existing bike system and land uses that support the success of the Bike Share System.

Seven new locations are recommended for installation of bike lanes. In addition to the previously described benefits these locations were selected in consideration of the following factors: requests from the public, input from the City's Bike and Pedestrian Advisory Committee, bike collision history, and bike network connectivity. Attached is a map showing the current and planned bikeway network for the Downtown area.

The seven recommended bike lane projects are discussed in more detail below:

- Almaden Boulevard from Santa Clara Street to Grant Street– The project will provide a bike lane in each direction of Almaden. The bike lanes will connect with existing bike lanes on San Fernando Street as well as a planned bikeway on St. John Street (via Notre Dame described below). This project will also include the addition of on-street parking on certain segments of Almaden.
- Third Street from Julian Street to Reed Street– The project will provide one-way buffered bike lanes on both sides of the street. The bike lanes will connect with existing bike lanes on San Fernando Street as well as existing bike lanes on Third Street, north of Julian Street.
- Fourth Street from Julian Street to Reed Street– The project will provide one-way buffered bike lanes on both sides of the street. The bike lanes will connect with existing bike lanes on San Fernando Street as well as existing bike lanes on Third Street, north of Julian Street.
- Notre Dame Street from Santa Clara Street to St. John Street – The Notre Dame bikeway will consist of standard bike lanes and Shared Lane Pavement Markings (sharrows), and will connect to existing San Fernando bike lanes as well as a planned bikeway on St. John Street.
- Tenth Street from Hedding Street to Keyes Street – The project will provide one-way partially buffered bike lanes on both sides of the street. The bike lanes will connect with existing bike lanes on San Fernando Street and Commercial Drive as well as existing bike lanes (west side only) on Tenth Street, north of Taylor Street.
- Eleventh Street from Hedding Street to Keyes Street – The project will provide one-way partially buffered bike lanes on both sides of the street. The bike lanes will connect with existing bike lanes on San Fernando Street and Commercial Drive as well as existing bike lanes (west side only) on Tenth Street, north of Taylor Street.

### **Lane Reductions and Analysis**

Excluding the Notre Dame Street project, each of the above projects requires a travel lane reduction to accommodate a bike lane.

- Downtown Core Corridors - The Almaden Boulevard, Third Street and Fourth Street projects are located within the Downtown Core and are excluded by the General Plan and City policy

from minimum traffic Level-of-Service (LOS) requirements. However, for informational purposes staff conducted traffic LOS analysis for all five streets to determine traffic conditions once the projects are implemented. The analysis determined that even after the removal of a travel lane in each corridor all intersections will continue to function at LOS D or better as defined by City Council Policy 5-3 Multimodal Transportation Policy. Although LOS D is not required within the downtown core the streets will continue to function at what is considered to be an acceptable LOS Citywide.

- *Downtown Circulation and Access Study* - Modifications to the Tenth and Eleventh street corridors were analyzed as part of The Downtown Circulation & Access Study (DCAS) approved by City Council in 2002. The DCAS made a number of recommendations for the downtown core and access corridors including the removal of a travel lane on the Tenth and Eleventh corridor for the section between Santa Clara Street and Keyes and the removal of a travel lane and conversion to a two-way street for the section between Santa Clara and Hedding. Although this project will not implement the conversion to two-way travel the removal of the lane and bike lane installation will serve as a Phase 1 improvement project. Once funding is identified to pursue the \$8.0-\$10.0 million two-way conversion project, it can be implemented with minimal striping changes.

### **Community Outreach**

Staff held two public meetings on the projects. On February 27, 2012, a public meeting was held regarding Almaden, Notre Dame, Third, and Four Streets. On February 29, 2012, a public meeting was held regarding Tenth and Eleventh Street bikeways. Approximately 40 people attended the community meetings. The projects received strong support although some concerns were expressed with regards to possible traffic congestion. Feedback was received for the specific designs and possible improvements to the approach. The projects also received support from the City's Bicycle and Pedestrian Advisory Committee at its publicly noticed March 12, 2012, meeting.

### **Pavement Maintenance**

The proposed project includes the application of a slurry seal pavement maintenance treatment along the eight miles of new Downtown bikeway corridors. The pavement maintenance treatment will improve the overall quality of the street condition and allow for clear markings of the new bike lanes. All of the streets are part of the proposed Priority Street Network identified as priorities for pavement maintenance in a report presented to the Transportation and Environment Committee on March 5, 2012. This report will also be reviewed by the City Council on March 27, 2012. The source of funding for the pavement maintenance is from State gas tax revenues.

### **Grant Funding Sources and Implementation Deadlines**

To leverage existing grant funds, this project is scheduled to be completed by June 30, 2012. The project is funded by state Transportation Development Act, Article III funds that will expire June 30, 2012. Completing these projects this fiscal year will allow the City to take advantage of these grant funds, which require no local matching funds.

In order to ensure meeting the deadlines described above, staff is asking Council to delegate authority for the City Manager to award this contract. Delegation would include the authority 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 authority will also allow the Director of Public Works to decide any bid protests in accordance with applicable requirements,

The specifications will include the following process regarding bid protests:

1. Bid results and a Notification of Intention to Award Contract to Apparent Low Bidder by the Director of Transportation and will be posted on the Bid Hotline.
2. All bidders will be e-mailed or faxed a copy of the Notification of Intention to Award Contract and will have five (5) working days to file a formal written bid protest.
3. The Director of Public Works will decide any timely bid protests, including issues of bidder responsiveness or responsibility and the Director of Transportation will award the contract.

Council policy provides for a standard contingency of five percent on public works projects. The funds budgeted for these projects are sufficient to provide for the recommended contingency.

### **EVALUATION AND FOLLOW UP**

The Downtown Bike Lanes Project will contribute towards meeting the City's policy goals for increasing the share of travel by bicycling. Evaluation of mode share performance data is expected to be reported to Council as part of future reports related to Bike Plan 2020, Envision 2040, and Green Vision.

### **PUBLIC OUTREACH/INTEREST**

- 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)**

This report will be posted on the City's website as part of the Council Agenda public outreach process. On February 27, 2012, a public meeting was held regarding Almaden, Notre Dame, Third, and Four Streets. On February 29, 2012, a public meeting was held regarding Tenth and Eleventh Street bikeways. For both meetings approximately 1600 mailers were mailed and additional outreach was completed to SNI's, Neighborhood Groups, and Downtown Association. The meeting notice was also distributed through bicycling non-profit organizations.

### **COORDINATION**

Preparation of this report was coordinated with the City Attorney's Office, Department of Public Works, the City Manager's Budget Office, and the Department of Planning, Building & Code Enforcement.

### **FISCAL/POLICY ALIGNMENT**

The recommended action aligns with the Transportation and Aviation Services CSA Outcome related to providing viable transportation choices.

### **COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: (Engineer's Estimate)

Project Delivery	\$ 165,000
Construction	\$1,650,000
Contingency	\$ 82,500
<b>Total Project Cost</b>	<b>\$1,897,500</b>

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

**BUDGET REFERENCE**

The table below identifies the funds and appropriations proposed to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	RC#	Appn. Name	Total Appn.	Amt. for Contract	2011-2012 Adopted Capital Budget Page*	Last Budget Action (Date, Ord. No.)
<b>Project Costs</b>				\$1,626,008			
<b>Current Funding Available</b>							
465	5216	465-51-170645-4052	Gas Tax Pavement Maintenance	\$7,718,000	\$1,076,500	V-788	28979 (10/18/11)
465	4292	465-51-170665-4052	Bicycle and Pedestrian Facilities	\$1,058,000	\$821,000	V-805	28979 (10/18/11)
<b>Total Current Funding Available</b>				<b>\$8,776,000</b>	<b>\$1,897,500</b>		

**CEQA**

Negative Declaration, File No. PP02-115.  
 Downtown Strategy 2000 EIR, File No. GP05-03-01, Resolution No. 72767

/s/  
 HANS F. LARSEN  
 Director of Transportation

For questions please contact John Brazil, DOT Bicycle and Pedestrian Program Manager, at 975-3206.

Attachment

