



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Hans F. Larsen

**SUBJECT: BLOSSOM HILL CALTRAIN  
STATION PEDESTRIAN  
BRIDGE CROSSING AGREEMENT**

**DATE:** May 21, 2012

Approved

Date

5/30/12

**COUNCIL DISTRICT: 2**

## RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City of San José and Union Pacific Railroad (UPRR) for the construction, maintenance and use of a new pedestrian bridge over UPRR's rail corridor, providing a connection to the Blossom Hill Caltrain Station.

## OUTCOME

Approval of the recommended action authorizes the City Manager to negotiate and execute an agreement with UPRR for the construction of a new pedestrian bridge connecting the Blossom Hill Caltrain Station to the planned new "urban village" in the Edenvale/Hitachi area. The project fulfills a development condition of the Hitachi project. The cost to design and construct the bridge is fully funded by private development sources.

## BACKGROUND

In 2005 the City approved the Hitachi area development plan that provides 3.6 million square feet of industrial development, approximately 460,000 square feet of retail and commercial uses, up to 2,930 housing units and 13 acres of public/quasi-public park and open space on a 332 gross-acre site. Subsequently, in 2007, the City's Redevelopment Agency entered into a Master Cooperative Agreement between the City and Hitachi Global Storage Technologies, Inc. ("Hitachi") to facilitate the comprehensive planning for residential, commercial, and industrial development for the Edenvale development area.

As part of the Master Cooperative Agreement, Hitachi agreed to construct certain public infrastructure improvements to mitigate traffic impacts created as a result of the development

May 21, 2012

**Subject: Blossom Hill Caltrain Station Pedestrian Bridge Crossing Agreement**

Page 2 of 5

and to better facilitate pedestrian and vehicular traffic circulation. The Blossom Hill Caltrain Station pedestrian bridge is one of these public infrastructure improvements.

The project will construct a new pedestrian and bicycle bridge over the UPRR tracks from Endicott Boulevard to the Blossom Hill Caltrain Station platform (see Attachment A). The project is fully designed and is scheduled to begin construction in September 2012, with completion in mid 2013. Hitachi will be responsible for bidding, constructing and general administration of the project. The City will provide inspection services with full reimbursement by Hitachi for work performed. Hitachi will transfer ownership of the pedestrian bridge to the City after the City's final inspection of the facility is completed and accepted. The City will be responsible for operations, maintenance, and repairs of the bridge immediately upon completion of construction and during the period of beneficial use.

As the bridge will span UPRR right of way, an agreement between the City of San José and UPRR needs to be executed that considers the terms and conditions associated with the construction, operations and maintenance of the facility.

It is noted that there are two pedestrian overcrossings planned in the vicinity of Blossom Hill Road and the UPRR tracks. In addition to the project described above, another pedestrian overcrossing is being built approximately one-third of a mile northerly of the Blossom Hill Caltrain Station Pedestrian Bridge. This pedestrian overcrossing is currently under construction and scheduled to be completed in the summer of 2012. On May 22, 2012, the City Council approved naming the bridge "Xander's Crossing" in memory of Alexander Arriga.

The two new pedestrian facilities over the UPRR tracks serve two different travel purposes. The "Xander's Crossing" pedestrian bridge provides a safe connection between the residential neighborhood on the westerly side of the UPRR tracks and the shopping center on the east side of the tracks and spans the UPRR tracks and Monterey Road. The second bridge, the "Blossom Hill Caltrain Station" pedestrian bridge, provides a direct connection between the Blossom Hill Caltrain Station platform and the Hitachi development area just to the west of Endicott Boulevard.

## **ANALYSIS**

Under this proposed agreement, UPRR will grant the City the aerial right-of-entry needed for construction of the pedestrian overcrossing. The City will be required to pay a fee to UPRR in the amount of \$5,326 in consideration of the right granted to the City. Under the terms of the Master Cooperative Agreement between the Redevelopment Agency and Hitachi, Hitachi will reimburse the City for this fee. Additionally, the proposed agreement between the City and UPRR grants a right-of-entry to the City to maintain, repair, use and operate the pedestrian overcrossing for the life of the bridge. Under the terms of the proposed agreement with UPRR, the City will not be required to obtain ROW entry permits or enter into a separate right-of-entry agreement with UPRR for general maintenance and repairs of the bridge. For any construction

May 21, 2012

**Subject: Blossom Hill Caltrain Station Pedestrian Bridge Crossing Agreement**

Page 3 of 5

work performed by the City or the City's contractor, the parties will need to obtain a ROW entry permit from UPRR and/or appropriate right-of-entry agreements and insurance.

### Risk Management Considerations

The proposed UPRR agreement is similar to previous right-of-entry agreements between the City and UPRR for other construction projects. The key risk management considerations associated with the proposed agreement are summarized below:

- Liability - The City would have to indemnify and hold harmless UPRR from any and all liability including loss, damages, claims demands, costs and expenses, fines and penalties arising from injuries, death, or property damage that occurs or arise from the presence or use of the bridge and breach of the proposed agreement.
- Entry on to Railroad Property by City - To perform routine inspections, maintenance or other activity, the City or authorized contractor must provide 10 working days advance notice to UPRR representatives prior to entering UPRR's property. To address immediate public health or safety risk related to the bridge or associate improvement, the City may enter UPRR property with less than the 10 working days notice. In such an event the City must give as much notice as reasonably possible to UPRR's response management communication center under such circumstances. With respect to above described entries, the City will release, defend and indemnify UPRR against any loss, damage, injury, liability cost incurred by any person that arises from the presence of activity of City employees.
- Books and Records - For a period of three years following the date of UPRR's last billing sent to City, the City can inspect and audit the books and records and account of UPRR as it relates to items of expense for the materials or associated work to be performed by UPRR under this Project at UPRR's offices in Omaha, Nebraska. UPRR will not provide such records in San Jose for review and inspection.
- Termination - UPRR may terminate the proposed agreement if City is in breach of the agreement and fails to cure with 30 days notice. UPRR may also terminate the agreement if safety and operational needs of UPRR are materially affected or impaired by City's use of the bridge and the parties are unable to come to a mutual understanding for City to eliminate the impairment. Staff does not believe the bridge will impact any safety or operational needs of UPRR. If the agreement is terminated, City would be required to remove the bridge at City's cost.

### EVALUATION AND FOLLOW UP

As discussed in the *Master Cooperation Agreement by and between the City of San José and Hitachi Global Storage Technologies, Inc.*, dated November 16, 2007, the recommended action is consistent with the definition of the City's role as project sponsor to UPRR in facilitating the

May 21, 2012

**Subject: Blossom Hill Caltrain Station Pedestrian Bridge Crossing Agreement**

Page 4 of 5

construction of the pedestrian overcrossing. No further follow-up action with Council is anticipated.

### **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)**

While the recommended action does not meet any of the criteria, this memorandum will be posted on the City's website as part of the Council Agenda process.

### **COORDINATION**

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

### **FISCAL/POLICY ALIGNMENT**

The recommended action aligns with the City's strategic goals associated with the implementation of the 2010 Economic Strategy that specifically discusses the Hitachi mixed-use development, the Edenvale Area Development Policy and the goals for community development as discussed in the General Plan Update (Envision 2040). In addition, the project supports Envision 2040 goals to increase travel by walking, bicycling and transit.

### **COST SUMMARY/IMPLICATIONS**

The annual cost of operating and maintaining the Blossom Hill Caltrain Station pedestrian bridge is estimated at approximately \$8,000. These costs reflect the estimated beginning date that the City will assume operations and maintenance responsibilities in July 2013, and considers the expiration of warranties. It is noted that these costs had not previously been included in the General Fund forecasts. The additional costs of operations and maintenance will have to be considered in the development of the FY13-14 Annual Budget.

HONORABLE MAYOR AND CITY COUNCIL

May 21, 2012

**Subject: Blossom Hill Caltrain Station Pedestrian Bridge Crossing Agreement**

Page 5 of 5

**CEQA**

Resolution No. 72772

/s/

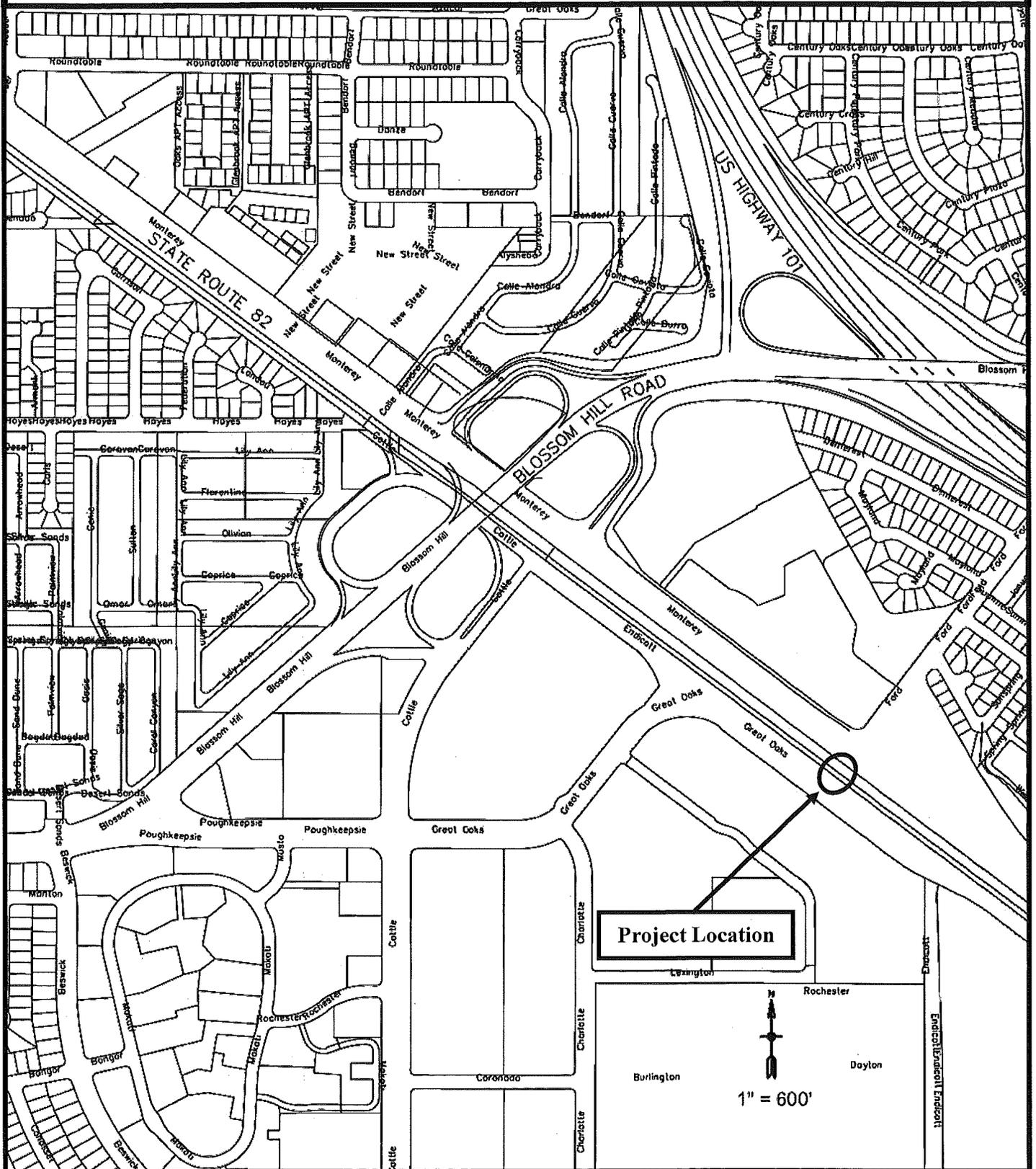
HANS F. LARSEN

Director of Transportation

For questions please contact Ray Salvano, Division Manager for Regional Transportation Projects, at (408) 975-3706.

Attachment

# ATTACHMENT A – VICINITY MAP



## VICINITY MAP

BLOSSOM HILL STATION PEDESTRIAN BRIDGE

CITY OF SAN JOSE

DEPARTMENT OF TRANSPORTATION

MAY 2012