



Sent to Council:

Distributed on:
APR 10 2012
Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leanna Bieganski

SUBJECT: Early Council Packet

DATE: April 10, 2012

Approved

Date

4-10-12

EARLY DISTRIBUTION COUNCIL PACKET FOR
APRIL 24, 2012

Please find attached the Early Distribution Council Packet for the April 24, 2012 Council Meeting.

3.x Continued Suspension of Supplemental Retiree Benefit Reserve Payments.

Recommendation:

- (a) Approve an ordinance amending Section 3.36.580 of Part 4 of Chapter 3.36 of Title 3 of the San José Municipal Code to continue to suspend the supplemental retiree benefit reserve distribution from the Police and Fire Department Retirement Plan for fiscal year 2011-2012, and provide that there shall be no supplemental retiree benefit reserve distribution from the Police and Fire Department Retirement Plan during Fiscal Year 2012-2013, upon a finding that is needed to adopt the ordinance within a time period which does not allow for a sixty day review period by the Board of Administration of the Police and Fire Department Retirement Plan under San José Municipal Code Section 3.36.485.A.; and refer the ordinance to the Board for study and consideration pursuant to San José Municipal Code Section 3.36.485.B; and
- (b) Direct staff to forward for review by the Board of Administration of the Federated City Employees Retirement Plan a draft resolution amending and restating Resolution No. 75635 to continue to suspend the supplemental retiree benefit reserve distribution from the Federated City Employees' Retirement Plan for Fiscal Year 2011-2012 and provide that there shall be no supplemental retiree benefit reserve distribution from the Federated City Employees' Retirement Plan during fiscal year 2012-2013.

CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy, new or revised.
(City Manager's Office)

4.x Report on Bids and Award of Contract for the Lower Guadalupe River Trail - Reaches A-E.

Recommendation: Report on bids and award of contract for the Lower Guadalupe River Trail (Reaches A-E) to the low bidder, Wattis Construction Co., Inc., in the amount of \$3,223,032, and approval of a contingency in the amount of \$322,303. CEQA: Mitigated Negative Declaration, File No. PP04-323. Council Districts 3 and 4. (Public Works)

6.x Airport Revenue Bond Sale and Per Day Rental Car Customer Facility Charge Amendments.

Recommendation: Adopt 2011-2012 Appropriation Ordinance and Funding Sources Resolution amendments in the funds as detailed in Attachment A of the staff memorandum to reflect the issuance of City of San José Airport Revenue Bonds Series 2011A and 2011B and the change in customer facility charge from \$10.00 per contract to \$6.00 per day. CEQA: Not a project, PP10-067(b), Appropriation Ordinance. (Airport/City Manager's Office)

6.x Actions Related to the Taxiway W Extension G-J Project at the Norman Y. Mineta San José International Airport Project.

Recommendation:

Adopt a resolution:

- (a) Authorizing the Director of Public Works to determine the lowest responsive and responsible bidder for the Taxiway W Extension G-J Project at the Norman Y. Mineta San José International Airport and to either: (i) award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$13,070,000, contingent upon award and execution of an Airport Improvement Program Grant from the Federal Aviation Administration; or (ii) reject all bids and re-bid the Project.
- (b) Approving a contingency equal to fifteen percent of the award amount.
CEQA: Resolution Nos. 67380 and 71451, PP 12-025. (Public Works/Airport)

7.x Commercial Solid Waste Fees and Maximum Customer Rates.

Recommendation: Adopt:

- (a) An ordinance to amend Chapter 9.10 of Title 9 of the San José Municipal Code to amend sections 9.10.1435 to require the exclusive solid waste franchisee to pay a Source Reduction and Recycling Fee (AB939 Fee).
- (b) A resolution to amend the Schedule of Fees and Charges (Resolution No. 72737 as amended) to revise the Source Reduction and Recycling Fee (AB939 Fee) for commercial solid waste collected by exclusive franchisees at \$4,200,000 per fiscal year to be paid by the exclusive franchisees.

- (c) A resolution fixing and determining Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC dba Allied Waste Services of Santa Clara County, including the total processing costs for organic processing services.

CEQA: Not a Project, File No. PP10-067 (a), Increase or Adjustment to Fees, Rates & Fares, (Environmental Services/City Manager's Office)

TO BE DISTRIBUTED SEPARATELY

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: Debra Figone

SUBJECT: Suspension of SRBR Payments

DATE: April 9, 2012

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

RECOMMENDATION

It is recommended that the City Council:

- (a) Approve an ordinance amending Section 3.36.580 of Part 4 of Chapter 3.36 of Title 3 of the San Jose Municipal Code to continue to suspend the supplemental retiree benefit reserve distribution from the Police and Fire Retirement Plan for Fiscal Year 2011-2012 and provide that there shall be no supplemental retiree benefit reserve distribution from the Police and Fire Department Retirement Plan during Fiscal Year 2012-2013, upon a finding that is needed to adopt the ordinance within a time period which does not allow for a sixty day review period by the Board of Administration of the Police and Fire Department Retirement Plan under San Jose Municipal Code Section 3.36.485.A.; and refer the ordinance to the Board for study and consideration pursuant to San Jose Municipal Code Section 3.36.485.B; and
- (b) Direct staff to forward for review by the Board of Administration of the Federated City Employees' Retirement Plan a draft resolution amending and restating Resolution No. 75635 to continue to suspend the supplemental retiree benefit reserve distribution from the Federated City Employees' Retirement Plan for Fiscal Year 2011-2012 and provide that there shall be no supplemental retiree benefit reserve distribution from the Federated City Employees' Retirement Plan during Fiscal Year 2012-2013.

OUTCOME

Approval of the recommendation will continue to suspend the supplemental retiree benefit reserve distribution from the Police and Fire Retirement Plan and the Federated City Employees' Retirement Plan for Fiscal Year 2011-2012 and the suspension of the Supplemental Retiree Benefit Reserve payments from the City's Police and Fire Department Retirement Plan and the Federated City Employees' Retirement System during Fiscal Year 2012-2013.

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EXECUTIVE SUMMARY

The Supplemental Retiree Benefit Reserve (SRBR) in each Plan provides a supplemental "13th check" benefit under certain conditions as specified in the Municipal Code. The 13th check is in addition to the monthly pension payments, disability and survivor benefits, annual 3% fixed cost of living adjustment (COLA) and retiree healthcare benefits eligible retirees receive.

Based on the SRBR distribution provisions currently specified in the Code, it is anticipated that there will be a distribution of payments to retirees from both the Federated City Employees' Retirement System and Police and Fire Department Retirement Plan in Fiscal Year 2012-2013 once the suspension ends for Fiscal Year 2011-2012, pending the outcome of the June 2012 election. The amount of distribution from both plans is estimated to be approximately \$7.86 million.

As of June 30, 2011, the plans' unfunded liabilities for pension benefits totaled \$1.492 billion. In addition, the Federated plan has an \$800.5 million unfunded liability for Other Post Employment Benefits (OPEB) and the Police and Fire plan has a \$596.7 million unfunded liability. OPEB benefits include retiree healthcare benefits. Regardless of the unfunded liability in each plan, the SRBR can still result in the distribution of SRBR payments (13th check) to retirees.

On October 26, 2010, the City Council approved to temporarily suspend the Supplemental Retiree Benefit Reserves (SRBR) payments during Fiscal Year 2010-2011. On May 17, 2011, the City Council approved actions to continue this suspension for Fiscal Year 2011-2012.

On March 6, 2012, the City Council approved a ballot measure for the June 2012, election that would include various proposed changes to the Charter regarding retirement benefits. The ballot measure, if passed by the voters, would eliminate the SRBR for both the Police and Fire Department Retirement Plan and the Federated City Employees' Retirement System.

Due to the plans' significant unfunded liabilities and the pending outcome of the June 2012, election, it is recommended that the SRBR distributions continue to be suspended for Fiscal Year 2012-2013.

BACKGROUND

On October 26, 2010, the City Council approved to temporarily suspend the Supplemental Retiree Benefit Reserves (SRBR) payments during Fiscal Year 2010-2011. On May 17, 2011, the City Council approved actions to continue this suspension for Fiscal Year 2011-2012.

On March 6, 2012, the City Council approved a ballot measure for the June 2012, election that would include various proposed changes to the Charter regarding retirement benefits. As part of the direction, the City Council requested that the City's negotiation team invite all bargaining groups to re-engage in mediation regarding all retirement issues, including the related ballot measure. The ballot measure, if passed by the voters, includes a provision that would eliminate

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the SRBR for both the Police and Fire Department Retirement Plan and the Federated City Employees' Retirement System.

ANALYSIS

Federated City Employees' Retirement System

In 1986, the City Council established the Supplemental Retiree Benefit Reserve (SRBR) in the Federated City Employees' Retirement System to allocate investment income earned by retirement fund assets that exceeds expected returns to an account that would fund new, or supplemental, benefits for retirees. The SRBR was patterned on State legislation that had been adopted in 1983 to permit certain counties to do the same.

The Municipal Code sets forth a methodology for allocating funding to the SRBR but does not set forth a methodology for distributing the money in the SRBR to the Federated retirees¹. (Attachment A) In 2003, the City Council adopted a Resolution establishing the current distribution methodology.² (Attachment B)

Under the section of the San Jose Municipal Code governing the Federated City Employees' Retirement System (SJMC§3.8.340), the City Council can make recommendations to the Board of Administration of the Federated City Employees' Retirement System regarding the distribution, if any from the Federated SRBR, and upon consideration of the recommendation of the Board, the City Council can determine the amount, if any, of the distribution to be made from the Federated SRBR.

The San Jose Municipal Code does not need to be amended to permit the City Council to implement a suspension of Federated SRBR payments. However, the Municipal Code does require the City Council to refer the recommendation for such suspension to the Board of Administration of the Federated City Employees' Retirement System, and to act after receipt of the Federated Board recommendation of such change in the distribution. It is recommended that the draft resolution be referred to the Board for its consideration at the April 19, 2012, board meeting and that the City Council consider the comments, if any, from the Board on April 24, 2012, and decide whether or not to suspend the distribution. The Resolution would return to the City Council for final approval on May 22, 2012.

Police and Fire Department Retirement Plan

In 2001, the City Council adopted an ordinance establishing an SRBR program within the Police and Fire Department Retirement Plan.³ (Attachment C)

In 2002, the Council adopted a Resolution approving the methodology for distribution of moneys from the Police and Fire SRBR to all retired members and survivors.⁴ (Attachment D)

¹ San Jose Municipal Code Section 3.28.340B

² Resolution No. 71870

³ San Jose Municipal Code Section 3.36.580

⁴ Resolution No. 70822

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In order to implement that there be no distribution from the Police and Fire SRBR during Fiscal Year 2012-2013, it is recommended that the San Jose Municipal Code be amended to suspend distribution until after June 30, 2012. Under San Jose Municipal Code Section 3.36.485, prior to the City Council adoption of any ordinance amending the Police and Fire Department Retirement Plan, the Board of Administration for the Police and Fire Department Retirement Plan is to be provided within sixty (60) days for review and comment on the proposed ordinance, unless the City Council finds that there is a need to adopt the ordinance within a time period which does not allow for a sixty day review period, in which case the City Council can adopt an urgency ordinance or when the ordinance is passed for publication of title, the City Council refers the ordinance to the Board for study and consideration and upon the recommendation, if any, from the Board, the City Council implements or disapproves the Board's recommendation. Because the distribution of the SRBR could occur before the sixty day review period, if the City Council wishes to ensure that no distribution occur during Fiscal Year 2012-2013, a finding that there is need to adopt the ordinance within a time period which does not allow for a sixty day review period should be made and the ordinance referred to the Board of Administration for the Police and Fire Department Retirement Plan for study and recommendation. If the Council receives a recommendation if any, from the Board, it could decide to reconsider the matter taking the Boards comments at such time. The second reading of the ordinance will be considered by the City Council on May 22, 2012.

Distribution Methodology

The distribution methodology for each plan is memorialized in Resolutions 71870 and 70822. Under the Federated distribution methodology, all retired members and survivors receive a disbursement when the plans' investment returns exceed expected returns. Under the Police and Fire distribution methodology, all retired members and survivors receive a disbursement, so long as the SRBR principal balance would not be reduced by the distribution. For both plans, the criteria for determining the payment amount is based on a "point" system. Retirees receive points based on years of service, number of years retired and final average salary. Under this methodology, the largest payments are made to retirees that have been retired the longest and have rendered the longest service to the City.

The SRBR in each retirement plan was established based on the concept that when the two retirement plans have "excess" earnings a portion of these "excess" earnings are used to provide a fund for additional benefits to retirees. The Federated City Employees' Retirement System assumes a 7.50% return. The Police and Fire Department Retirement Plan recently approved lowering the assumed rate of return to 7.50%. When the plans actual investment returns exceed the expected returns, a portion of these "excess earnings" is transferred into the SRBR.

However, the Board's actuaries have numerous assumptions including economic and non-economic factors such as salary growth, expected retirements, and mortality rates. When the Plans do not meet these assumptions, it results in an unfunded liability. As previously indicated, the City, and ultimately taxpayers are responsible for 100% of any unfunded pension liability. This is also the case when the investment returns do not meet the assumed rate of return adopted by the boards. The City has been experiencing significant increases in retirement contributions. This is due to investment losses in prior years, granting of retroactive benefit enhancements and

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the assumptions used by the plans' actuaries to calculate liabilities and contribution rates not holding true.

Both the Federated City Employees' Retirement System and Police and Fire Department Retirement Plan had investment returns as of June 30, 2011, that exceeded the assumed rate of return for each plan. As a result, it is anticipated that the SRBR distributions will be made to retirees even though the Plans have a significant unfunded liability. The following chart provides the balance in the SRBR as of June 30, 2011.

Retirement Plan	SRBR Balance
Federated	\$30,583,315
Police & Fire	\$33,416,870

The retirement boards' actuary has calculated that the following amounts would be available for distribution to retirees.

Retirement Plan	Amount of Distribution
Federated	\$6.587 million
Police and Fire	\$1.281 million

Under the Municipal Code and the SRBR distribution resolutions, distributions could occur as early as July 1, 2012, after the Boards' declaration of "excess" earnings.

Due to the rising increases in retirement costs, the City Council approved a ballot measure on March 6, 2012, that would include various proposed changes to the Charter regarding retirement benefits. The ballot measure includes a provision that would eliminate the SRBR if passed by the voters.

The SRBR payments are only temporarily suspended through June 30, 2012. Therefore, it is possible that distribution of SRBR payments could be made as early as July 1, 2012. If the ballot measure, as approved by the City Council, is placed on the June 2012, election, it is expected that the certified results would not be available until after July 1, 2012.

It is recommended that the City Council continue to suspend the supplemental retiree benefit reserve distribution during Fiscal Year 2012-2013, pending the results of the June 2012 election.

PUBLIC OUTREACH/INTEREST

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

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- 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 report will be posted on the internet and a copy will be sent to the bargaining unit representatives and the retiree associations as soon as the memo has been distributed.

COORDINATION

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

CEQA

CEQA: Not a Project, File No. PP10-068(b), (Municipal Code or Policy, new or revised)


Debra Figone
City Manager

For questions please contact Alex Gurza, Deputy City Manager, at 535-8155.

Attachment A: San Jose Municipal Code Section 3.28.340B

Attachment B: Resolution No. 71870

Attachment C: San Jose Municipal Code Section 3.36.580

Attachment D: Resolution No. 70822

3.28.340 Disposition of earnings.

- A. Definitions. For the purpose of this Section 3.28.340, the terms listed herein shall have the following meanings:
1. "Income account" means the account established in the general reserve pursuant to subsection B. below.
 2. "Interest crediting rate" means the interest rate determined by the Board for crediting the employee contribution reserve.
- B. Retirement fund reserves. There shall be established in the retirement fund the following reserves:
1. The employee contribution reserve.
 - a. The board shall credit to the employee contribution reserve all contributions made by members of the retirement system and all interest payable pursuant to subsection C. below.
 - b. Moneys in the employee contribution reserve shall be available for the payment of benefits and for the return of contributions pursuant to Section 3.28.780.
 2. The supplemental retiree benefit reserve.
 - a. The board shall credit to the supplemental retiree benefit reserve all interest payable pursuant to subsection C. below and that portion of the excess earnings determined pursuant to subsection D. below.
 - b. Distributions from the supplemental retiree benefit reserve shall be made in accordance with subsection E. below.
 3. The general reserve.
 - a. The board shall establish an income account and shall credit the income account with all rents, interest, dividends, realized gains and losses, unrealized gains and losses, and all other income other than employer contributions, received during the fiscal year. The board shall pay from the income account all expenses and administrative costs as they are incurred.
 - b. The board shall credit to the general reserve all contributions made by the city, all interest payable pursuant to subsection C. below, and that portion of the excess earnings determined pursuant to subsection D. below.
 - c. Moneys in the general reserve shall be available for the payment of benefits and for the payment of the expenses and administrative costs of the retirement system.

4. Such other reserves as the board may determine from time to time.
- C. Credit to contributions and reserves. All interest credited pursuant to this subsection C. shall be deducted from the income account.
1. Interest shall be credited to the employee contribution reserve on a semi-annual basis, or more frequently if authorized by the board, at the interest crediting rate.
 2. Interest shall be credited to the supplemental retiree benefit reserve at the actuarially assumed annual rate of return adopted by the board pursuant to Section 3.28.200 or at the actual rate of return earned by the retirement fund during the applicable fiscal year, whichever is lower. Interest credited to the supplemental retiree benefit reserve shall be calculated as though the transfer of excess earnings required by subsection D. had been made on July 1 of the calendar year, regardless of the actual date such transfer is made.
 3. Interest shall be credited to the general reserve as follows:
 - a. Interest at the actuarially assumed annual rate of return adopted by the board pursuant to Section 3.28.200 or at the actual rate of return earned by the retirement fund during the applicable fiscal year, whichever is lower; plus
 - b. Interest calculated as the difference between (i) the interest that would have been credited to the employee contribution reserve had the employee contribution reserve been credited at the actuarially assumed annual rate of return adopted by the board pursuant to Section 3.28.200 or at the actual rate of return earned by the retirement fund during the applicable fiscal year, whichever is lower, and (ii) the interest actually credited to the employee contribution reserve pursuant to subsection C.1. above; provided, however, that there shall be no offset to the general reserve in any case where this difference is a negative number.
 4. Interest shall be credited to any other reserves established by the board in the same manner as interest is credited to the supplemental retiree benefit reserve.
- D. Excess earnings.
1. Within ninety days from and after receipt of audit reports for each fiscal year, the board shall determine the balance remaining in the income account after crediting of interest as provided in subsection C. above, and after payment of administrative costs and expenses of the retirement system for the applicable fiscal year.
 2. If the balance remaining in the income account is greater than zero, the board shall by written resolution declare that balance to be the excess earnings for the applicable fiscal year, shall transfer ten percent of the excess earnings to the supplemental retiree benefit reserve, and shall transfer the remaining ninety percent of the excess earnings to the general reserve. If the balance remaining in the income account is less

Federated City Employees' Retirement System

than or equal to zero, the board by written resolution shall declare that there are no excess earnings and shall adjust the general reserve to reflect any negative balance in the income account so that the balance in the income account is zero as of the beginning of each fiscal year.

- E. Distributions from the supplemental retiree benefit reserve.
1. The supplemental retiree benefit reserve shall be used only for the benefit of retired members, survivors of members, and survivors of retired members.
 2. Upon the request of the city council or on its own motion, the board may make recommendations to the city council regarding the distribution, if any, of the supplemental retiree benefit reserve to retired members, survivors of members, and survivors of retired members. The city council, after consideration of the recommendation of the board, shall determine the distribution, if any, of the supplemental retiree benefit reserve to said persons.

(Prior code § 2904.1103; Ords. 20596, 22263, 22486, 23087, 25092, 27436.)

RJD:SD:sdv
11/18/03

Res. No. 71870

RESOLUTION NO. 71870

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ APPROVING THE METHODOLOGY FOR THE DISTRIBUTION OF MONEYS IN THE SUPPLEMENTAL RETIREE BENEFIT RESERVE OF THE FEDERATED CITY EMPLOYEES RETIREMENT FUND

WHEREAS, pursuant to Section 3.28.340 D of the San José Municipal Code, the Board of Administration for the Federated City Employees Retirement System (the "Board") has established the Supplemental Retiree Benefit Reserve (the "SRBR") in the Federated City Employees Retirement Fund; and

WHEREAS, Section 3.28.340 D 1. provides that distributions from the SRBR shall be made only for the benefit of retired members, survivors of members, and survivors of retired members of the Federated City Employees Retirement System (the "System"); and

WHEREAS, Section 3.28.340 D 3. further provides that the Board shall make distributions in accordance with a methodology recommended by the Board and approved by the City Council; and

WHEREAS, the Board has developed a methodology for calculating the amount of distributions from the SRBR and has recommended City Council approval of said methodology;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. The City Council hereby approves the methodology for the distribution of moneys from the Supplemental Retiree Benefits Reserve of the Federated City Employees Retirement Fund recommended by the Board and described in this Resolution.

SECTION 2. This approval shall remain in effect until such time as the Board recommends a subsequent methodology and the Council adopts a resolution approving the subsequent methodology.

SECTION 3. Total Annual Distribution.

- A. The Total Annual Distribution for calendar year 2003 shall be One Million Dollars (\$1,000,000).
- B. The Total Annual Distribution for each calendar year beginning calendar year 2004 shall be the sum of (a) the amount, if any, in excess of the Minimum Balance, and (b) the annual interest earned in the SRBR as of June 30 in the year of distribution. For any year in which the actual balance in the SRBR as of June 30 in the year of distribution is less than or equal to the Minimum Balance, the total distribution for that year shall be limited to the annual interest earned in the SRBR.

SECTION 4. Eligible Distribution Points.

- A. For the purpose of calculating the distribution to be made to each eligible recipient, distribution points shall be assigned for Years of Service and for Years Retired as follows:
 - 1. Years Of Service (YOS) Points:
 - a. For each Retiree, there shall be assigned one (1) point for each year of the Retiree's Federated City service.
 - b. For each Surviving Spouse of a Retiree, there shall be assigned one (1) point for each year of the Retiree's Federated City service.
 - c. For each Surviving Spouse of an Active Member, there shall be assigned one (1) point for each year of the Active Member's Federated City service.
 - d. For each Surviving Children's Unit, there shall be assigned one (1) point for each year of the deceased person's Federated City service.
 - e. For each Optional Settlement Beneficiary, there shall be assigned one (1) point for each year of the deceased person's Federated City service.

2. Years Retired (YR) Points:

- a. For each Retiree, there shall be assigned the number of points equivalent to the number of years from the effective date of the Retiree's retirement to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree receives as a retirement benefit under the System's benefit formula.
- b. For each Surviving Spouse of a Retiree, there shall be assigned the number of points equivalent to the sum of:
 - i. The number of years from the effective date of the Retiree's retirement to the date of the Retiree's death multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula, and
 - ii. The number of years from the date of the Retiree's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula.
- c. For each Surviving Spouse of an Active Member, there shall be assigned the number of points equivalent to the number of years from the date of the Active Member's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary earned by the Active Member as of the date of death. For the purposes of this paragraph, the percent of Final Average Salary shall not be less than forty percent (40%).
- d. For each Surviving Children's Unit:
 - i. In the case where the deceased parent was a Retiree, there shall be assigned the number of points equivalent to the sum of:

- (1) The number of years from the effective date of the Retiree's retirement to the date of the Retiree's death multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula, and
 - (2) The number of years from the date of the Retiree's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree receives as a retirement benefit under the System's benefit formula.
- ii. In the case where the deceased parent was an Active Member, there shall be assigned the number of points equivalent to the number of years from the date of the Active Member's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary earned by the Active Member as of the date of death. For the purposes of this paragraph, the percent of Final Average Salary shall not be less than forty percent (40%).
- e. For each Optional Settlement Beneficiary, there shall be assigned the number of points equivalent to the sum of:
- i. The number of years from the effective date of the Retiree's retirement to the date of the Retiree's death multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula, and
 - ii. The number of years from the date of the Retiree's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final

Average Salary the Retiree received as a retirement benefit under the System's benefit formula.

- B. Eligible Distribution Points shall be calculated for each eligible recipient as follows:
1. For each Retiree, the Eligible Distribution Points are the sum of the YOS points and the YR points.
 2. For each Surviving Spouse of a Retiree, the Eligible Distribution Points are:
 - a. The sum of the YOS points and the YR points, multiplied by
 - b. The percent of the Retiree's benefit that is being received by the Surviving Spouse as a monthly benefit.
 3. For each Surviving Spouse of an Active Member, the Eligible Distribution Points are the sum of the YOS points and the YR points.
 4. For the Surviving Children's Unit, the Eligible Distribution Points are:
 - a. The sum of the YOS points and the YR points, multiplied by
 - b. The percent of the Retiree's or Active Member's benefit that would be received by the surviving spouse if there were a surviving spouse, and further multiplied by
 - c. Twenty-five percent (25%) if there is only one child in the Surviving Children's Unit or fifty percent (50%) if there are two children in the Surviving Children's Unit or seventy-five percent (75%) if there are three or more children in the Surviving Children's Unit.
 5. For the Optional Settlement Beneficiary, the Eligible Distribution Points are:
 - a. The sum of the YOS points and the YR points, multiplied by
 - b. The percent of the Retiree's benefit that is being received by the Optional Settlement Beneficiary as monthly benefit.
- C. For the purposes of the calculation of Eligible Distribution Points, the number of years in each calculation shall be the actual number of years rounded to the nearest five decimal places.

SECTION 5. Distribution Point Value.

The Distribution Point Value shall be determined by dividing the Total Annual Distribution (as determined pursuant to SECTION 3 above) by the total number of Eligible Distribution Points for all eligible recipients.

SECTION 6. Allocation of Total Annual Distribution.

- A. The distribution to be made to each eligible Retiree, Surviving Spouse of a Retiree, Surviving Spouse of an Active Member, and Optional Settlement Beneficiary shall be the eligible recipient's Eligible Distribution Points multiplied by the Distribution Point Value.
- B. The distribution to be made to each eligible surviving child shall be the Surviving Children's Unit's Eligible Distribution Points multiplied by the Distribution Point Value and divided by the number of children in the Unit.

SECTION 7. For the purposes of this Resolution, the following definitions shall apply:

- A. "Retiree" means a person who has retired from the Federated City Employees Retirement System under the provisions of the System. "Retiree" does not include any person who has separated from City service but is not receiving a benefit from the Plan.
- B. "Surviving Spouse of a Retiree" means the person who meets the eligibility requirements for a surviving spouse benefit under Part 12 of Chapter 3.28 of the San José Municipal Code. "Surviving Spouse of a Retiree" does not include any person who is receiving a payment from the Retirement Fund solely because of a domestic relations order dividing the community interest in the retirement benefits.
- C. "Surviving Spouse of an Active Member" means the person who meets the eligibility requirements for a surviving spouse benefit under Part 11 of Chapter 3.28 of the San José Municipal Code. "Surviving Spouse of an Active Member" does not include any person who would receive a payment from the Retirement

Fund upon the retirement of the Active Member solely because of a domestic relations order dividing the community interest in the retirement benefits.

- D. "Surviving Children's Unit" means all eligible surviving children who are receiving surviving children's benefits under the applicable provisions of the Federated City Employees Retirement System.
- E. "Optional Settlement Beneficiary" means a person who is receiving a monthly payment from the System because of an election made pursuant to Part 13 of Chapter 3.28 of the San Jose Municipal Code.
- F. "Minimum Balance" means the dollar amount determined by multiplying Seven Thousand Dollars (\$7,000) by the total number of eligible recipients in existence on June 30 in the year for which the Total Annual Distribution is calculated.

SECTION 8. In the event a person is a Retiree, a Surviving Spouse of a Retiree, a Surviving Spouse of an Active Member, a member of a Surviving Children's Unit, or an Optional Settlement Beneficiary on June 30 in the year for which the Total Annual Distribution is calculated, but dies before the distribution for that year is made:

- A. The amount that would have been paid to the Retiree shall be paid:
 - 1. To the deceased's person's eligible survivor(s), or
 - 2. If there is no eligible survivor, to the deceased person's named beneficiary, or
 - 3. If there is no eligible survivor and no living named beneficiary, to the deceased person's estate.
- B. The amount that would have been paid to a Surviving Spouse of a Retiree or a Surviving Spouse of an Active Member shall be paid:
 - 1. To the Surviving Children's Unit, or
 - 2. If there is no Surviving Children's Unit, to the estate of the Surviving Spouse.
- C. The amount that would have been paid to a member of the Surviving Children's Unit shall be paid to the remaining members of the Surviving Children's Unit in equal shares. If there is no member of the Survivor Unit surviving, the amount

RJD:SD:sdv
11/18/03

Res. No. 71870

that would have been paid shall revert to the SRBR balance to be carried over to the next distribution year.

- D. The amount that would have been paid to an Optional Settlement Beneficiary shall be paid to the Optional Settlement Beneficiary's estate.

SECTION 9. All calculations made pursuant to this Resolution shall be made as of June 30 in the year for which the Total Annual Distribution is calculated. In the event an adjustment is made in the Years of Service, Years Retired, or percent of Final Average Salary for any eligible recipient and such adjustment is made after June 30 in the year for which the Total Annual Distribution is calculated, there shall be no adjustment to any calculation made pursuant to this Resolution.

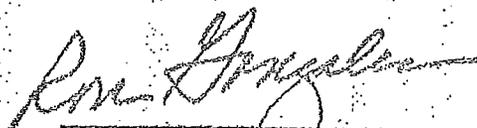
ADOPTED this 16th day of December, 2003, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTÈSE, DANDO,
GREGORY, LEZOTTE, REED, WILLIAMS, YEAGER,
GONZALES

NOES: NONE

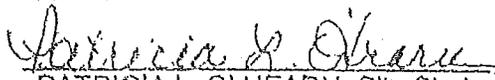
ABSENT: NONE

DISQUALIFIED: NONE



RON GONZALES
Mayor

ATTEST:



PATRICIA L. O' HEARN, City Clerk

3.36.580 Supplemental retiree benefit reserve.**A. Establishment and Purpose.**

1. The board shall establish a reserve in the retirement fund to be known as the supplemental retiree benefit reserve or SRBR.
2. The purpose of the SRBR shall be to provide a source of funding for benefits to supplement those benefits otherwise provided by this plan or the Chapter 3.32 plan to former members of such plans who are receiving benefits, survivors of such former members, and survivors of members who die prior to receiving benefits from this plan.

B. Funding.

1. The initial amount allocated to the SRBR shall be ten percent of the plan's prefunded actuarial accrued liability as of June 30, 1999, as determined by the board's actuary. The board's actuary shall calculate the initial funding amount without regard to any plan amendments that became effective after June 30, 1999.
2. Each June 30, beginning June 30, 2000, there shall be allocated to the SRBR the investment earnings attributable to the balance in the SRBR as of June 30 of the calendar year in which the allocation is made. Investment earnings credited to the SRBR shall be calculated as though the transfer required by paragraphs 3. and 4. of this subsection B, had been made on the immediately following July 1 (first allocation on July 1, 2000) regardless of the actual date such transfer is made. In the event the investment earnings for the retirement fund are less than zero, no investment earnings shall be allocated to the SRBR and no reduction shall be made to the SRBR balance except as provided in subsection C. below.
3. The board shall determine the excess earnings for the twelve months ending June 30, 2000, and for the twelve months ending June 30, 2001, and shall transfer to the SRBR ten percent of the excess earnings for each such twelve-month period.
4. Within ninety days from and after receipt of audited financial statements for each fiscal year, commencing with the year 2002, the board shall determine, and by written resolution declare, the excess earnings as of June 30 in each such year, and shall transfer ten percent of such excess earnings to the SRBR. The excess earnings shall be added to the SRBR principal and shall not be available for distribution under subsection D.

C. Reduction of SRBR Balance.

1. If the city's contribution rate, as determined by the board's actuary during any actuarial valuation performed after June 30, 1999, will increase as a result of poor investment earnings in the retirement fund, there shall be transferred from the SRBR

to the regular retirement fund and the cost-of-living fund an amount equal to ten percent of the city's increased contributions for the first twelve months following the increase in the contribution rates. Such transfers shall be limited to those situations where the increase in the city's contribution rate is attributable to poor investment earnings; no such transfer shall be made for any increase in the city's contribution rate that is due to any factor other than poor investment earnings including, but not limited to, increases in medical or dental premium costs, enhancements to benefits provided under the plan, or changes in the actuarial assumptions.

2. Notwithstanding paragraph 1. of this subsection C., the amount transferred from the SRBR because of the increase in the city's contributions shall not exceed five percent of the accrued balance in the SRBR as of the date of the actuarial valuation.

D. Distributions.

1. The board shall make an initial distribution from the SRBR during calendar year 2002.
2. Beginning in calendar year 2003, the board shall make an annual distribution from the SRBR.
3. The initial distribution from the SRBR shall be made solely to former members of this plan or the Chapter 3.32 plan who are receiving benefits as of June 30, 2001, and survivors (of such former members or of members who died prior to receiving benefits from this plan) who are receiving benefits as of June 30, 2001; provided, however, that if a member or former member died after June 30, 2001, but before the initial distribution, the survivor shall be deemed to have been receiving benefits as of June 30, 2001.
4. All subsequent annual distributions from the SRBR shall be made solely to former members of this plan or the Chapter 3.32 plan who are receiving benefits as of the June 30 immediately preceding the distribution date and survivors (of such former members or of members who died prior to receiving benefits from this plan) who are receiving benefits as of said June 30.
5. The board shall develop a methodology for distributions from the SRBR such that supplemental benefits provide a greater benefit for those persons who have been in benefit status for a longer period of time and those persons receiving the lowest monthly benefit payments. Upon the approval of the methodology by the city council, the board shall make distributions in accordance with such methodology.
6. Except as required by subsection C. or in the case of the termination of this plan, the board shall not transfer or distribute funds in the SRBR if such transfer or distribution would reduce the SRBR principal.

Police and Fire Department Retirement Plan

- E. Definitions. For the purpose of this Section 3.36.580, the terms listed herein shall have the following meanings:
1. "Excess earnings" means the earnings of the retirement fund that remain after interest has been credited to the SRBR as provided in paragraph B.2. and the actuarial assumed earnings rate adopted by the board (and in effect on June 30 of the year in which the SRBR calculation is performed) has been credited to other reserves.
 2. "Former member" means a person who has retired under the provisions of this chapter or Chapter 3.32 or a person who separated from city service without retiring but left his or her contributions on deposit in the retirement fund.
 3. "Investment earnings" means the earnings of the retirement fund during the twelve months ending June 30 as determined by the board's actuary using the same methodology used to determine the value of assets for the actuarial valuation. In the case of investment earnings attributable to the SRBR, the application of the methodology shall begin as of July 1, 1999.

(Ords. 26416, 26536.)

RD:SD:sdv
01/14/02

RESOLUTION NO. 70822

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ APPROVING THE METHODOLOGY FOR THE DISTRIBUTION OF MONEYS IN THE SUPPLEMENTAL RETIREE BENEFIT RESERVE OF THE POLICE AND FIRE DEPARTMENT RETIREMENT FUND

WHEREAS, pursuant to Section 3.36.580 A of the San José Municipal Code, the Board of Administration for the Police and Fire Department Retirement Plan (the "Board") has established the Supplemental Retiree Benefit Reserve (the "SRBR") in the Police and Fire Department Retirement Fund; and

WHEREAS, Section 3.36.580 D provides that distributions from the SRBR shall be made only to retired members, survivors of members and survivors of retired members of the Police and Fire Department Retirement Plan (the "Plan"); and

WHEREAS, Section 3.36.580 D further provides that the Board shall make distributions in accordance with a methodology developed by the Board and approved by the City Council; and

WHEREAS, the Board has developed a methodology for calculating the amount of distributions from the SRBR and has recommended City Council approval of said methodology;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. The City Council hereby approves the methodology for the distribution of moneys from the Supplemental Retiree Benefits Reserve of the Police and Fire Department Retirement Fund recommended by the Board and described in this Resolution.

SECTION 2. This approval shall remain in effect until such time as the Board recommends a subsequent methodology and the Council adopts a resolution approving the subsequent methodology.

SECTION 3. Base Distribution.

- A. Eighty percent (80%) of the annual amount available for distribution from the SRBR shall be distributed as the "Base Distribution". The amount of the Base Distribution to be paid to each Retired Member or Survivor Unit shall be determined by multiplying the total Base Distribution by the applicable Distribution Fraction.
- B. For the purposes of calculating the Distribution Fraction, points shall be assigned for Years of Service and for Years Retired as follows:
1. Years Of Service (YOS) Points:
 - a. For each Retired Member, there shall be assigned one (1) point for each year of the Retired Member's Police and Fire Plan service for each of the first twenty (20) years plus two (2) points for each year in excess of twenty (20) years.
 - b. For each Survivor Unit, there shall be assigned one (1) point for each year of the deceased person's Police and Fire Plan service for each of the first twenty (20) years plus two (2) points for each year in excess of twenty (20) years. In the case where the deceased person died before separating from City service, the Survivor Unit shall be credited with the greater of (i) the actual number of years of the deceased person's Police and Fire Plan service or (ii) thirty years.
 2. Years Retired (YR) Points: There shall be assigned two (2) points for each year retired where:
 - a. For each Retired Member, Years Retired means the number of years from the effective date of the Retired Member's retirement to the June 30 immediately preceding the date the Base Distribution is made.
 - b. For each Survivor Unit, Years Retired means the number of years from the Survivor Unit's effective date to the June 30 immediately preceding the date the Base Distribution is made where "effective date" means:

- i. The effective date of the deceased person's retirement where the deceased died after retirement under this Plan; or
 - ii. The date of the deceased person's death in the case where the deceased died prior to separation from City service or died after separation from City service but before receiving any benefits from this Plan.
- c. Notwithstanding paragraph b above, in the case where a surviving spouse's benefits ceased because of remarriage but were reinstated pursuant to Section 3.36.1295, Years Retired for the Survivor Unit means the actual number of years during which survivorship benefits were paid from this Plan to any member of the Survivor Unit.
- C. The Distribution Fraction shall be determined as follows:
- $$\frac{\text{Years Of Service Points} + \text{Years Retired Points}}{\text{Total Points for Base Distribution}}$$
- D. The amount payable to each member of the Survivor Unit shall be the total Base Distribution payable to the Survivor Unit divided among the persons in the Survivor Unit in the same proportion as the survivorship benefits are paid.
- E. For the purposes of distributions from the SRBR, the number of years in each calculation shall be the actual number of years rounded to the nearest year.

SECTION 4. Bonus Payment.

- A. Twenty percent (20%) of the annual amount available for distribution from the SRBR shall be distributed as the "Bonus Payment". Bonus Payments shall be made only to Retired Members and Survivor Units who meet the following eligibility requirements:
1. The Years Retired is at least ten (10) years; and
 2. The Retired Member or Survivor Unit is receiving a monthly benefit from the Plan that is less than two-thirds of the average monthly retirement benefit paid during the twelve months ending on the June 30 immediately preceding the date the Base Distribution is made.

- B. The amount of the Bonus Payment to be paid to each eligible Retired Member or eligible Survivor Unit shall be determined by multiplying the total Bonus Payment by the applicable Distribution Fraction.
- C. For the purposes of calculating the Distribution Fraction, points shall be assigned for Years Of Service and for Years Retired as described in SECTION 3 of this Resolution.
- D. The Distribution Fraction shall be determined as follows:
$$\frac{\text{Years Of Service Points} + \text{Years Retired Points}}{\text{Total Points for Bonus Payment}}$$
- F. The amount payable to each member of the Survivor Unit shall be the total Bonus Payment payable to the Survivor Unit divided among the persons in the Survivor Unit in the same proportion as the survivorship benefits are paid.

SECTION 5. For the purposes of this Resolution, the following definitions shall apply:

- A. "Retired Member" means a person who has retired from the Police and Fire Department Retirement Plan under the provisions of the Plan. "Retired Member" does not include any person who has separated from City service but is not receiving a benefit from the Plan.
- B. "Survivor Unit" means all eligible survivors (eligible surviving spouse and eligible surviving children) who are receiving a survivor's benefit under the provisions of the Police and Fire Department Retirement Plan. "Eligible survivor" does not include any person who is receiving a payment from the Retirement Fund solely because of a domestic relations order dividing the community interest in the retirement benefits.
- C. "Total Points for Base Distribution" means the sum of the numerators of all Distribution Fractions for all Retired Members and all Survivor Units.
- D. "Total Points for Bonus Payment Years" means the sum of the numerators of all Distribution Fractions for the Retired Members and Survivor Units who are eligible to receive a Bonus Payment.

SECTION 6. In the event a person is a Retired Member or is a member of a Survivor Unit on the June 30 immediately preceding the date the Base Distribution is made, but dies before the distribution for that year is made:

- A. The amount that would have been paid to the Retired Member shall be paid to the deceased's Survivor Unit or, if there is no eligible survivor, to the deceased person's named beneficiary. If there is no eligible survivor and no living named beneficiary, the amount that would have been paid shall become available for distribution to the remaining eligible Retirement Members and Survivor Units.
- B. The amount that would have been paid to a member of the Survivor Unit shall be paid to the remaining members of the Survivor Unit in the same proportion as the survivorship benefits are paid. If there is no member of the Survivor Unit surviving, the amount that would have been paid shall become available for distribution to the remaining eligible Retirement Members and Survivor Units.

ADOPTED this 29th day of January, 2002, by the following vote:

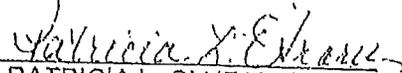
AYES: CANPOS, CHAVEZ, CORTESE, DANDO, LeZOTTE,
REED, SHIRAKAWA, WILLIAMS, YEAGER; GONZALES

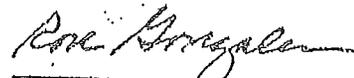
NOES: NONE

ABSENT: NONE

DISQUALIFIED: DIQUISTO

ATTEST:


PATRICIA L. O' HEARN
City Clerk



RON GONZALES
Mayor

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING AND RESTATING RESOLUTION NO. 75635 REGARDING THE SUPPLEMENTAL RETIREE BENEFIT RESERVE OF THE FEDERATED CITY EMPLOYEES RETIREMENT FUND, TO SUSPEND THE DISTRIBUTION OF FUNDS FROM THE RESERVE THROUGH FISCAL YEAR 2012-2013

WHEREAS, pursuant to Section 3.28.340 D of the San José Municipal Code, the Board of Administration for the Federated City Employees Retirement System (the “Board”) has established the Supplemental Retiree Benefit Reserve (the “SRBR”) in the Federated City Employees Retirement Fund; and

WHEREAS, Section 3.28.340 D 1. provides that distributions from the SRBR shall be made only for the benefit of retired members, survivors of members, and survivors of retired members of the Federated City Employees Retirement System (the “System”); and

WHEREAS, Section 3.28.340 D 3. further provides that the Board shall make distributions in accordance with a methodology recommended by the Board and approved by the City Council; and

WHEREAS, pursuant to a recommendation by the Board, on December 16, 2003, the City Council adopted Resolution No. 71870 approving a methodology for calculating the amount of distributions from the SRBR; and

WHEREAS, on August 23, 2005, the City Council adopted Resolution No. 72859 which restated the provisions of Resolution 71780 to include surviving registered domestic partners in the SRBR distribution on the same basis as surviving spouses; and

WHEREAS, on November 16, 2010, the City Council adopted Resolution 75635 which amended and restated the provisions of Resolution 72859 so that the distribution of funds from the SRBR be suspended during Fiscal Year 2010-2011; and

WHEREAS, on May 17, 2011 the City Council approved forwarding a resolution for review by the Board of the Federated City Employees Retirement Plan to amend and restate Resolution 75635 so that the distribution of funds from the SRBR be suspended during the Fiscal Year 2011-2012; and

WHEREAS, the City Council desire to further amend and restate Resolution 75635 so that the distribution of funds from the SRBR be suspended through the Fiscal Year 2012-2013;

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

SECTION 1. The City Council hereby approves the methodology for the distribution of moneys from the Supplemental Retiree Benefits Reserve of the Federated City Employees Retirement Fund recommended by the Board and described in this Resolution, except for fiscal years 2009-10, 2010-2011, 2011-2012 and 2012-2013 when there shall be no distribution of moneys from the Supplemental Retiree Benefits Reserve of the Federated City Employees Retirement Fund.

SECTION 2. This approval shall remain in effect until such time as the Board recommends a subsequent methodology and the Council adopts a resolution approving the subsequent methodology.

SECTION 3. Total Annual Distribution.

- A. The Total Annual Distribution for calendar year 2003 shall be One Million Dollars (\$1,000,000).

- B. The Total Annual Distribution for each calendar year beginning calendar year 2004 shall be the sum of (a) the amount, if any, in excess of the Minimum Balance, and (b) the annual interest earned in the SRBR as of June 30 in the year of distribution. For any year in which the actual balance in the SRBR as of June 30 in the year of distribution is less than or equal to the Minimum Balance, the total distribution for that year shall be limited to the annual interest earned in the SRBR.

SECTION 4. Eligible Distribution Points.

- A. For the purposed of calculating the distribution to be made to each eligible recipient, distribution points shall be assigned for Years of Service and for Years Retired as follows:
 - 1. Years Of Service (YOS) Points:
 - a. For each Retiree, there shall be assigned one (1) point for each year of the Retiree's Federated City service.

 - b. For each Surviving Spouse or Surviving Domestic Partner of a Retiree, there shall be assigned one (1) point for each year of the Retiree's Federated City service.

- c. For each Surviving Spouse or Surviving Domestic Partner of an Active Member, there shall be assigned one (1) point for each year of the Active Member's Federated City service.
- d. For each Surviving Children's Unit, there shall be assigned one (1) point for each year of the deceased person's Federated City service.
- e. For each Optional Settlement Beneficiary, there shall be assigned one (1) point for each year of the deceased person's Federated City service.

2. Years Retired (YR) Points:

- a. For each Retiree, there shall be assigned the number of points equivalent to the number of years from the effective date of the Retiree's retirement to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree receives as a retirement benefit under the System's benefit formula.
- b. For each Surviving Spouse or Surviving Domestic Partner of a Retiree, there shall be assigned the number of points equivalent to the sum of:
 - i. The number of years from the effective date of the Retiree's retirement to the date of the Retiree's death multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula, and

- ii. The number of years from the date of the Retiree's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula.

- c. For each Surviving Spouse or Surviving Domestic Partner of an Active Member, there shall be assigned the number of points equivalent to the number of years from the date of the Active Member's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary earned by the Active Member as of the date of death. For the purposes of this paragraph, the percent of Final Average Salary shall not be less than forty percent (40%).

- d. For each Surviving Children's Unit:
 - i. In the case where the deceased parent was a Retiree, there shall be assigned the number of points equivalent to the sum of:
 - (1) The number of years from the effective date of the Retiree's retirement to the date of the Retiree's death multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula, and

- (2) The number of years from the date of the Retiree's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree receives as a retirement benefit under the System's benefit formula.
- ii. In the case where the deceased parent was an Active Member, there shall be assigned the number of points equivalent to the number of years from the date of the Active Member's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary earned by the Active Member as of the date of death. For the purposes of this paragraph, the percent of Final Average Salary shall not be less than forty percent (40%).
- e. For each Optional Settlement Beneficiary, there shall be assigned the number of points equivalent to the sum of:
 - i. The number of years from the effective date of the Retiree's retirement to the date of the Retiree's death multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula, and
 - ii. The number of years from the date of the Retiree's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final

Average Salary the Retiree received as a retirement benefit under the System's benefit formula.

- B. Eligible Distribution Points shall be calculated for each eligible recipient as follows:
1. For each Retiree, the Eligible Distribution Points are the sum of the YOS points and the YR points.
 2. For each Surviving Spouse or Surviving Domestic Partner of a Retiree, the Eligible Distribution Points are:
 - a. The sum of the YOS points and the YR points, multiplied by
 - b. The percent of the Retiree's benefit that is being received by the Surviving Spouse or the Surviving Domestic Partner as a monthly benefit.
 3. For each Surviving Spouse or Surviving Domestic Partner of an Active Member, the Eligible Distribution Points are the sum of the YOS points and the YR points.
 4. For the Surviving Children's Unit, the Eligible Distribution Points are:
 - a. The sum of the YOS points and the YR points, multiplied by
 - b. The percent of the Retiree's or Active Member's benefit that would be received by the Surviving Spouse or Surviving Domestic Partner

if there were a Surviving Spouse or Surviving Domestic Partner,
and further multiplied by

- c. Twenty-five percent (25%) if there is only one child in the Surviving Children's Unit or fifty percent (50%) if there are two children in the Surviving Children's Unit or seventy-five percent (75%) if there are three or more children in the Surviving Children's Unit.

5. For the Optional Settlement Beneficiary, the Eligible Distribution Points are:

- a. The sum of the YOS points and the YR points, multiplied by
- b. The percent of the Retiree's benefit that is being received by the Optional Settlement Beneficiary as monthly benefit.

C. For the purposes of the calculation of Eligible Distribution Points, the number of years in each calculation shall be the actual number of years rounded to the nearest five decimal places.

SECTION 5. Distribution Point Value.

The Distribution Point Value shall be determined by dividing the Total Annual Distribution (as determined pursuant to SECTION 3 above) by the total number of Eligible Distribution Points for all eligible recipients.

SECTION 6. Allocation of Total Annual Distribution.

- A. The distribution to be made to each eligible Retiree, Surviving Spouse of a Retiree, Surviving Domestic Partner of a Retiree, Surviving Spouse of an Active Member, Surviving Domestic Partner of an Active Member, and Optional Settlement Beneficiary shall be the eligible recipient's Eligible Distribution Points multiplied by the Distribution Point Value.

- B. The distribution to be made to each eligible surviving child shall be the Surviving Children's Unit's Eligible Distribution Points multiplied by the Distribution Point Value and divided by the number of children in the Unit.

SECTION 7. For the purposes of this Resolution, the following definitions shall apply:

- A. "Retiree" means a person who has retired from the Federated City Employees Retirement System under the provisions of the System. "Retiree" does not include any person who has separated from City service but is not receiving a benefit from the Plan.

- B. "Surviving Spouse of a Retiree" means the person who meets the eligibility requirements for a surviving spouse benefit under Part 12 of Chapter 3.28 of the San José Municipal Code. "Surviving Spouse of a Retiree" does not include any person who is receiving a payment from the Retirement Fund solely because of a domestic relations order dividing the community interest in the retirement benefits.

- C. "Surviving Domestic Partner of a Retiree" means the person who meets the eligibility requirements for a surviving domestic partner benefit under Part 12 of

Chapter 3.28 of the San José Municipal Code. “Surviving Domestic Partner of a Retiree” does not include any person who is receiving a payment from the Retirement Fund solely because of a domestic relations order dividing the community interest in the retirement benefits.

- D. “Surviving Spouse of an Active Member” means the person who meets the eligibility requirements for a surviving spouse benefit under Part 11 of Chapter 3.28 of the San José Municipal Code. “Surviving Spouse of an Active Member” does not include any person who would receive a payment from the Retirement Fund upon the retirement of the Active Member solely because of a domestic relations order dividing the community interest in the retirement benefits.
- E. “Surviving Domestic Partner of an Active Member” means the person who meets the eligibility requirements for a surviving domestic partner benefit under Part 11 of Chapter 3.28 of the San José Municipal Code. “Surviving Domestic Partner of an Active Member” does not include any person who would receive a payment from the Retirement Fund upon the retirement of the Active Member solely because of a domestic relations order dividing the community interest in the retirement benefits.
- F. “Surviving Children’s Unit” means all eligible surviving children who are receiving surviving children’s benefits under the applicable provisions of the Federated City Employees Retirement System.
- G. “Optional Settlement Beneficiary” means a person who is receiving a monthly payment from the System because of an election made pursuant to Part 13 of Chapter 3.28 of the San José Municipal Code.

H. "Minimum Balance" means the dollar amount determined by multiplying Seven Thousand Dollars (\$7,000) by the total number of eligible recipients in existence on June 30 in the year for which the Total Annual Distribution is calculated.

SECTION 8. In the event a person is a Retiree, a Surviving Spouse of a Retiree, a Surviving Domestic Partner of a Retiree, a Surviving Spouse of an Active Member, a Surviving Domestic Partner of an Active Member, a member of a Surviving Children's Unit, or an Optional Settlement Beneficiary on June 30 in the year for which the Total Annual Distribution is calculated, but dies before the distribution for that year is made:

A. The amount that would have been paid to the Retiree shall be paid:

1. To the deceased's person's eligible survivor(s), or
2. If there is no eligible survivor, to the deceased person's named beneficiary, or
3. If there is no eligible survivor and no living named beneficiary, to the deceased person's estate.

B. The amount that would have been paid to the Surviving Spouse of a Retiree, the Surviving Domestic Partner of a Retiree, the Surviving Spouse of an Active Member, or the Surviving Domestic Partner of an Active Member shall be paid:

1. To the Surviving Children's Unit, or
2. If there is no Surviving Children's Unit, to the estate of the Surviving Spouse or the Surviving Domestic Partner, whichever is applicable.

- C. The amount that would have been paid to a member of the Surviving Children's Unit shall be paid to the remaining members of the Surviving Children's Unit in equal shares. If there is no member of the Survivor Unit surviving, the amount that would have been paid shall revert to the SRBR balance to be carried over to the next distribution year.
- D. The amount that would have been paid to an Optional Settlement Beneficiary shall be paid to the Optional Settlement Beneficiary's estate.

SECTION 9. All calculations made pursuant to this Resolution shall be made as of June 30 in the year for which the Total Annual Distribution is calculated. In the event an adjustment is made in the Years of Service, Years Retired, or percent of Final Average Salary for any eligible recipient and such adjustment is made after June 30 in the year for which the Total Annual Distribution is calculated, there shall be no adjustment to any calculation made pursuant to this Resolution.

SECTION 10. This resolution amends, restates and supersedes Resolution No. 75635.

RD:EJM
2/17/12

ADOPTED this ____ day of _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 3.36.580 OF PART 4 OF CHAPTER 3.36 OF TITLE 3 OF THE SAN JOSE MUNICIPAL CODE TO CONTINUE SUSPENSION OF THE DISTRIBUTION OF FUNDS FROM THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN SUPPLEMENTAL RETIREE BENEFIT RESERVE THROUGH FISCAL YEAR 2012-2013

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Section 3.36.580 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.580 Supplemental Retiree Benefit Reserve

A. Establishment and Purpose.

1. The Board shall establish a reserve in the retirement fund to be known as the Supplemental Retiree Benefit Reserve or SRBR.
2. The purpose of the SRBR shall be to provide a source of funding for benefits to supplement those benefits otherwise provided by this Plan or the Chapter 3.32 plan to former members of such plans who are receiving benefits, survivors of such former members, and survivors of members who die prior to receiving benefits from this Plan.

B. Funding.

1. The initial amount allocated to the SRBR shall be ten percent (10%) of the Plan's prefunded actuarial accrued liability as of June 30, 1999, as determined by the Board's actuary. The Board's actuary shall calculate the initial funding amount without regard to any Plan amendments that became effective after June 30, 1999.

2. Each June 30, beginning June 30, 2000, there shall be allocated to the SRBR the investment earnings attributable to the balance in the SRBR as of June 30 of the calendar year in which the allocation is made.
Investment earnings credited to the SRBR shall be calculated as though the transfer required by paragraphs 3. and 4. of this subsection B. had been made on the immediately following July 1 (first allocation on July 1, 2000) regardless of the actual date such transfer is made. In the event the investment earnings for the retirement fund are less than zero, no investment earnings shall be allocated to the SRBR and no reduction shall be made to the SRBR balance except as provided in subsection C. below.

3. The Board shall determine the excess earnings for the twelve (12) months ending June 30, 2000, and for the twelve (12) months ending June 30, 2001, and shall transfer to the SRBR ten percent (10%) of the excess earnings for each such twelve (12)-month period.

4. Within ninety (90) days from and after receipt of audited financial statements for each fiscal year, commencing with the year 2002, the Board shall determine, and by written resolution declare, the excess earnings as of June 30 in each such year, and shall transfer ten percent (10%) of such excess earnings to the SRBR. The excess earnings shall

be added to the SRBR principal and shall not be available for distribution under subsection D.

C. Reduction of SRBR Balance.

1. If the City's contribution rate, as determined by the Board's actuary during any actuarial valuation performed after June 30, 1999, will increase as a result of poor investment earnings in the Retirement Fund, there shall be transferred from the SRBR to the regular Retirement Fund and the cost-of-living fund an amount equal to ten percent (10%) of the City's increased contributions for the first twelve (12) months following the increase in the contribution rates. Such transfers shall be limited to those situations where the increase in the City's contribution rate is attributable to poor investment earnings; no such transfer shall be made for any increase in the City's contribution rate that is due to any factor other than poor investment earnings including, but not limited to, increases in medical or dental premium costs, enhancements to benefits provided under the Plan, or changes in the actuarial assumptions.
2. Notwithstanding paragraph 1. of this subsection C., the amount transferred from the SRBR because of the increase in the City's contributions shall not exceed five percent (5%) of the accrued balance in the SRBR as of the date of the actuarial valuation.

D. Distributions.

1. The Board shall make an initial distribution from the SRBR during calendar year 2002.

2. Beginning in calendar year 2003, the Board shall make an annual distribution from the SRBR; except there shall be no distribution during calendar years 2010, 2011, 2012 or during calendar year 201~~32~~, prior to June 30, 201~~32~~.
3. The initial distribution from the SRBR shall be made solely to former members of this Plan or the Chapter 3.32 Plan who are receiving benefits as of June 30, 2001, and survivors (of such former members or of members who died prior to receiving benefits from this Plan) who are receiving benefits as of June 30, 2001; provided, however, that if a member or former member died after June 30, 2001, but before the initial distribution, the survivor shall be deemed to have been receiving benefits as of June 30, 2001.
4. All subsequent annual distributions from the SRBR shall be made solely to former members of this Plan or the Chapter 3.32 Plan who are receiving benefits as of the June 30 immediately preceding the distribution date and survivors (of such former members or of members who died prior to receiving benefits from this plan) who are receiving benefits as of said June 30.
5. The Board shall develop a methodology for distributions from the SRBR such that supplemental benefits provide a greater benefit for those persons who have been in benefit status for a longer period of time and those persons receiving the lowest monthly benefit payments. Upon the approval of the methodology by the City Council, the Board shall make distributions in accordance with such methodology.

6. Except as required by subsection C. or in the case of the termination of this Plan, the Board shall not transfer or distribute funds in the SRBR if such transfer or distribution would reduce the SRBR principal.
- E. Definitions. For the purpose of this Section 3.36.580, the terms listed herein shall have the following meanings:
1. "Excess earnings" means the earnings of the Retirement Fund that remain after interest has been credited to the SRBR as provided in paragraph B.2. and the actuarial assumed earnings rate adopted by the Board (and in effect on June 30 of the year in which the SRBR calculation is performed) has been credited to other reserves.
 2. "Former member" means a person who has retired under the provisions of this Chapter or Chapter 3.32 or a person who separated from City service without retiring but left his or her contributions on deposit in the retirement fund.
 3. "Investment earnings" means the earnings of the Retirement Fund during the twelve (12) months ending June 30 as determined by the Board's actuary using the same methodology used to determine the value of assets for the actuarial valuation. In the case of investment earnings attributable to the SRBR, the application of the methodology shall begin as of July 1, 1999.

RD:EJM
2/8/2012

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

AYES:

NOES:

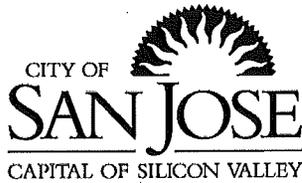
ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS HAWKINS, CMC
City Clerk



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes

SUBJECT: LOWER GUADALUPE RIVER
TRAIL (REACHES A-E)

DATE: April 2, 2012

Approved

Date

4/10/12

COUNCIL DISTRICTS: 3 and 4

RECOMMENDATION

Report on bids and award of contract for the Lower Guadalupe River Trail (Reaches A-E) to the low bidder, Wattis Construction Co., Inc., in the amount of \$3,223,032, and approval of a contingency in the amount of \$322,303.

OUTCOME

Approval of this construction contract will allow for construction of the Lower Guadalupe River Trail providing a 6.4 mile trail along the Guadalupe River from Interstate 880 to Gold Street. Approval of a ten percent contingency will provide funding for any unanticipated work necessary for the proper construction of the Project.

BACKGROUND

San José has one of the largest urban trail networks with nearly 54 miles already open to the public. The City's Green Vision advances development of a 100-mile interconnected network by 2022. The Guadalupe River Trail is a core system in the network and serves both recreational and commuter users.

In June 2005, a master plan was adopted by Council which describes the Lower Guadalupe River Trail as a 6.4 mile system from Highway 880 to Gold Street. Excess funds from the master planning process were programmed for preparation of 35% construction documents for future paving of the trail system.

In August 2005, the Federal Transportation Bill (SAFETEA-Lu) provided \$6,039,000 in funding for development of the Lower Guadalupe River Trail. This funding, along with a 20% match

April 2, 2012

Subject: Lower Guadalupe River Trail (Reaches A-E)

Page 2

from the City, was to provide for Federal environmental documentation (NEPA), completion of construction documents, and construction of a paved trail and associated improvements.

In February 2006, the City executed an agreement with the Santa Clara Valley Water District (District) for an interim trail until such time that a paved trail could be constructed. In January 2008, the City and District completed joint construction of the Airport Parkway under-crossing to permit continuous and off-street access to the trail system.

During the design process, the City worked with Caltrans and other agencies to prepare federally-mandated environmental studies and construction documents for the paved trail system. This Project will pave the existing interim trail from Gold Street in north San José/Alviso to the existing Guadalupe River Park at Highway 880.

The base bid scope of work for the Project consists of construction of a 12 foot wide asphalt paved trail with two foot wide shoulders, decorative pavement at the trail entry points, five interpretative stations, signage, striping and miscellaneous site furnishings.

The construction bid package requires closure of the entire trail system and limits the schedule to 10 months. This approach was employed to seek the lowest bids, permit efficient deployment of skilled labor along the entire trail, and reduce the impact on trail users to a single construction season. Staff took several steps to limit the potential for a more prolonged schedule and educate about alternative routes.

- Design of an alteration to the Tasman Drive under-crossing has been completed but is not part of the project bid. The under-crossing is in the river channel and could require a seasonal closure of the entire construction site (the entire 6.4 miles). Supplemental grant funding has been secured for the under-crossing and the intent is to bid and award that work independently immediately after the larger trail project is complete and open to the public.
- All project work is to occur along the top of the levee structure; construction may occur throughout the year, with no risk of temporary closures for weather or flood occurrences.
- During construction, a signed detour will guide trail users to North First Street for pedestrian and bicycle travel. The detour route was reviewed by the City's Department of Transportation.
- The Trail Program website includes a Construction Update link to provide the community with periodic updates on the Project's milestones and schedule. Staff is proactively sending project updates to advocacy organizations, local media and other interested parties.
- Staff coordinated the design with the Department of Transportation's (DOT) Bike and Ped Program Coordinator and Parks, Recreation and Neighborhood Services' (PRNS) Trail Program Manager. PRNS Staff met with the Silicon Valley Bicycle Coalition and the Guadalupe River Park Conservancy to give them regular updates during the design process and will be providing monthly updates while the project is under construction.
- PRNS Staff regularly posts trail-related information on Twitter at SanJoséTrails. Major milestones related to construction of the Lower Guadalupe River Trail are to be posted.

April 2, 2012

Subject: Lower Guadalupe River Trail (Reaches A-E)

Page 3

- The project's construction sign (posted at Hedding Street, Gold Street, and Airport Parkway) will include an email address and Quick Response code (for Smart phones) to access project information.

It is anticipated that the Project will begin in June 2012 with construction completed in April 2013.

ANALYSIS

Bids were opened on March 15, 2012 with the following results:

<u>Contractor</u>	<u>Base Bid</u>
Wattis Construction Co., Inc. (San José)	\$ 3,223,032.00
Granite Construction Co. (Watsonville)	\$ 3,294,393.70
O'Grady Paving, Inc (Mountain View)	\$ 3,395,322.75 */***
Pavex Construction Division (San José)	\$ 3,426,100.00
Stevens Creek Quarry, Inc. (Cupertino)	\$ 3,476,738.00
Top Grade Construction, Inc. (Livermore)	\$ 3,549,740.00
Galeb Paving Inc (Saratoga)	\$ 3,728,813.56 *
West Bay Builders, Inc. (Novato)	\$ 3,806,974.86 *
MCK Services (Concord)	\$ 3,288,027.25 **
Suulutaaq, Inc (Fairfield)	\$ 3,764,700.90 **

* Math errors corrected - Per Section 2-1.05 - In the case of any discrepancy between the extended price for any bid item bid, the unit price multiplied by the number of units shall prevail. In the event of any discrepancy between the total contract amount and the sum of the extended prices of all items, the sum of the extended prices of all items shall prevail.

** Bidder acknowledged receipt of Addendum 3 but failed to correct the quantities for Bid Items 32 & 33, so Bidder is found to be NON-RESPONSIVE.

*** On Statement of Bidder's Experience, Bidder put "Previous City of San José Projects" instead of listing projects. This was found to be a minor irregularity

The tight spread and the number of the bids received demonstrate the competitiveness of the bidding climate for this project. No protests were received.

April 2, 2012

Subject: Lower Guadalupe River Trail (Reaches A-E)

Page 4

Wattis Construction Co., Inc. is the low bidder and staff recommends awarding the project to them. Council Policy provides for a standard contingency of ten percent on trail projects. There are sufficient funds to provide for the recommended contingency.

In accordance with Federal Regulations, 49 CFR Part 26, an Underutilized Disadvantaged Business Enterprise (UDBE) goal of 2% was established for this project. Wattis Construction Co., Inc. did not meet the UDBE goal and attained 0% participation. Wattis Construction Co., Inc. submitted documentation that demonstrated good faith efforts were made to solicit UDBE participation.

The lower than anticipated bid will yield a balance of federal earmark funding. The funding agreement executed with Caltrans required development of a continuous trail between Highway 880 to Gold Street. The pavement project will provide that continuity, but the trail system will still be impacted by seasonal closures at the Tasman Drive Under-Crossing. The under-crossing is relatively low and is subject to both storm and tidal flooding. The environmental and construction documents have been completed to elevate the under-crossing by 3'. The balance of funds will be applied to that project. The Tasman Drive Under-Crossing is also supported by funds secured through the Community Design and Transportation (CDT) grant (Resolution No. 75271, 02/09/2010). Upon future bidding of the Tasman Drive Under-Crossing project, staff will determine if any federal funding remains for allowable expenses on other trail projects. Staff extended the definition of the Lower Guadalupe River Trail project in the Transportation Improvement Plan (TIP) so the balance would likely support work on that on-going trail system.

EVALUATION AND FOLLOW-UP

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

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)**

April 2, 2012

Subject: Lower Guadalupe River Trail (Reaches A-E)

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This item meets the Criteria 1: Requires Council action on the use of public funds equal to \$1 million or greater. To solicit contractors, this project was listed on the City's Internet Bid Line and advertised in the *San José Post Record*. Bid packages for all Department of Public Works construction projects are provided to various contractor organizations and builder's exchanges.

This memorandum will be posted on the City's website for the April 24, 2012 City Council agenda.

COORDINATION

This proposed project and memorandum have been coordinated with the Departments of Parks, Recreation and Neighborhood Services, Planning, Building and Code Enforcement, the City Attorney's Office and the City Manager's Budget Office

FISCAL/POLICY ALIGNMENT

In addition to being consistent with the Council-approved Budget Strategy Economic Recovery section by spurring construction spending in our local economy, this project furthers the goals of the Green Vision, the Greenprint and Envision San José 2040.

COST IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$3,223,032

Project Delivery	826,244
Consultant Fees	1,954,185
Construction	3,223,032
Contingency	<u>322,303</u>
TOTAL PROJECT COSTS	6,325,764
Prior Year Expenditures	<u>(1,831,299)</u>
REMAINING PROJECT COSTS	4,494,465

April 2, 2012

Subject: Lower Guadalupe River Trail (Reaches A-E)

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2. COST OF PROJECT:

Mobilization, Demolition, Site Preparation	392,145
SWPPP	389,386
Utilities	107,200
Concrete work	271,475
Asphalt paving	1,221,175
Electrical	143,000
Striping, signage & interpretive elements	224,935
Fencing	409,286
Misc. site furnishings	49,430
Federal Training Requirement Allowance	15,000
Total Construction Contract Amount	\$3,223,032

3. SOURCE OF FUNDING: 375 – Park Trust Fund

381 – Construction & Conveyance Tax Fund: CD 4

4. OPERATING COST: The operating and maintenance cost associated with the completed trail is estimated to be approximately \$58,000 annually, which was included in the 2013-2017 General Fund Forecast, released on February 29, 2012. The Proposed 2012-2013 Budget will include a recommendation to allocate partial year funding of \$19,000 to the Parks, Recreation and Neighborhood Services Department, with the remaining \$39,000 recommended to be added on an ongoing basis beginning in 2013-2014. This funding supports periodic maintenance, long-term repair and trail patrol staffing.

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Subject: Lower Guadalupe River Trail (Reaches A-E)

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BUDGET REFERENCE

The table below identifies the fund 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 #	Appn Name	RC	Total Appn	Amt for Contract	2011-2012 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
Remaining Project Costs				\$4,494,465			
Current Funding Available							
375	6261	Trail: Lower Guadalupe River (Gold Street to Highway 880)	Various	\$4,267,000	\$3,223,032	V-541	10/18/2011 Ord. No. 28979
381	6261	Trail: Lower Guadalupe River (Gold Street to Highway 880)	15161X	\$1,884,000		V-368	06/21/2011 Ord. No. 28928
Total Funding for Remaining Project Costs				\$6,151,000	\$3,223,032		

CEQA

Mitigated Negative Declaration, File No. PP04-323.

/s/

DAVID SYKES
Director of Public Works

For questions please contact Harry Freitas, Assistant Director, 408-535-8300.

Attachment

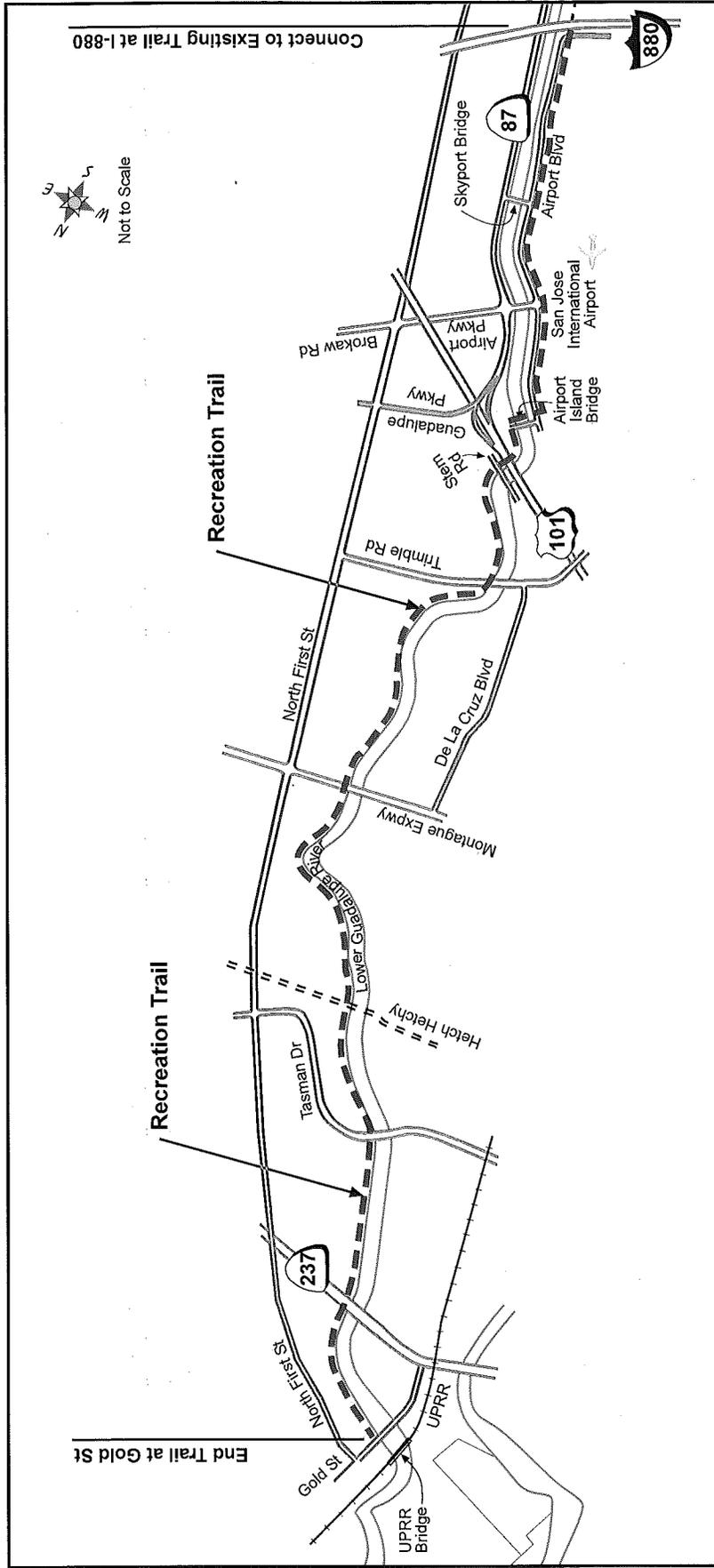


Figure 1
Lower Guadalupe River Trail Alignment



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: William F. Sherry, A.A.E.
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: April 2, 2012

Approved

Date

4/2/12

**SUBJECT: AIRPORT REVENUE BOND SALE AND PER DAY RENTAL CAR
CUSTOMER FACILITY CHARGE AMENDMENTS**

RECOMMENDATION

Adopt 2011-2012 Appropriation Ordinance and Funding Sources Resolution amendments in the funds as detailed in Attachment A of this memorandum to reflect the issuance of City of San José Airport Revenue Bonds Series 2011A and 2011B and the change in customer facility charge (CFC) from \$10.00 per contract to \$6.00 per day.

OUTCOME

The outcome of these recommendations is to update budgeted revenue and expenses to reflect Council approved actions and to enable transfers between funds and payments as required resulting from the financial transactions described herein.

BACKGROUND

On July 28, 2011, the City issued \$236,785,000 of Airport Revenue Bonds, Series 2011A to refund outstanding variable and fixed-rate debt at Norman Y. Mineta San José International Airport. Proceeds were applied to redeem subordinated commercial paper notes, which were originally issued to refund the Airport's 2004A/B Series bonds, which were used to fund a portion of the construction of terminal and ancillary facilities at the Airport. The Bonds also refunded all of the Airport's 1998A Series bonds, as well as a portion of its outstanding 2001A Series bonds. The remaining

April 2, 2012

Subject: Airport Revenue Bond Sale and Per Day CFC

Page 2 of 5

proceeds funded a debt service reserve fund, and paid the costs related to issuing the Bonds. Council approved the issue of 2011A Airport Revenue Bonds on June 21, 2011¹

On November 8, 2011, Council modified the customer facilities fee and customer transportation fee (collectively, "CFC") from \$10.00 per contract to \$6.00 per day, up to a maximum of five days per rental car contract effective December 1, 2011², for customers renting vehicles from On-Airport Rental Car Companies. The CFC is authorized for the purpose of paying the costs of the financing, design and construction of the Consolidated Rental Car Garage, and the costs of providing a common-use transportation system to transport rental car customers between Terminal A and the Consolidated Rental Car Garage.

On December 14, 2011, the City issued \$271,820,000 of Airport Revenue Bonds, Series 2011B. The bond proceeds were used to refund subordinated taxable commercial paper notes, which were originally issued to fund the design and construction of the consolidated rental car garage (the "ConRAC") at the Norman Y. Mineta San José International Airport, and to fund a debt service reserve fund, and to fund a coverage account, and to make capitalized interest payments, and pay the costs related to issuing the Bonds. City Council approved the issue of 2011B Bonds on November 15, 2011³.

The recommendations in this memorandum will adjust budgeted revenue and expenditures to reflect the approved issuance of Series 2011A and 2011B Bonds and implementation of the approved per day rental car customer facility charge. Generally, these types of clean-up budget adjustments are included in the Annual Report or Mid-Year Budget Review; however, due to the timing and complexity of the transactions, the final adjustment amounts were not available in time for release of the documents.

ANALYSIS

The Airport Commercial Paper Program was established to provide interim financing for Airport capital needs in anticipation of issuing Airport revenue bonds that would replace the commercial paper with permanent long-term financing. As planned, subordinated commercial paper notes were refunded with the issuance of the Series 2011A and 2011B Airport Revenue Bonds. As a result, appropriation actions are necessary to reflect the receipt of the Bond proceeds, refundings, transfers and other changes that allow cash flow to occur between Funds as expected.

¹ http://www.sanjoseca.gov/clerk/Agenda/20110621/20110621_0307.pdf

² http://www.sanjoseca.gov/clerk/Agenda/20111108/20111108_0601.pdf

³ <http://www.sanjoseca.gov/clerk/Agenda/20111115/20111115/0601a.pdf>

EVALUATION AND FOLLOW-UP

This memorandum presents a recommendation for Council's approval of various Appropriation Ordinance and Funding Sources Resolution amendments necessary to reflect the issuance of previously approved Airport Revenue Bonds and implementation of a previously approved per day rental car customer facility charge at the Airport.

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 memorandum meets Criterion 1 and will be posted on the Council Agenda for the April 24, 2012 Council agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the Finance Department.

COST SUMMARY/IMPLICATIONS

The budget actions as recommended in Attachment A will reflect the issuance of previously approved Airport Revenue Bonds and implementation of a previously approved per day rental car customer facility charge at the Airport. Revised Statement of Source and Use of Funds have been included for reference in Attachment B.

Airport Customer Facility and Transportation Fee Fund

The recommended actions in this fund will recognize and appropriate revenues from customer transportation fees and establish a transfer in from the Airport Fiscal Agent Fund to fund the annual debt service coverage requirement. An increase to the Non-Personal/Equipment funding will pay for

commercial paper fees as a result of the timing of the bond issue in December rather than July as originally anticipated. A decrease to the Transfer to the Airport Surplus Revenue Fund and an increase to the Transfer to the Airport Fiscal Agent Fund are recommended to reflect replacement of commercial paper debt with bond debt. The establishment of a reserve for Debt Service Coverage is also recommended to set aside funds for the annual debt service coverage requirement. To partially offset the actions, a decrease to the Rate Stabilization Reserve is also recommended.

Airport Revenue Fund

The recommended appropriation actions will decrease the Transfer to the Airport Fiscal Agent Fund to reflect lower interest expenses as a result of bond refunding, with a corresponding increase to the Reserve – Per Master Trust Agreement.

Airport Surplus Revenue Fund

The recommended actions in this fund will decrease the Transfers in from the Airport Customer Facility and Transportation Fee Fund as a result of the change in debt type or the replacement of commercial paper debt, recognize a Transfer in from the Airport Fiscal Agent Fund of bond proceeds used to redeem commercial paper notes, increase funding to redeem commercial paper principal and interest payment, and decreases to the Reserve – Per Master Trust Agreement and Reserve for Discretionary Expenses to partially offset the actions.

Airport Fiscal Agent Fund

The recommended actions in this fund will recognize bond proceeds, decrease the Transfers in from the Airport Passenger Facility Charge Fund and the Airport Revenue Fund as a result of reduced interest expense due to refunds of the 1998A Series bonds and a portion of the 2001A Series bonds, increase the Transfer in from the Airport Customer Facility and Transportation Fee Fund to recognize principal and interest payments on the 2011B Series bonds, and provide funding to pay principal, interest and issuance costs associated with the issuance of bonds. In addition, a Transfer to the Airport Customer Facility and Transportation Fee Fund is recommended to meet the annual debt service coverage requirement and a Transfer to the Airport Surplus Revenue Fund to redeem commercial paper notes. An increase to the Reserve for Debt Service is also recommended to meet increased debt service reserve requirements as a result of the issuance of bonds.

Airport Passenger Facility Charge Fund

The recommended appropriation actions will decrease the Transfer to the Airport Fiscal Agent Fund to reflect reduced debt service costs paid by Passenger Facility Charges, offset by an increase to the Ending Fund Balance.

HONORABLE MAYOR AND CITY COUNCIL

April 2, 2012

Subject: Airport Revenue Bond Sale and Per Day CFC

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CEQA

Not a project, PP10-067(b), Appropriation Ordinance.

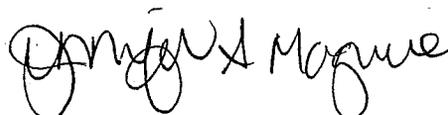
/s/ Kimberly B. Aguirre for
WILLIAM F. SHERRY, A.A.E.
Director of Aviation


JENNIFER A. MAGUIRE
Budget Director

For questions please contact Terri Gomes, Deputy Director Airport Finance and Administration, at
(408) 392-3650.

I hereby certify that there will be available for appropriation in the designated fund and
in the amounts listed below in Fiscal Year 2011-2012 moneys in excess of those
heretofore appropriated therefrom:

Airport Customer Facility and Transportation Fee Fund	\$6,391,132
Airport Surplus Revenue Fund	\$344,273,687
Airport Fiscal Agent Fund	\$513,646,988


JENNIFER A. MAGUIRE
Budget Director

Attachments

**Appropriation Ordinance and Funding Sources Resolution Amendments for Various
Airport Funds**

1. Airport Customer Facility and Transportation Fee Fund:
 - a. Increase the estimate for Earned Revenue by \$2,996,973;
 - b. Establish a Transfer in from the Airport Fiscal Agent Fund in the amount of \$3,394,159;
 - c. Increase the appropriation to the Airport Department for Non-personal/Equipment by \$2,200,000;
 - d. Decrease the Transfer to the Airport Surplus Revenue Fund by \$9,976,313;
 - e. Establish a Transfer to the Airport Fiscal Agent Fund by \$11,369,920;
 - f. Decrease the Rate Stabilization Reserve by \$596,634; and
 - g. Establish a Reserve for Debt Service Coverage in the amount of \$3,394,159;

2. Airport Revenue Fund:
 - a. Decrease the Transfer to Airport Fiscal Agent Fund by \$1,730,735; and
 - b. Increase the Reserve-Per Master Trust Agreement by \$1,730,735;

3. Airport Surplus Revenue Fund:
 - a. Decrease the Transfer in from the Airport Customer Facility and Transportation Fee Fund by \$9,976,313;
 - b. Establish a Transfer in from the Airport Fiscal Agent Fund in the amount of \$354,250,000;
 - c. Increase the appropriation to the Airport Department for Commercial Paper Principal and Interest by \$345,840,641;
 - d. Decrease the Reserve-Per Master Trust Agreement by \$1,520,689; and
 - e. Decrease the Reserve for Discretionary Expense by \$46,265;

4. Airport Fiscal Agent Fund:
 - a. Increase the estimate for Earned Revenue by \$504,400,803;
 - b. Establish a Transfer in from the Airport Customer Facility and Transportation Fee Fund in the amount of \$11,369,920;
 - c. Decrease the Transfer in from the Airport Passenger Facility Charge Fund by \$393,000;
 - d. Decrease the Transfer in from the Airport Revenue Fund by \$1,730,735;
 - e. Establish an appropriation for Other Payments in the amount of \$6,756,039;
 - f. Increase the appropriation for Principal and Interest Payments by \$99,664,508;
 - g. Establish a Transfer to the Airport Customer Facility and Transportation Fee Fund in the amount of \$3,394,159;
 - h. Establish a Transfer to the Airport Surplus Revenue Fund in the amount of \$354,250,000;
 - i. Increase the for Reserve for Debt Service by \$49,582,282;

5. Airport Passenger Facility Charge Fund:
 - a. Decrease the Transfer to the Airport Fiscal Agent Fund by \$393,000; and
 - b. Increase the Ending Fund Balance by \$393,000.

AIRPORT CUSTOMER FACILITY AND TRANSPORTATION FEE FUND

STATEMENT OF SOURCE AND USE OF FUNDS

	2011-2012 Adopted	2011-2012 Modified	Recommended Changes	2011-2012 Revised Modified
SOURCE OF FUNDS				
Beginning Fund Balance				
OPEB Reserve	0	0	0	0
Rate Stabilization Reserve	370,464	2,278,858	0	2,278,858
Reserve for Encumbrances	4,117	115,465	0	115,465
Retirement Pre-Payment Reserve	0	0	0	0
Total Beginning Fund Balance	374,581	2,394,323	0	2,394,323
Revenues				
Customer Transport Fee	6,928,110	6,928,110	2,996,973	9,925,083
Grant Revenue	0	0	0	0
Interest	0	0	0	0
Other Revenue	0	0	0	0
Rental Car Agencies	6,512,381	6,512,381	0	6,512,381
Total Revenues	13,440,491	13,440,491	2,996,973	16,437,464
Transfers				
Airport Fiscal Agent Fund	0	0	3,394,159	3,394,159
Total Transfers	0	0	3,394,159	3,394,159
TOTAL SOURCE OF FUNDS	13,815,072	15,834,814	6,391,132	22,225,946
USE OF FUNDS				
Expenditures				
CFC Audit	7,500	7,500	0	7,500
Contingency Reserve	250,000	0	0	0
Non-Personal/Equipment	2,814,974	3,064,974	2,200,000	5,264,974
Personal Services	0	0	0	0
Total Expenditures	3,072,474	3,072,474	2,200,000	5,272,474
Transfers				
Airport Fiscal Agent Fd	0	0	11,369,920	11,369,920
Airport Rev Bond Improv Fd	0	0	0	0
Airport Surplus Revenue Fd	10,368,017	10,368,017	(9,976,313)	391,704
Total Transfers	10,368,017	10,368,017	1,393,607	11,761,624
Ending Fund Balance				
Debt Service Coverage Reserve	0	0	3,394,159	3,394,159
OPEB Reserve	0	0	0	0
Rate Stabilization Reserve	370,464	2,278,858	(596,634)	1,682,224
Reserve for Encumbrances	4,117	115,465	0	115,465
Total Ending Fund Balance	374,581	2,394,323	2,797,525	5,191,848
TOTAL USE OF FUNDS	13,815,072	15,834,814	6,391,132	22,225,946

AIRPORT REVENUE FUND

STATEMENT OF SOURCE AND USE OF FUNDS

	2011-2012 Adopted	2011-2012 Modified	Recommended Changes	2011-2012 Revised Modified
SOURCE OF FUNDS				
Beginning Fund Balance				
Curfew Reserve	247,641	339,104	0	339,104
Res-Per Master Trust Agmnt	24,099,129	34,472,103	0	34,472,103
Reserve for Future Deficit	0	0	0	0
Total Beginning Fund Balance	<u>24,346,770</u>	<u>34,811,207</u>	0	<u>34,811,207</u>
Revenues				
Airfield Area	2,983,703	2,983,703	0	2,983,703
Landing Fees	12,073,884	12,073,884	0	12,073,884
Miscellaneous	6,007,515	5,274,566	0	5,274,566
Parking and Roadway	40,435,864	40,435,864	0	40,435,864
Petroleum Products	1,482,250	1,482,250	0	1,482,250
Terminal Building	15,930,380	15,930,380	0	15,930,380
Terminal Rental	38,184,987	38,184,987	0	38,184,987
Total Revenues	<u>117,098,583</u>	<u>116,365,634</u>	0	<u>116,365,634</u>
Transfers				
Airport Capital Imprvmnt Fund	500,000	500,000	0	500,000
Airport Fiscal Agent Fund	800,000	1,734,784	0	1,734,784
Airport Rev Bond Imp Fund	5,498,849	5,498,849	0	5,498,849
Airport Surplus Revenue Fund	0	0	0	0
Total Transfers	<u>6,798,849</u>	<u>7,733,633</u>	0	<u>7,733,633</u>
TOTAL SOURCE OF FUNDS	<u>148,244,202</u>	<u>158,910,474</u>	0	<u>158,910,474</u>
USE OF FUNDS				
Transfers				
Airport Fiscal Agent Fd	50,285,442	50,017,751	(1,730,735)	48,287,016
Airport Maint and Opers Fd	83,907,189	83,907,189	0	83,907,189
Airport Rev Bond Improv Fd	0	0	0	0
Airport Surplus Revenue Fd	8,985,038	9,454,564	0	9,454,564
Total Transfers	<u>143,177,669</u>	<u>143,379,504</u>	<u>(1,730,735)</u>	<u>141,648,769</u>
Ending Fund Balance				
Curfew Reserve	0	0	0	0
Res-Per Master Trust Agmnt	5,066,533	15,530,970	1,730,735	17,261,705
Reserve for Future Deficit	0	0	0	0
Total Ending Fund Balance	<u>5,066,533</u>	<u>15,530,970</u>	<u>1,730,735</u>	<u>17,261,705</u>
TOTAL USE OF FUNDS	<u>148,244,202</u>	<u>158,910,474</u>	0	<u>158,910,474</u>

AIRPORT SURPLUS REVENUE FUND

STATEMENT OF SOURCE AND USE OF FUNDS

	2011-2012 Adopted	2011-2012 Modified	Recommended Changes	2011-2012 Revised Modified
SOURCE OF FUNDS				
Beginning Fund Balance				
Res-Per Master Trust Agmnt	6,065,679	1,571,700	0	1,571,700
Reserve for Discretionary Exp	3,000,000	2,530,474	0	2,530,474
Total Beginning Fund Balance	<u>9,065,679</u>	<u>4,102,174</u>	0	<u>4,102,174</u>
Revenues				
Interest	0	0	0	0
Total Revenues	<u>0</u>	<u>0</u>	0	<u>0</u>
Transfers				
Airport Capital Imprvmnt Fund	0	210,000	0	210,000
Airport Facility & Transp Fee Fd	10,368,017	10,368,017	(9,976,313)	391,704
Airport Fiscal Agent Fund	0	0	354,250,000	354,250,000
Airport Rev Bond Imp Fund	0	2,308,000	0	2,308,000
Airport Revenue Fund	8,985,038	9,454,564	0	9,454,564
Total Transfers	<u>19,353,055</u>	<u>22,340,581</u>	<u>344,273,687</u>	<u>366,614,268</u>
TOTAL SOURCE OF FUNDS	<u>28,418,734</u>	<u>26,442,755</u>	<u>344,273,687</u>	<u>370,716,442</u>
USE OF FUNDS				
Expenditures				
Commercial Paper Principal and Interest Payment	14,144,038	16,662,038	345,840,641	362,502,679
Green Island Principal and Interest Payment	109,017	109,017	0	109,017
Total Expenditures	<u>14,253,055</u>	<u>16,771,055</u>	<u>345,840,641</u>	<u>362,611,696</u>
Transfers				
Airport Fiscal Agent Fd	0	0	0	0
Airport Renew & Replace Fd	4,000,000	4,000,000	0	4,000,000
Airport Rev Bond Improv Fd	0	0	0	0
Airport Revenue Fund	0	0	0	0
Total Transfers	<u>4,000,000</u>	<u>4,000,000</u>	<u>0</u>	<u>4,000,000</u>
Ending Fund Balance				
Res-Per Master Trust Agmnt	6,165,679	1,671,700	(1,520,689)	151,011
Reserve for Discretionary Exp	4,000,000	4,000,000	(46,265)	3,953,735
Total Ending Fund Balance	<u>10,165,679</u>	<u>5,671,700</u>	<u>(1,566,954)</u>	<u>4,104,746</u>
TOTAL USE OF FUNDS	<u>28,418,734</u>	<u>26,442,755</u>	<u>344,273,687</u>	<u>370,716,442</u>

AIRPORT FISCAL AGENT FUND

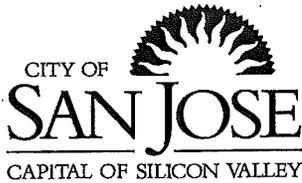
STATEMENT OF SOURCE AND USE OF FUNDS

	2011-2012 Adopted	2011-2012 Modified	Recommended Changes	2011-2012 Revised Modified
SOURCE OF FUNDS				
Beginning Fund Balance				
Reserve for Debt Service	50,248,910	52,906,947	0	52,906,947
Total Beginning Fund Balance	50,248,910	52,906,947	0	52,906,947
Revenues				
Bond Proceeds	0	0	504,400,803	504,400,803
Interest	1,600,000	2,332,949	0	2,332,949
Total Revenues	1,600,000	2,332,949	504,400,803	506,733,752
Transfers				
Airport Facility & Transp Fee Fd	0	0	11,369,920	11,369,920
Airport Rev Bond Imp Fund	0	0	0	0
Airport Revenue Fund	50,285,442	50,017,751	(1,730,735)	48,287,016
Airport Surplus Revenue Fund	0	0	0	0
Passenger Fac Charge Fund	21,730,000	21,730,000	(393,000)	21,337,000
Total Transfers	72,015,442	71,747,751	9,246,185	80,993,936
TOTAL SOURCE OF FUNDS	123,864,352	126,987,647	513,646,988	640,634,635
USE OF FUNDS				
Expenditures				
Interest Payment	59,379,958	59,379,958	5,954,508	65,334,466
Principal Payment	12,635,000	12,635,000	93,710,000	106,345,000
Other Payments	0	0	6,756,039	6,756,039
Total Expenditures	72,014,958	72,014,958	106,420,547	178,435,505
Transfers				
Airport Facility & Transp Fee Fd	0	0	3,394,159	3,394,159
Airport Rev Bond Imp Fund	0	0	0	0
Airport Revenue Fund	800,000	1,734,784	0	1,734,784
Airport Surplus Revenue Fund	0	0	354,250,000	354,250,000
Total Transfers	800,000	1,734,784	357,644,159	359,378,943
Ending Fund Balance				
Reserve for Debt Service	51,049,394	53,237,905	49,582,282	102,820,187
Total Ending Fund Balance	51,049,394	53,237,905	49,582,282	102,820,187
TOTAL USE OF FUNDS	123,864,352	126,987,647	513,646,988	640,634,635

AIRPORT PASSENGER FACILITY CHARGE FUND

STATEMENT OF SOURCE AND USE OF FUNDS

	2011-2012 Adopted	2011-2012 Modified	Recommended Changes	2011-2012 Revised Modified
SOURCE OF FUNDS				
Beginning Fund Balance				
Unrestricted	42,285,269	42,879,052	0	42,879,052
Total Beginning Fund Balance	42,285,269	42,879,052	0	42,879,052
Revenues				
Pssngr Facility Charge Proceeds	17,200,000	17,200,000	0	17,200,000
Interest	111,000	111,000	0	111,000
Total Revenues	17,311,000	17,311,000	0	17,311,000
TOTAL SOURCE OF FUNDS	59,596,269	60,190,052	0	60,190,052
USE OF FUNDS				
Transfers				
Airport Fiscal Agent Fund	21,730,000	21,730,000	(393,000)	21,337,000
Total Transfers	21,730,000	21,730,000	(393,000)	21,337,000
Ending Fund Balance				
Unrestricted	37,866,269	38,460,052	393,000	38,853,052
Total Ending Fund Balance	37,866,269	38,460,052	393,000	38,853,052
TOTAL USE OF FUNDS	59,596,269	60,190,052	0	60,190,052



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes
William F. Sherry, A.A.E.

SUBJECT: SEE BELOW

DATE: April 2, 2012

Approved 

Date 4/9/12

**SUBJECT: NORMAN Y. MINETA SAN JOSÉ INTERNATIONAL AIRPORT –
TAXIWAY W EXTENSION G-J PROJECT**

RECOMMENDATION

Adopt a resolution:

- (a) Authorizing the Director of Public Works to determine the lowest responsive and responsible bidder for the Taxiway W Extension G-J Project at the Norman Y. Mineta San José International Airport and to either: (i) award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$13,070,000, contingent upon award and execution of an Airport Improvement Program Grant from the Federal Aviation Administration; or (ii) reject all bids and re-bid the Project.
- (b) Approving a contingency equal to fifteen percent of the award amount.

OUTCOME

Approval of this item will allow the City to award and execute the contract within the timeframes needed to complete the work, minimizing the impact of construction on the operation of the Airport. Approval of a fifteen percent contingency will provide funding for any unanticipated work necessary for the proper completion and/or construction of the project.

BACKGROUND

Council approved a multi-year funding strategy for major airfield improvement projects in the current Capital Improvement Program. One of the major projects included in this program is the phased extension of Taxiway W and associated improvement of existing cross taxiways. The Taxiway W extension, underway since late 2009, is part of the Non-Terminal Area Improvement Program (NTAIP) and will provide a full length parallel taxiway to Runway 30L-12R on the west side of the airfield and support the development of new general aviation

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facilities. Two phases of the full construction project have been completed and the third phase is underway.

The proposed project will be the fourth phase of the full project and includes construction of Taxiway W from Taxiway G to Taxiway J as well as the strengthening and widening of existing cross Taxiway G from Taxiway W to Taxiway V for larger aircraft use. The project scope includes the removal of existing pavement, excavation and hauling, construction of new taxiways and shoulders, site grading, storm drainage, airfield signage and airfield lighting.

ANALYSIS

FAA awards discretionary AIP grants based on actual bids, as well as the availability of grant funds. For this project, staff will notify the FAA of the bid results and request the funding needed to award the contract. Under the recommended delegation of authority, award of the contract will be contingent upon the award and execution of an AIP Grant from the FAA sufficient to fund the project. Bid opening is scheduled for May 17, 2012, and staff expects to receive a grant proposal in early July.

For this reason staff is asking Council to delegate authority to the Director of Public Works for the award of this contract. Delegation would include the authority to decide any bid protests, 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 Apparent Low Bidder by the Director of Public Works will be posted on the Department of Public Works Bid Hotline.
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 then decide any timely bid protests, including any issues of bidder responsiveness or responsibility and will award the contract after receipt of notice from the FAA that funding will be provided for the project.

Staff is requesting an increase in contract authority in excess of the current engineer's estimate due to the unique nature of FAA AIP grant process. If Council were to grant contract authority based on the current engineer's estimate of approximately \$10,000,000, and the lowest bid came in above that number, staff would have insufficient time within the FAA time constraints to return to Council, and the City would lose eligibility for FAA grant funds for the project.

This memo recommends that the Council grant the Director of Public Works contract authority of \$13,070,000 for this project. This figure is consistent with the City's Airport Capital Improvement Program filing with the Federal Aviation Administration (FAA), and reflects the engineer's estimate at the time of that filing. This figure is also commensurate with the grant authority already delegated to the administration in previous Council action. The engineer's

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estimate was reduced to the current amount subsequent to the date of the filing with the FAA, because project scope has been better defined and the bidding environment is now more favorable to project owners.

This recommendation preserves the City's ability to accept grant funding within the administration's existing authority, award the project at an amount higher than the engineer's estimate but within the grant amount, and to meet the requirements of FAA AIP grant conditions.

Staff recommends a 15 percent contingency for this project because of the uncertainty of underground utilities and the underlying soil conditions. Additionally, the project location is subject to changing security requirements that require coordination with the TSA and FAA. A 15 percent contingency should provide funding for any unanticipated work necessary for the timely completion the project.

EVALUATION AND FOLLOW-UP

No subsequent Council action on this issue is necessary. Staff will monitor the impact of this action and communicate any issues to Council through a staff report.

POLICY ALTERNATIVES

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

Pros: None.

Cons: The purpose of the delegated authority is to award the project as soon as possible so that work can begin in August. Staff plans to start the project in August to ensure the best opportunity to complete the first stage of the project before the inclement weather.

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 memorandum meets Criterion 1 and will be published on the City's website for the April 24, 2012 Council agenda.

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COORDINATION

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

FISCAL/POLICY ALIGNMENT

The San José Municipal Code requires that capital projects at the Airport be consistent with the adopted Airport Master Plan. The Taxiway W Extension G-J Project is expressly identified in the Master Plan as Projects "A-30" (part) and "A-33", and is thereby consistent with the Master Plan pursuant to Municipal Code Section 25.04.210(B)(1).

This project is consistent with the Guiding Principals for Budget and Financial Management, Mayor's 2006-2007 Revised June Budget Message, in that it supports economic recovery and job creation.

This project is consistent with several initiatives identified in the Economic Development Strategy adopted by Council in November 2003, and aligns most significantly with:

- Strategic Initiative #1: Build a World-Class Airport and Air Services, and
- Strategic Initiative #5: Support the Growth (and Start-up) of Local Businesses – Small and Large (5.12 – increase access to City contracting and purchasing opportunities through improvements to communications and procurement process).

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION (Engineer's Estimate):	\$ 9,350,000
2. COST OF PROJECT:	
Project Delivery	\$ 2,318,000*
Construction	\$ 9,350,000
Contingency (approximately 15%)	\$ 1,402,000
TOTAL PROJECT COST:	\$ 13,070,000
 Prior Year Expenditures:	 \$ 0
 REMAINING PROJECT COSTS	 \$ 13,070,000

* Project delivery includes \$687,000 for Design Services and \$1,631,000 for Construction Management and Inspection Services.

3. SOURCE OF FUNDING: 520 - Airport Capital Improvement Fund

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526 - Airport Revenue Bond Improvement Fund

4. OPERATING COST: The project has been reviewed and was determined that it will have no significant adverse impact on the General Fund operating budget.

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	Total Appn	Amount For Contract	2011-2012 Adopted Capital Budget	Last Budget Action (Date, Ord. No.)
Remaining Project Costs			\$			
Current Funding Available						
520	5254	Taxiway W Improvements Phase	\$7,912,000	\$7,535,165	V661	10/18/2011 Ord.28979
526	5254	Taxiway W Improvements	\$3,267,000	\$1,814,835	V661	10/18/2011 Ord.28979
Total Funding for Remaining Project Costs			\$11,179,000	9,350,000		

CEQA

Resolution Nos. 67380 and 71451, PP 12-025

/s/
 DAVID SYKES
 Director of Public Works

/s/
 WILLIAM F. SHERRY, A.A.E.
 Director of Aviation
 Airport Department

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

TAXIWAY WHISKEY EXTENSION - PROJECT LIMITS

