



Sent to Council:

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JUN - 5 2012

City Manager's Office
Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leanna Bieganski

SUBJECT: Early Council Packet

DATE: June 5, 2012

Approved

Date

6/5/12

EARLY DISTRIBUTION COUNCIL PACKET FOR
JUNE 19, 2012

Please find attached the Early Distribution Council Packet for the June 19, 2012 Council Meeting.

2.x Agreement with the City of Milpitas for Animal Care and Control Services.

Recommendation: Approval of an agreement between the City of Milpitas and the City of San José for animal care and control services by the City of San José's Animal Care and Services Division of the Department of Public Works for a term beginning July 1, 2012 through June 30, 2015, for a total compensation of \$1,045,314. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Public Works)

3.x Approval of Various Budget Actions for Fiscal Year 2011-2012.

Recommendation: Adopt amendments to the annual appropriation ordinance and funding sources resolution for various operating and capital funds to reflect estimated 2011-2012 revenue receipts, expenses, and encumbrances. CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager's Office)

TO BE DISTRIBUTED SEPARATELY

3.x City of San José 2012 Tax and Revenue Anticipation Notes.

Recommendation: Adopt a resolution:

- (a) Authorizing the issuance and sale of the City of San José 2012 Tax and Revenue Anticipation Notes ("2012 Notes") in the not to exceed aggregate principal amount of \$125,000,000 to be sold through a private placement; and
- (b) Approving, in substantially final form, the Note Purchase Agreement and authorizing the Acting Director of Finance or other authorized officers to execute the Note Purchase Agreement and other related documents, as necessary, in connection with the issuance of the 2012 Notes and authorizing other related actions in connection therewith.

- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2012-2013:
 - (1) Increase the estimate for Other Revenue in the amount of \$125,000,000;
 - (2) Increase the City-wide appropriation to the Finance Department for TRANs Debt Service by the amount of \$125,000,000.

CEQA: Not a Project, File No. PP10-069, City organizational and administrative activities. (Finance/City Manager's Office)

4.x Grant for Administration of Tenant Based Rental Assistance Program.

Recommendation: Adopt a resolution authorizing the Director of Housing to negotiate and execute documents for a grant of up to \$1,430,000 to Abode Services for administration and housing costs associated with the City's Tenant Based Rental Assistance programs for homeless households for a period of two years. CEQA: Not a Project, File No. PP10-066, Agreements/Contracts. (Housing)

4.x Acceptance of a CalHome Program Grant from the California Department of Housing and Community Development.

Recommendation: Adopt a Resolution Authorizing the Director of Housing to:

- (a) Accept a \$1,500,000 CalHome grant from the California Department of Housing and Community Development; and
- (b) Negotiate and execute the grant agreement and any amendments or other documents necessary to implement the programs funded by the grant.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15267, Financial Assistance to Low- or Moderate- Income Housing. (Housing)

5.x Parks, Recreation and Neighborhood Services 2012-2013 Agreements.

Recommendation: Adopt a resolution authorizing the following, subject to the appropriation of funds by the City Council, and on such terms and conditions as deemed appropriate by the City Manager:

- (a) Authorize the City Manager to negotiate and execute all agreements, amendments and extensions for the Department of Parks, Recreation and Neighborhood Services (PRNS) identified in the "Compensation Paid by the City of San José" on Attachment A of the staff memorandum consistent with the 2012-2013 Proposed Budget;
- (b) Authorize the City Manager to negotiate and execute agreements and amendments to accept grant funds identified in the "Compensation Paid to the City of San José" on Attachment B of the staff memorandum;
- (c) Authorize the Director of Parks, Recreation and Neighborhood Services to negotiate and execute a grant agreement with the Santa Clara Family Health Plan for the Children's Health Initiative as well as apply for, negotiate and execute 2012-2013 contracts and amendments as identified in "Delegation on Contract

Authority to PRNS Director” on Attachment C of the staff memorandum consistent with Adopted Budget amounts for the following City programs:

- (1) Bringing Everyone’s Strengths Together (B.E.S.T.);
- (2) Safe Summer Initiative Grant (S.S.I.G.);
- (3) Mayor’s Gang Prevention Task Force Memorandums of Understanding (MGPTF MOU);
- (4) Community Center Reuse (Reuse);
- (5) Mayor’s Gang Prevention Task Force (MGPTF) Grant Revenue;
- (6) The Santa Clara Valley Family Health Plan;
- (7) Senior Wellness Grants; and
- (8) Evaluation Consultant Agreement(s) to assess PRNS programs/services.

CEQA: As referenced in the staff memorandum. (Parks, Recreation and Neighborhood Services)

5.3 Actions Related to the Option Agreements for the Airport West Property.

Recommendation: Adopt a resolution to:

- (a) Authorize the City Manager to negotiate and execute HUD amendments to the HUD documents to allow for the use of proceeds from the sale of the Airport West property for the payment of the 2008F Lease Revenue Bonds
- (b) Authorize the City Manager to negotiate and execute amendments to Option Agreements with Coleman Airport Partners, LLC to:
 - (1) Reduce the purchase price of the property at 1125 Coleman Avenue (Airport West) to be sold to Coleman Airport Partners LLC under the Development Site Option Agreement by \$11.928 million in order for the City to retain approximately 7.529 acres for the construction of a four-field, artificial turf bond-funded, community soccer facility.
 - (2) Increase the purchase price of the property located at 1125 Coleman Avenue to be sold to Coleman Airport Partners LLC under the Commercial Site Option Agreement by \$1.846 million as a result of the increase in the acreage to be sold from 8.96 acres to 10.79 acres.
- (b) Adopt the following 2012-2013 Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund:
 - (1) Decrease the Contingency Reserve by \$1,339,000.
 - (2) Establish a transfer to the Construction and Conveyance Tax Fund (City-wide Parks Purposes) in the amount of \$1,339,000.
- (c) Adopt the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction and Conveyance Tax Fund (City-wide Parks Purposes):
 - (1) Establish a transfer from the Parks and Recreation Bond Projects Fund in the amount of \$1,339,000.
 - (2) Establish transfers totaling \$900,000 or \$100,000 each from the Construction Tax & Property Conveyance Tax Fund (Parks Purposes Council Districts #1, #2, #4, #5, #6, #7, #8, #9 and #10).

- (3) Establish a transfer from the Subdivision Park Trust Fund in the amount of \$100,000.
- (4) Establish an appropriation for the Coleman Soccer Fields project in the amount of \$2,339,000.
- (d) Adopt the following 2012-2013 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
 - (1) Decrease the Reserve: Ryland Pool by \$100,000.
 - (2) Establish a transfer to the Construction and Conveyance Tax Fund (City-wide Parks Purposes) in the amount of \$100,000.
- (e) Adopt the following 2012-2013 Appropriation Ordinance amendments in each of the Construction Tax and Property Conveyance Tax Fund (Parks Purposes Council Districts #1, #2, #4, #5, #6, #7, #8, #9 and #10):
 - (1) Decrease the Ending Fund Balance by \$100,000 in each fund, for a total of \$900,000.
 - (2) Establish a transfer to the Construction and Conveyance Tax Fund (City-wide Parks Purposes) in the amount of \$100,000 in each fund, for a total of \$900,000.

CEQA: EIR Resolution No. 71716, File No: PP08-093 and File No: PDC09-004.
Council District 3. (Economic Development/Parks, Recreation and Neighborhood Services/City Manager's Office)

5.4 Agreement with San Jose Earthquakes Management, LLC for Operations and Maintenance of the Coleman Soccer Fields.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an Operations and Maintenance Agreement ("Agreement") between the City of San José and San Jose Earthquakes Management, LLC ("Contractor") commencing on completion of construction of the Coleman Avenue Soccer Fields for a term of five years, and including an option for the City to extend the term for up to two five year term extensions. The Contractor will receive an annual fixed fee of \$332,803 and potential revenue performance based fees not to exceed \$332,803 annually for a maximum total of \$665,606 annually, adjustable by the Consumer Price Index. CEQA: Mitigated Negative Declaration, File No. PP10-155, November 2011. Council District 3. (Parks, Recreation and Neighborhood Services)

5.5 Report on Bids and Award of Contract for the Coleman Soccer Fields Design Build Project Rebid.

Recommendation:

- (a) Subject to approval of items 5.3 and 5.4, report on bids and award of contract for the Coleman Soccer Fields Design Build Project Rebid to the low bidder, Interstate Grading and Paving, Inc., for the base bid and Add Alternate No. 1 in the amount of \$11,873,000, and approval of a contingency in the amount of \$1,187,300.

- (b) Adopt the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund (Fund 471) in 2012-2013;
 - (1) Increase the Soccer Complex appropriation in the Parks, Recreation and Neighborhood Services Department in the amount of \$14,270,310;
 - (2) Increase the Contingency Reserve: Parks and Recreation Bond Projects in the amount of \$212,690; and
 - (3) Decrease the Reserve: Soccer Complex appropriation by \$14,483,000.
- CEQA: Mitigated Negative Declaration, File No. PP10-155, May 10, 2011. Council District 3. (Public Works/City Manager's Office)

6.x Actions Related to the Authorization to Award Pavement Maintenance Projects.

Recommendation: Approve the following actions to resurface and repair 51 miles of streets at various locations having an approximate cost of \$12,700,000:

- (a) Adopt a resolution that:
 - (1) Authorizes the Director of Public Works to determine the lowest responsive and responsible bidder, and to award the construction contract for the 2010 STP Resurfacing and Rehabilitation – Citywide Project in an amount not to exceed the funds appropriated for the project, and/or to reject all bids and re-bid the project;
 - (2) Authorizes the Director of Public Works to determine the lowest responsive and responsible bidder, and to award the construction contract for the 2012 Remove and Replace Asphalt Concrete Pavement Project in an amount not to exceed the funds appropriated for the project, and/or to reject all bids and re-bid the project; and
 - (3) Authorizes the Director of Public Works to decide any timely bid protests, including issues of bidder responsiveness or responsibility.
- (b) Approve a contingency equal to five percent of the base contract award amount.
CEQA: Exempt, File No. PP11-035. (Transportation)

6.x Measure B Vehicle Registration Fees Agreement.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a funding agreement with the Santa Clara Valley Transportation Authority for the receipt of Measure B Vehicle Registration Fees approved by Santa Clara County voters on November 2, 2010 and collected by the California Department of Motor Vehicles.
CEQA: Not a Project, File No. PP10-066, Agreements. (Transportation)

7.x Cost Sharing Agreement with the Santa Clara Valley Water District for the South Bay Water Recycling Program.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to execute a cost sharing agreement between the City of San José and the Santa Clara Valley Water District to share the cost of developing a strategic master plan for the South Bay Water

Recycling Program, estimated to cost up to \$2,400,000 with each party to contribute up to \$1,200,000; and to share in reimbursements from the United States Department of Interior Bureau of Reclamation Grant of up to \$1,200,000 for costs associated with developing the plan.

- (b) Adopt the following 2011-2012 Appropriation Ordinance and Funding Source Resolution amendments in the San José/Santa Clara Treatment Plant Capital Fund:
- (1) Increase the Estimate for Earned Revenue by \$1.2 million;
 - (2) Increase the SBWR Master Plan appropriation by \$132,000; and
 - (3) Increase the Ending Fund Balance by \$1,068,000.

(Environmental Services)

7.x Report on Bids and Award of Contract for the 1750 - Monterey-Riverside Sanitary Sewer Rehabilitation Phase V Project.

Recommendation: Report on bids and award of contract for the 1750 - Monterey-Riverside Sanitary Sewer Rehabilitation Phase V Project to the low bidder, SAK Construction of CA, LP, in the amount of \$2,455,670 and approval of a contingency in the amount of \$246,000. CEQA: Exempt, File No. PP12-045, dated April 5, 2012. Council District 2. (Public Works)

8.x Award of the Purchase of Tractor Drawn Aerial Ladder Trucks.

Recommendation: Adopt a resolution authorizing the City Manager to determine the lowest responsive and responsible bidder and award the purchase of four Tractor Drawn Aerial Ladder Trucks subject to the following conditions:

- (a) All necessary funds are appropriated and available to be encumbered.
- (b) All protests (if any) are final and no bidders have filed an appeal to Council within the required time period.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)

San Jose Financing Authority

Actions Related to the Issuance of City of San José Financing Authority Commercial Paper Notes to Provide Financing for the Convention Center Expansion and Renovation Project.

Recommendation:

- (a) It is recommended that the City Council take the following actions:
 - (1) Conduct a public hearing concerning the approval of the issuance by the City of San José Financing Authority of commercial paper notes in order to finance certain public capital improvements of the City, consisting of additional projects related to the expansion and renovation of the San José McEnery Convention Center.

- (2) Adopt a resolution to approve the issuance of commercial paper notes pursuant to the previously established commercial paper program designated as "City of San José Financing Authority Lease Revenue Commercial Paper Notes" to provide financing for additional projects related to the Convention Center Expansion and Renovation Project in an amount not to exceed \$10,000,000 and to state the City Council's determination that there will be significant public benefits accruing from such financing.
- (b) It is recommended that the City of San José Financing Authority Board:
 - (1) Adopt a resolution to approve the issuance of City of San José Financing Authority Commercial Paper Notes to provide financing for the additional projects related to the Convention Center Expansion and Renovation Project in an amount not to exceed \$10,000,000.

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: David Sykes

SUBJECT: ANIMAL SERVICES AGREEMENT
WITH THE CITY OF MILPITAS

DATE: May 29, 2012

Approved

Date

6/4/12

RECOMMENDATION

Approve an agreement between the City of Milpitas and the City of San José for animal care and control services by the City of San José's Animal Care and Services Division of the Department of Public Works for a term beginning July 1, 2012 through June 30, 2015, for a total compensation of \$1,045,314.

OUTCOME

In consideration for compensation in the amount of \$1,045,314 for the period July 1, 2012 to June 30, 2015, the City will provide animal care and control services to the City of Milpitas.

BACKGROUND

The City of San José has provided animal services to the City of Milpitas continuously since July 1, 2001. These services include: responses to emergency calls; pick up of stray and dead animals; quarantine and investigation of animals that bite; investigations of animal-related crimes; responses to animal-related concerns; animal licensing; and animal shelter services.

The City of Milpitas has approximately 71,000 residents. In 2011, the City of San José responded in person to more than 700 calls for service, and impounded and cared for almost 800 live animals. These same services are currently provided in fiscal year 2011-2012 for \$235,733.

ANALYSIS

An agreement with the City of Milpitas would continue the provision of animal services for the period July 1, 2012 to June 30, 2015. In 2009, the San José City Auditor noted that appropriate overhead charges were not included in the existing animal services contract with Milpitas. The expiration of the current term provides the opportunity to appropriately incorporate those changes. As a result, the annual amount of this contract is \$348,438, which is an increase of

May 29, 2012

Subject: Milpitas Animal Services contract

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48% compared to the previous year. Revenues from this contract will now offset all direct costs, indirect costs, and personnel associated with administering the terms of the contract.

The agreement includes the same service level as previous contracts and includes field services, dead animal pick up, response to emergency calls, pick up of confined and injured animals, response to complaints and provision of shelter and veterinarian care. Investigation services are to be referred to the appropriate Milpitas code enforcement agency. In addition, the residents of Milpitas will have access to San José's low cost public spay neuter clinic. All license revenue will be remitted to Milpitas to help offset contract cost increases.

PUBLIC OUTREACH

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item does not meet any of the criteria listed above however this memorandum will be posted on the City's website for the June 19, 2012 Council Agenda.

COORDINATION

This action was coordinated with the City Attorney's Office, the City Manager's Budget Office, and the City of Milpitas.

COST IMPLICATIONS

The agreement will provide that the City of Milpitas compensate the City of San José the following amount for the period July 1, 2012 to June 30, 2015.

FY 2012-2013	\$ 348,438
FY 2013-2014	\$ 348,438
FY 2014-2015	\$ 348,438
Total Revenue to City	\$ 1,045,314

HONORABLE MAYOR AND CITY COUNCIL

May 29, 2012

Subject: Milpitas Animal Services contract

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CEQA

CEQA: Not a Project, File No. PP10-066(e) Services that involve no physical changes to the environment.

/s/

DAVID SYKES

Director of Public Works

For questions, please contact Jon Cicirelli, Deputy Director of Animal Care and Services at (408) 794-7223



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper
Jennifer A. Maguire

SUBJECT: CITY OF SAN JOSE
2012 TAX AND REVENUE
ANTICIPATION NOTES

DATE: June 1, 2012

Approved

Date

6/5/12

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

a. Adopt a resolution:

1. Authorizing the issuance and sale of the City of San José 2012 Tax and Revenue Anticipation Notes ("2012 Notes") in the not to exceed aggregate principal amount of \$125,000,000 to be sold through a private placement; and
2. Approving, in substantially final form, the Note Purchase Agreement and authorizing the Acting Director of Finance or other authorized officers to execute the Note Purchase Agreement and other related documents, as necessary, in connection with the issuance of the 2012 Notes and authorizing other related actions in connection therewith.

b. Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2012-2013:

1. Increase the estimate for Other Revenue in the amount of \$125,000,000; and
2. Increase the City-wide appropriation to the Finance Department for TRANs Debt Service by the amount of \$125,000,000.

OUTCOME

Approval of the recommendations will result in the issuance and sale of one or more 2012 Tax and Revenue Anticipation Notes ("2012 Notes"). Based on historical cash balances, specifically those balances in the General Fund, and information contained within the *2012-2013 Proposed Operating Budget* (the "Proposed Budget"), the proceeds of these notes will provide necessary funds for cash flow purposes. In particular, this cash flow borrowing will facilitate the annual prefunding of employer retirement contributions for pension and retiree health benefits across all

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funds, which is anticipated to provide an estimated net benefit to the City of approximately \$5.5 million in the General Fund and \$5.5 million in all funds based on the 2012-2013 Proposed Budget, offset by the estimated cost of note issuance, loss of interest earnings, and debt service costs.

BACKGROUND

During the development of the *General Fund Structural Deficit Elimination Plan* in 2008, a set of strategies was developed. One of the strategies approved by the City Council on May 16, 2008 was to “utilize financial strategies that have positive net present value,” which included annually prefunding the City’s portion of retirement contributions. Prior to 2008-2009, the Federated City Employees’ Retirement System and the Police and Fire Retirement Plan (collectively, the “Retirement Plans”) had not offered a discount to the City for prefunding employer retirement contributions. As a result, the City made biweekly contributions to the Retirement Plans in conjunction with each payroll distribution. These biweekly contributions were calculated based on actual payroll amounts and the contribution rate approved by the Retirement Plan Boards based on biennial actuarial studies.

The *2008-2009 Proposed Operating Budget* included a proposal to recognize ongoing budgetary savings that would result from the prepayment of employer retirement contributions for the Retirement Plans. On June 17, 2008, the City Council approved changes to the San José Municipal Code, and on August 1, 2008, the City made its first prefunding of employer retirement contributions, which included only pension contributions. In 2009-2010, the City again prefunded employer retirement contributions, but included contributions for both pension as well as retiree health benefits.

To prefund this contribution, a \$75 million tax and revenue anticipation note borrowing in 2010-2011 and a \$100 million borrowing in 2011-2012 were necessary because there were insufficient funds on a cash flow basis to make the payment without causing a negative cash balance in the General Fund’s portion of the City’s Investment Pool. It should be noted that the recommended prefunding of the City’s retirement contributions and the issuance of the tax and revenue anticipation notes (“TRANS”) is evaluated on an annual basis. Since its inception, it has been determined that prefunding continues to provide significant budgetary savings each year to the City. In addition, the City’s retirement actuary, Cheiron, solidified the efficacy of prefunding and the possible benefits it provides for the retirement plans in its October 2011 response to the Impact Analysis of Prefunding to the San Jose Federated Retirement Board and OPEB Plans.

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Subject: City of San José 2012 Tax and Revenue Anticipation Note

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ANALYSIS

Several General Fund revenues are received in an uneven manner based on a predetermined schedule, seasonality, or other economic factors. For example, Property Tax Receipts, the largest General Fund revenue source, are received primarily in January and June based on a schedule set forth by the Santa Clara County Controller-Treasurer's Office. Sales Tax Receipts are received on a monthly basis, but significant spikes in revenue occur in January and April when the Sales and Use Tax Compensation Fund allocations (the so-called "Triple Flip" true-up revenues) are distributed by the State.

In contrast, expenditures in the General Fund are relatively level throughout the fiscal year. This is largely the result of the Personal Services expenditures accounting for approximately two-thirds of General Fund expenditures. These expenditures occur biweekly through payroll disbursements. Months with somewhat higher expenditures occur when there are three payroll disbursements or large one-time transfers (such as debt service), but these months are infrequent and the expenditures are generally predictable based on historical patterns.

The result of this timing mismatch between General Fund revenues and expenditures is large net cash outflows (expenditures exceed revenue received) in the first seven months of the fiscal year and large net cash inflows (revenues received exceed the amount of expenditures) in January, April, and June. To analyze the impact on the General Fund's cash position of the annual prefunding of employer retirement contributions, Finance staff prepared a projection of General Fund cash flows for 2012-2013. Based on this projection, after the payment for the prefunding is made in July 2012, the General Fund cash balance will be negative and would remain negative through the first half of 2012-2013. To avoid a negative cash balance, staff recommends the issuance of the 2012 Notes.

The estimated discount (savings) is \$6.9 million in the General Fund and \$9.1 million in all funds for prefunding contributions to the Retirement Plans based on amounts included in the 2012-2013 Proposed Budget, offset by the estimated cost of note issuance, loss of interest earnings, and debt service costs (\$1.4 million) resulting in a net savings of \$5.5 million in the General Fund and \$7.7 million in all funds. The 2012-2013 Proposed Budget assumes prefunding of the annual required contributions to the Plans as a General Fund budget strategy.

Plan of Finance

In anticipation of this short-term borrowing, the City, through a competitive process, solicited qualified financial institutions to serve as private place purchaser for the proposed 2012 Notes. The City received seven responses from which U.S. Bank, N.A. (the "Bank") was selected. The Bank was selected because it provided the City with a favorable anticipated borrowing cost and agreed to terms and conditions in substantially the same form as the prior year issuance. In a private placement, the City agrees to sell directly to the Bank the 2012 Notes. No public offering document is prepared; the Bank cannot trade publicly the 2012 Notes and no rating is solicited for the Notes.

Description of the 2012 Notes

This transaction is structured such that the Bank will purchase up to \$125 million in principal amount. An initial Note in the amount of \$100 million ("Initial Note") is currently anticipated to be purchased by the Bank on the closing date of the financing, currently scheduled for July 2, 2012. At the City's discretion, additional borrowings as needed for cash flow purposes may occur at any time up to December 31, 2012 and up to the Unutilized Commitment amount of \$25 million which will be secured by a separate Note ("Subsequent Note") in an amount up to \$25 million. If the City does not draw at least \$93.75 million at closing, the City will be required to pay an Unutilized Fee of 15 basis points (0.15%) per annum on the Unutilized Commitment amount. To access the additional funds, the City is required to provide a purchase notice to the Bank no less than five business days preceding the purchase date and the additional borrowing is required to have a minimum denomination of \$5 million with integral multiples of \$1 million in excess thereof. The Unutilized Commitment is decreased with each purchase by the Bank, it is not reinstated upon repayment of the 2012 Note in whole or in part, and if the Unutilized Commitment is not used by December 31, 2012, it will no longer be available.

The Initial Note (anticipated to be \$100 million) will bear interest at a fixed rate determined on the date of closing. The rate is based on the 8-month LIBOR rate plus a margin of 0.10% for Bank fees. The 8-month LIBOR rate as of June 1, 2012 was 0.855%.

Any amounts drawn and secured by the Subsequent Note will bear interest at a variable rate based on 30-day LIBOR rate plus a margin of 0.25% for Bank fees. The 1-month LIBOR rate as of June 1, 2012 was 0.240%. At the end of each interest period, the City may select a different interest period for the amount secured by the Subsequent Note or, if no notice is provided by the City to the Bank, the interest period will be one month. As discussed above, an initial note of \$100 million is anticipated to be issued with a projected interest expense estimated at \$850,000 as well as costs associated with the financing of approximately \$100,000. Included in the Proposed Budget is \$800,000 for these expenses. In addition, a recommended rebudget of \$150,000 is included in the Recommended Amendments to the 2012-2013 Proposed Budget Manager's Budget Addendum (MBA) that the City Council will consider as part of the 2012-2013 Mayor's June Budget message on June 12, 2012. This

rebudget is recommended in order to provide funding for increases in interest rates from those used in the initial cost calculation and the addition of other financing costs. It should be noted that in order to provide funding for the rebudget, a recommended clean-up action is included elsewhere on this agenda in the 2011-2012 Year End Clean-up memorandum that will be considered by the City Council. Should the full \$125 million be drawn upon in Subsequent Notes, additional interest costs will be incurred at the variable rate outlined above and may require funding for additional debt service costs to be allocated during 2012-2013.

Security for repayment of the 2012 Notes is a pledge of the City's 2012-2013 secured property tax revenues (excluding property taxes levied for general obligation bonds) and sales tax revenues received during 2012-2013 plus all other legally available General Fund revenues of the City, if required. The final maturity for the fixed rate portion of the 2012 Notes is February 14, 2013 after the first half of secured property tax revenues is received from the County Controller-Treasurer and General Fund cash balances begin to rise. The final maturity of any subsequent variable rate draws will have a final maturity of June 28, 2013. For any subsequent variable draws, the City shall either pay outstanding principal or make deposits into the Repayment Account according to the following schedule:

<u>Date</u>	<u>Percent</u>
February 1, 2013	20%
May 1, 2013	50%
June 1, 2013	100%

The estimated sources and uses of funds for the 2012 Notes are as follows:

City of San José	
2012 Tax and Revenue Anticipation Notes	
Estimated Sources and Uses of Funds ⁽¹⁾	
Sources of Funds:	
Note Proceeds	\$ 125,000,000
Total Sources of Funds	<u>\$ 125,000,000</u>
Uses of Funds:	
Deposit to General Fund for Cash Flow Needs	\$ 125,000,000
Debt Service/Cost of Issuance ⁽²⁾	950,000
Total Uses of Funds	<u>\$ 125,950,000</u>
⁽¹⁾ Preliminary; subject to change.	
⁽²⁾ Estimated fees and expenses of debt service, bond counsel, bank counsel, financial advisor, and various other costs of issuance.	

Note Purchase Agreement

To proceed with the issuance of the 2012 Notes, the City Council must adopt the resolution described below. As referenced in the proposed resolution, staff recommends that the Acting Director of Finance or the Acting Assistant Director of Finance be authorized to execute and deliver the 2012 Notes and that the Acting Director of Finance, the Acting Assistant Director of Finance or their authorized designees be authorized to enter into and deliver the Note Purchase Agreement also described below. These documents, in substantially final form, will be available for review on the City Clerk's website on or about June 7, 2012.

This agreement (the "Purchase Agreement") is between the City and U.S. Bank, N.A. The Purchase Agreement sets forth the requirements of the Bank to purchase the 2012 Notes and portions thereof, establishes the interest rate mechanism, establishes the terms and method of repayment, contains certain representations and warranties of the City and the Bank, and specifies the conditions to the Bank entering into the Purchase Agreement.

Consistent with other agreements that the City has entered into with various banks, the Purchase Agreement provides that both parties waive their respective right to a jury trial in the event of a dispute. Additionally, the City waives any right to consequential damages in the event of the Bank's breach and the City agrees, to the extent permitted by law, to indemnify and defend the Bank against all liabilities arising out of the Note Purchase Agreement, except for liability arising from the Bank's gross negligence or willful misconduct.

Finance Team Participants

The financing team participants consist of:

- City's Financial Advisor: Public Resources Advisory Group
- Bond Counsel: Hawkins Delafield & Wood LLP
- 2012 Notes Purchaser: U.S. Bank, N.A.
- Bank Counsel: Nixon Peabody LLP

Public Resources Advisory Group was selected as the Financial Advisor from the City Council approved Financial Advisory Pool.¹ Hawkins Delafield & Wood LLP was selected as the Bond Counsel through a competitive process. U.S. Bank, N.A. was selected to be the 2012 Notes Purchaser through the competitive process as described above.

¹ Per the Financial Advisory Services Agreements and Pool Assignments approved by City Council on February 27, 2007 (Item No. 3.6).

Financing Schedule

The current proposed schedule is as follows:

- City Council approval of 2012 Notes financing documents: June 19, 2012
- 2012 Notes closing: July 2, 2012

EVALUATION AND FOLLOW-UP

This memorandum presents the set of recommendations related to the City Council's approval of the issuance of the 2012 Notes and requires no follow-up to the City Council.

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 will be posted on the City's website for the June 19, 2012 City Council meeting.

COORDINATION

This report was prepared by the Finance Department in coordination with the City Attorney's Office and the financing team participants.

FISCAL/POLICY ALIGNMENT

The proposed financing plan is consistent with the City's Debt Management Policy, which establishes the following equally important objectives in order to obtain cost-effective access to the capital markets:

- Minimize debt service and issuance costs;

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Subject: City of San José 2012 Tax and Revenue Anticipation Note

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- Maintain access to cost-effective borrowing;
- Achieve the highest practical credit rating;
- Full and timely repayment of debt;
- Maintain full and complete financial disclosure and reporting; and
- Ensure compliance with applicable State and Federal laws.

COST SUMMARY/IMPLICATIONS

Costs associated with the financing will be paid from note proceeds. Bond counsel is paid on a contingency basis from the note proceeds and the City's financial advisor work is on a time and materials basis and is paid through an existing agreement managed by the Finance Department.

Debt service and costs of issuance are conservatively estimated at \$950,000 for a \$100 million draw reflecting costs for debt service interest, bond counsel, bank counsel, financial advisor, and various other costs of issuance though costs could increase as high as \$1.3 million should a Subsequent Note be issued to draw additional funding. Included in the Proposed Budget is \$800,000 for these expenses. In addition, a recommended rebudget of \$150,000 is included in the Recommended Amendments to the 2012-2013 Proposed Budget Manager's Budget Addendum (MBA) that the City Council will consider as part of the 2012-2013 Mayor's June Budget message on June 12, 2012. This rebudget is recommended in order to provide funding for increases in interest rates from those used in the initial cost calculation and the addition of other financing costs. It should be noted that in order to provide funding for the rebudget, a recommended clean-up action is included elsewhere on this agenda in the 2011-2012 Year End Clean-up memorandum that will be considered by the City Council. Should the full \$125 million be drawn upon in Subsequent Notes, additional interest costs will be incurred at the variable rate and may require funding for additional funding for the additional debt service costs to be allocated during fiscal year 2012-2013.

The debt service and cost of issuance is offset with gross budgetary savings of \$6.9 million in the General Fund and \$9.1 million all funds due to the prepayment of the annual required contribution to the Retirement Plans, offset by approximately \$1.4 million in cost of note issuance, loss of interest earnings, and debt service costs, resulting in a net General Fund savings of \$5.5 million and a net all funds savings of \$7.7 million. As the issuance of the TRAns ensures sufficient cash balances to pre-fund the City's retirement contributions across all funds, costs associated with this issuance will be apportioned as appropriate at a future date.

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

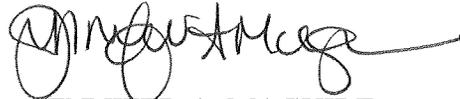
Not a project, PP10-069, City organizational and administrative activities.


JULIA H. COOPER
Acting Finance Director


JENNIFER A. MAGUIRE
Budget Director

For questions please contact Julia H. Cooper, Acting Director of Finance, at (408) 535-7011.

I hereby certify that there will be available for appropriation in the General Fund in the 2012-2013, monies in excess of those heretofore appropriated there from, said excess being at least \$125,000,000.


JENNIFER A. MAGUIRE
Budget Director



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia
Director of Housing

SUBJECT: SEE BELOW

DATE: May 29, 2012

Approved

Date

6/1/12

SUBJECT: APPROVAL OF GRANT FOR ADMINISTRATION OF TENANT BASED RENTAL ASSISTANCE PROGRAM

RECOMMENDATION

It is recommended that the City Council adopt a resolution authorizing the Director of Housing to negotiate and execute documents for a grant of up to \$1,470,000 to Abode Services for administration and housing costs associated with the City's Tenant Based Rental Assistance programs for homeless households for a period of two years.

OUTCOME

This memorandum seeks approval to award a grant to Abode Services to administer Tenant Based Rental Assistance (TBRA) programs financed with HOME Investment Partnership Program (HOME) funds towards the goal of ending homelessness in San José.

BACKGROUND

In December 2007, the Blue Ribbon Commission on Ending Homelessness and Solving the Affordable Housing Crisis in Santa Clara County (BRC), led by Santa Clara County Supervisor Don Gage and San José Mayor Chuck Reed, adopted a set of goals to end homelessness and solve the affordable housing crisis. Destination: Home, a public-private collaborative, was formed to advance the BRC's recommendations and ensure progress is made on those goals. One of those

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Subject: Award of TBRA Grant

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recommendations was to shift to the Housing First model, which provides homeless households with permanent housing with supportive services.

On June 23, 2009, the City Council approved funding for a TBRA program to provide approximately 100 chronically homeless individuals and families suffering from severe mental illness with housing and case management services with the goal of reducing the number of chronically homeless persons living on the streets or in emergency shelters. A grant was awarded to Program Responsible in Daring Excellence (PRIDE), a non-profit affiliate group of the Housing Authority of the County of Santa Clara, to administer the TBRA program. PRIDE was selected because the TBRA program is similar to the voucher program administered by the Housing Authority. The City's HOME funds were used to provide security deposits and rental subsidies to program participants and pay for the administration of the program. These funds were matched by intensive case management provided by the County's Mental Health Department to support the participating households in becoming self-sufficient by the end of the program.

The TBRA Program requires that participants pay 30% of their total monthly income toward rent. The remainder is subsidized with federal HOME funds. The participating households have the opportunity to receive the security deposit at the time of the Program exit as an incentive for maintaining their housing. The program is targeted for completion by July 2013; however, clients may be extended who are having difficulty transitioning into either an affordable or market rate apartment.

Two additional phases of the TBRA Program have been approved by the City Council through the Consolidated Plan process. The first additional phase will assist up to 15 individuals known to regularly congregate and/or reside in St. James Park. The second additional phase will assist up to forty individuals known to reside in encampment sites within San José city limits. The additional phases of the TBRA Program will begin in early Fiscal Year 2012-2013, and will provide participants with rental subsidies and security deposits for up to two years. The housing funds will be matched by case management services by the County and nonprofit partners.

The grant agreement with PRIDE expires June 30, 2012. PRIDE has declined to renew the agreement. The Housing Department has explored other options to continue the administration of the Program and has selected Abode Services, a nonprofit organization specializing in TBRA programs, to administer the City's TBRA Program.

ANALYSIS

Upon being informed that PRIDE would not be renewing their agreement with the City to administer its TBRA Program, Housing Department staff began exploring alternatives. Successful TBRA program administrators have experience dealing with both homeless individuals and financial processes that allow rapid response time and flexibility in issuing monthly subsidy checks. It was determined that bringing the administration of the TBRA Program to the Housing Department was unlikely to be successful, especially because the expiration of the existing contract with PRIDE was

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imminent and would not allow time for City staff training. A smooth transition of administration is critical to ensure that all rental subsidy payments to landlords are made on time.

There are very few organizations that offer TBRA administrative services. In early 2012, the County of Santa Clara conducted a search for an administrator for their own TBRA program. They selected Abode Services, a nonprofit organization with over 13 years experience creating and administering rental subsidy programs for homeless and special needs populations. In the last two years, Abode has placed more than 2,300 people into housing through its subsidy programs. Abode currently provides subsidy administration and housing services to 436 households in 12 housing programs.

Abode Services has agreed to duplicate the services that had been provided by PRIDE, and to assume responsibility for these services effective July 1, 2012. These services include, but are not limited to the following:

- Eligibility Determination – This includes initial income certification, calculation of rent standard, rent subsidy calculation, and tenant share calculation. Recertification of tenant eligibility, occupancy size changes, and rent changes will also be a part of this process.
- Housing & Lease Review Assistance – Assist clients in locating appropriate housing per the program's Occupancy Standards. For example, a one-person household does not rent a 3-bedroom unit. Further, review all leases making sure they are at least one year and do not contain provisions restricting the tenant's rights.
- Inspections – This includes initial and annual inspections of units to confirm they meet Section 8 Housing Quality Standards
- Security Deposit and Subsidy Payments – Issue monthly subsidy payments to landlords and initial security deposits.
- Miscellaneous – Work with clients' case managers to address potential tenant/landlord issues before they lead to eviction. Submit necessary reports to the City in order to properly enter clients into HUD's database (IDIS).

Compensation for these services is proposed to be \$166,207 for the two year term which includes start-up costs. This amount is allowable under HOME guidelines for TBRA programs. It is therefore recommended that a grant agreement be awarded to Abode Services, effective July 1, 2012, to administer the City's TBRA programs for a period of up to two years. This compensation, added to the \$1,296,910 in housing assistance, results in a total award of \$1,463,117.

EVALUATION AND FOLLOW-UP

The Housing Department will update the Council on the performance of the funded projects in the FY 2012-2013 Consolidated Annual Performance Evaluation Report (CAPER) along with its other federally funded programs.

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Subject: Award of TBRA Grant

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POLICY ALTERNATIVES

In reaching the recommendation outlined out above, the following alternative was also considered:

Alternative #1: The City could choose to administer the TBRA Program with City staff rather than award a grant to Abode Services.

Pros: The City would utilize administrative funding from the federal Home grant for City staff.

Cons: Administration of TBRA programs is very labor intensive and requires staff with specialized skills and experience that is not available from current City staff. Because the current contract with PRIDE expires June 30, 2012, there is not adequate time to train staff to assume responsibilities for the program by July 1, 2012. In addition, because of the special needs of the participant population, subsidy payments sometimes must be stopped and missing payments reissued with little or no advance notice. Delayed or missed payments can result in loss of housing for participants. The City's financial processes do not have the flexibility needed for this kind of rapid response.

Reason for not recommending: Utilizing the skills and experience of a specialized nonprofit to administer the TBRA program is more efficient and effective than bringing the program in-house.

PUBLIC OUTREACH

This action meets Public Outreach Criterion #1. This memo will be posted to the City Council Agenda for June 19, 2012, via the City's website.



Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater.

(Required: Website Posting)



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



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

COORDINATION

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

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Subject: Award of TBRA Grant

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COST IMPLICATIONS

	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>TOTAL</u>
1. AMOUNT OF RECOMMENDATION:	\$ 725,311	\$ 737,806	\$1,463,117
2. COST ELEMENTS:			
Rental Subsidies	\$ 637,000	\$ 659,910	\$1,296,910
Program Administration	<u>\$ 88,311</u>	<u>\$ 77,896</u>	<u>\$ 166,207</u>
3. TOTAL FUNDING	\$ 725,311	\$ 737,806	\$1,463,117
4. SOURCE OF FUNDING:	Fund 445—HOME Investment Partnership Program Fund		
5. FISCAL IMPACT:	This is a one-time action only. There is no ongoing fiscal impact to the General Fund as a result of this action.		

BUDGET REFERENCE

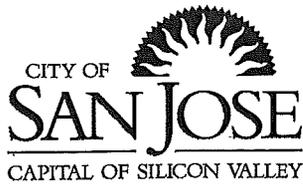
Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2012-2013 Proposed Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
445	3744	Tenant Based Rental Assistance	\$864,000	\$725,311	XI - 49	6-19-12

CEQA

Not a Project, File No. PP10-066, Agreements/Contracts.

/s/
 LESLYE CORSIGLIA
 Director of Housing

For questions please contact Leslye Corsiglia, Director of Housing, 535-3851.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia
Director of Housing

SUBJECT: CALHOME PROGRAM GRANT

DATE: May 29, 2012

Approved

Date

5/31/12

RECOMMENDATION

It is recommended that the City Council adopt a Resolution authorizing the Director of Housing to:

- 1) Accept a \$1,500,000 CalHome grant from the California Department of Housing and Community Development (HCD), and;
- 2) Negotiate and execute the grant agreement and any amendments or other documents necessary to implement the programs funded by the grant.

OUTCOME

The City of San José will receive \$1,500,000 in state grant funds that will be used to provide low-interest mortgage loans to ten low-income first-time homebuyers in San José and home repair assistance loans to 28 low-income homeowners.

BACKGROUND

The CalHome Program is funded through Proposition 1C, which was approved by the voters in November 2006. The funds, which are managed by the state's Department of Housing and Community Development (HCD), are offered on a competitive basis to government entities and non-profit housing organizations that provide affordable home financing and home repair programs to lower-income households in California.

The City applied for the CalHome Program on November 15, 2011, and received notice the request was approved on April 19, 2012.

ANALYSIS

HCD requires that the City Council accept the grant funds. Upon City Council approval, the Director of Housing will be authorized to sign a new CalHome grant agreement and any other related documents. After execution of the agreement and acceptance of the funds, the City can begin to provide low-interest loans to lower-income homeowners and homebuyers through the Homeownership and Housing Rehabilitation Programs.

Housing Rehabilitation Program

CalHome funds will be used to provide loans for approximately 28 low-income homeowners to achieve decent, safe and sanitary living standards and to improve the condition of the homes and the surrounding neighborhoods. Typical rehabilitation projects replace faulty plumbing, leaky roofs, and unsafe electrical systems. The maximum loan amount is \$60,000 and are structured as up to 3% simple-interest loans, with no monthly payment requirements for thirty years, or until the home is sold.

Welcome Home Homebuyer Program

CalHome funds will also be used to make deferred-payment, low-interest loans for approximately ten low-income first-time homebuyers for the purchase of homes. Under the CalHome program, loan amounts may be up to \$60,000. All CalHome loans are structured as 3% simple-interest loans, with no monthly payment requirements for thirty years.

All homebuyer loans must be made in Strong Neighborhood Initiative areas (SNI). Additionally, the homes must meet Universal Design Guidelines and Green Building standards, and they must be constructed with the use of a contributed youth labor program (San Jose Conservation Corps-Youthbuild). The City received bonus points for this targeting, which was instrumental in making the City's application competitive.

The current funding round is the City's eighth CalHome award. In fact, the City's applications have been successfully awarded in all CalHome NOFAs that have been issued in the past 12 years.

The 2012 income limits are shown below (subject to change annually):

Income Range	Household Size					
	1	2	3	4	5	6
Low Income	\$53,000	\$60,600	\$68,150	\$75,700	\$81,800	\$87,850

CalHome program funds will continue to be offered to income-eligible families until either the grant funds are depleted, or three years from the date of the award, whichever occurs first. In addition, the City may retain program income from loan repayments and any interest earned on these funds. This income is deposited into a CalHome Reuse account to be used solely for future home repair or first-time homebuyer downpayment assistance loans for lower-income

households. While acceptance of the CalHome funds will occur in FY 2011-2012, the grant will be made part of the City's FY 2012-2013 budget cycle. The Department will continue to process CalHome loans from the balance of grant funds awarded to the City in prior years.

EVALUATION AND FOLLOW-UP

Upon approval of this memo, staff will work with HCD to negotiate and execute the CalHome grant awards and related documents and amendments.

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 action meets Public Outreach Criterion #1. This memo will be posted to the City's website for the June 19, 2012 City Council meeting.

COORDINATION

Preparation of this memorandum has been coordinated with the Office of the City Attorney.

FISCAL/POLICY ALIGNMENT

This recommendation is consistent with the City's Council-approved Five-Year Housing Investment Plan for FY 2007/08-FY 2011/12, which describes the process of applying for state funds through the CalHome Program for either home repair or down payment assistance.

COST SUMMARY/IMPLICATIONS

In FY 2011-2012, CalHome funds were appropriated and the existing funds are sufficient to meet the needs for housing rehabilitation and down payment assistance loans for first-

HONORABLE MAYOR AND CITY COUNCIL

May 29, 2012

Subject: CalHome Program Grant

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time homebuyers funded in prior years. Therefore, no budget actions are being recommended as part of this memorandum.

CEQA

Statutorily Exempt, CEQA Guidelines Section 15267, Financial Assistance to Low- or Moderate- Income Housing.

/s/

LESLYE CORSIGLIA
Director of Housing

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



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Julie Edmonds-Mares

**SUBJECT: PARKS, RECREATION AND
NEIGHBORHOOD SERVICES
2012-2013 AGREEMENTS**

DATE: May 21, 2012

Approved

Date

6/1/12

RECOMMENDATION

Adopt a resolution authorizing the following, subject to the appropriation of funds by the City Council, and on such terms and conditions as deemed appropriate by the City Manager:

- (a) Authorize the City Manager to negotiate and execute all agreements, amendments and extensions for the Department of Parks, Recreation and Neighborhood Services (PRNS) identified in the "Compensation Paid by the City of San Jose" (Attachment A) consistent with the 2012-2013 Proposed Budget;
- (b) Authorize the City Manager to negotiate and execute agreements and amendments to accept grant funds identified in the "Compensation Paid to the City of San Jose" (Attachment B);
- (c) Authorize the Director of Parks, Recreation and Neighborhood Services to negotiate and execute a grant agreement with the Santa Clara Family Health Plan for the Children's Health Initiative as well as apply for, negotiate and execute 2012-2013 contracts and amendments as identified in "Delegation on Contract Authority to PRNS Director" (Attachment C) consistent with Adopted Budget amounts for the following City programs:
 - 1. Bringing Everyone's Strengths Together (B.E.S.T.);
 - 2. Safe Summer Initiative Grant (S.S.I.G.);
 - 3. Mayor's Gang Prevention Task Force Memorandums of Understanding (MGPTF MOU);
 - 4. Community Center Reuse (Reuse);
 - 5. Mayor's Gang Prevention Task Force (MGPTF) Grant Revenue;
 - 6. The Santa Clara Valley Family Health Plan;
 - 7. Senior Wellness Grants; and
 - 8. Evaluation Consultant Agreement(s) to assess PRNS programs/services.

OUTCOME

By delegating to the City Manager and PRNS Director the authority to apply for, negotiate and execute these agreements, the transactional time of making funding available to recipients and for the City to receive grant funds will be improved.

BACKGROUND

The City contracts with community-based organizations, school districts, and other agencies to support various programs that support the livability of neighborhoods, offer opportunities for individuals to enjoy life, and strengthen communities of people within San José.

In response to the City Council's request to quicken the City's administrative pace of doing business, including contract development, PRNS prepares this Council memorandum annually to seek authorization to apply for, negotiate and execute agreements.

ANALYSIS

PRNS is seeking authority for the City Manager or her designee to apply for, negotiate and execute agreements, amendments and/or extensions covered in this memorandum. In a number of occurrences, the contract amount to be paid or received by the City exceeds the City Manager's contract authority. By delegating this authority to the City Manager, the administrative process of making funding available to recipients will be improved. Additionally, efficiency gains for the entire organization will be achieved as City Council and administrative staff time generally dedicated to preparing and reviewing individual memos for these agreements will be significantly reduced. The City Manager or designee may only exercise such amendment or extension authority if the contract, as amended, is consistent with the 2012-2013 Adopted Budget and further provided that City Council has taken all appropriation actions necessary to fulfill the terms of the amendment or extension.

The proposed contracts (Attachment A) and compensation to be received by the City (Attachment B) for 2012-2013 are contingent on the adoption of the 2012-2013 Operating and Capital Budgets. In the event the amounts specified for these contracts are modified, the contracts shall reflect the amounts approved. All vendor agreement listed on Attachment A to provide recreation leisure classes in City's community centers are 100% supported by participant fees and have been selected through the City's approved procurement policy.

In addition, the City Manager shall have the authority to accept any funds exceeding the figures identified in Attachment B for the specified programs and purposes identified as "Compensation Paid to the City" provided that the City Manager determines that the City is able to provide the services and comply with any additional requirements associated with the increased grant funds. The City Manager shall also bring forward for Council approval any required budgetary adjustments and appropriation actions necessary for such programs. In addition, PRNS is

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Subject: Parks, Recreation and Neighborhood Services 2012-2013 Agreements

Page 3

seeking contract authority for the Director of PRNS to apply for, negotiate and execute contracts and amendments consistent with the 2012-2013 Proposed Budget for the San Jose B.E.S.T., S.S.I.G. and senior wellness grant programs, the MGPTF Memorandums of Understanding, and Community Center Reuse service agreements (Attachment C). This authority will apply to any grant amendments related to these programs subject to the 2012-2013 Adopted Budget and with the stipulation that the City Council has taken all appropriation actions necessary to execute the terms of the agreements.

Authority is also requested for the Director of PRNS to apply for, negotiate and execute Grant Revenue agreements for the Mayor's Gang Prevention Task Force (MGPTF). As one of the seven strategic goals of MGPTF Strategic Work Plan Update 2011-2013 "Action Collaboration Transformation" which was adopted by City Council on June 21, 2011, the MGPTF has assumed an aggressive fund development campaign soliciting financial support from both public and private organizations. Receiving this authority enables the MGPTF to compete for external funds more quickly as internal administrative processes have been streamlined to better position the City to meet external funding opportunity deadlines and process demands.

Additionally, authority is requested for the PRNS Director to negotiate and execute a grant agreement with the Santa Clara Family Health Plan for the Children's Health Initiative in an amount not to exceed \$2,100,000 and consistent with the 2012-2013 adopted budget amount as well as a Consultant Agreement(s) to assess PRNS programs/services. PRNS is currently working towards establishing a list of qualified evaluation consultants employing the City's approved procurement policy and expects to finalize this list in the fall of 2012. The City may contract with one or more of the qualified consultants during the five year period with the total value of the agreement(s) being no greater than \$200,000 per year for a maximum of \$1,000,000 over a five year term.

EVALUATION AND FOLLOW-UP

If this recommendation is approved, the Department of Parks, Recreation and Neighborhood Services will complete the execution of the agreements in this memorandum. The execution of these agreements will allow the department to partner with non-profits and other agencies to ensure seamless delivery of services to the residents of San José for the upcoming summer and upcoming fiscal year.

PUBLIC OUTREACH/INTEREST

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

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

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Subject: Parks, Recreation and Neighborhood Services 2012-2013 Agreements

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

While the majority of the contracts listed on the Attachment A are below the \$1 million threshold, there are two grant programs that meet Criteria 1. The B.E.S.T. and SSIG programs are primarily managed through the City's Web based platform known as WebGrants. The grant agreement with the Santa Clara Valley Family Health Plan for the Children's Health initiative is directed to a specific provider.

Additionally, the grant agreement award to be received from the County of Santa Clara for the City's Senior Nutrition Program and subsequent agreement may exceed \$1,300,000 which, by definition of Criteria 1, requires website posting. To meet this requirement, this Council memorandum will be posted to the City's Website for public viewing for the June 19, 2012, City Council Meeting.

COORDINATION

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

COST SUMMARY/IMPLICATIONS

Funding for the agreements cited in Attachment A and for the County of Santa Clara Mental Health Services item on Attachment B, is included in the 2012-2013 Proposed Operating Budget. As required for the other items on Attachment B, the City Manager shall also bring forward for Council approval any required budgetary adjustments and appropriation actions necessary for such programs.

CEQA

Attachment A: Compensation Paid by the City of San José

- Grace Baptist Church, Not a Project, File PP10-066(e) Lease of Existing Space
- Kids Love Soccer, Not a Project, File PP10-066(e) Consultant Services
- San Jose Conservation Corps, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Play-Well TEKnologies, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Billie Gadberry dba Dance Arts Academy, Not a Project, File PP10-066(e) Services that involve no change to the environment;

- Camp Carter International, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Dragon Cloud Dojo, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Harmony Makers, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Mad Science of the Bay Area, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Robin Pickel dba Yoga Lite, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Todd Dissly dba South Bay Tennis Academy, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Noteworthy Music School School, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Creative Learning and Performing Arts LLC dba CLAP, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Dance Force, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Skyhawks Sports Academy, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Freshi Films, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Lekha School of Creative Writing, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- North American Youth Activities LLC dba Kidz Love Soccer, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Protoquette, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Club Ed, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Latimerlo Studio, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Tennis With Cole, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Compass Group dba Bateman Senior Meals, Not a Project, File PP10-066(e) Services that involve no change to the environment;

Attachment B: Compensation Paid to the City of San José

- Alum Rock School District, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- County of Santa Clara – Mental Health Services, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- County of Santa Clara Agreement for Senior Nutrition Program, Not a Project, File PP10-066(e) Services that involve no change to the environment;

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Page 6

- California Emergency Management Agency, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- California Wellness Foundation, Not a Project, File PP10-066(e) Services that involve no change to the environment;

Attachment C: Director of PRNS Delegated Authority

- Bringing Everyone's Strengths Together (B.E.S.T.), Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Safe Summer Initiative Grant, File PP10-066(e) Services that involve no change to the environment;
- Mayor's Gang Prevention Task Force Memorandum of Understanding, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Community Center Reuse, File PP10-066(e) Services that involve no change to the environment;
- Mayor's Gang Prevention Task Force Grant Revenue, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Senior Wellness Grants, Not a Project, File PP10-066(e) Services that involve no change to the environment;
- Evaluation Consultant Agreement(s), File PP10-066(e) Services that involve no change to the environment;

/s/

JULIE EDMONDS-MARES

Acting Director of Parks, Recreation and
Neighborhood Services

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

Attachment A: Compensation Paid by the City of San Jose

Attachment B: Compensation Paid to the City of San Jose

Attachment C: Delegation of Contract Authority to PRNS Director

ATTACHMENT A

<u>Compensation Paid by the City of San José</u>		
AGREEMENT	<u>DESCRIPTION</u>	PROPOSED 2012-2013 BUDGET
Grace Baptist Church	City leases space from Grace Baptist Church providing a therapeutic recreation program for adults with mental disabilities with a one year extension option subject to annual appropriation of funds.	Up to \$138,000
San Jose Conservation Corps	Extension of agreement to provide Charter School funding. Charter school provides academic education, job skills training, gang prevention services and projects in public service conservation work.	Up to \$250,000
Compass Group dba Bateman Senior Meals	Approval to execute an extension to the agreement for the delivery of meals for seniors at City's senior nutrition sites.	Up to \$1,309,315
North American Youth Activities LLC dba Kidz Love Soccer	Approval to execute a three-year (April 2013 – March 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$750,000
Play-Well TEKologies	Approval to execute a three year vendor agreement to provide recreation and leisure classes at San Jose Community Centers. Costs are 100% supported by participant fees.	Up to \$600,000
Club Ed	Approval to execute a three-year (Sept 2012 – Aug 2015) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$500,000

Compensation Paid by the City of San José

AGREEMENT	<u>DESCRIPTION</u>	PROPOSED 2012-2013 BUDGET
Kids Love Soccer	Approval to execute a two-year (April 2012 – March 2014) vendor agreement to provide leisure and recreation classes throughout San Jose. Costs are 100% supported by participant fees.	Up to \$500,000
Latimerlo Studio	Approval to execute a three-year (Sept 2012 – Aug 2015) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$500,000
Protoquette	Approval to execute a three-year (Sept 2012 – Aug 2015) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$500,000
Skyhawks Sports Academy, Inc.	Approval to execute a three-year (Jan 2013 – Dec 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$500,000
Tennis with Cole	Approval to execute a three-year (Sept 2012 – Aug 2015) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$500,000
Billie Gadberry dba Dance Arts Academy	Approval to execute a three year vendor agreement to provide recreation and leisure classes at San Jose Community Centers. Costs are 100% supported by participant fees.	Up to \$495,000

Compensation Paid by the City of San José

AGREEMENT	<u>DESCRIPTION</u>	PROPOSED 2012-2013 BUDGET
Camp Carter International	Approval to execute a three year vendor agreement to provide recreation and leisure classes at San Jose Community Centers. Costs are 100% supported by participant fees.	Up to \$450,000
Dragon Cloud Dojo	Approval to execute a three-year (April 2013 – March 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$450,000
Mad Science of Bay Area	Approval to execute a three-year (April 2013 – March 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$450,000
Creative Learning and Performing Arts LLC dba CLAP Arts	Approval to execute a three-year (Jan 2013 – Dec 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$300,000
Dance Force	Approval to execute a three-year (Jan 2013 – Dec 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$300,000
Freshi Films, LLC	Approval to execute a three-year (June 2013 – May 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$300,000

Compensation Paid by the City of San José

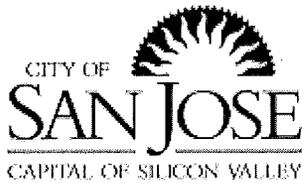
AGREEMENT	<u>DESCRIPTION</u>	PROPOSED 2012-2013 BUDGET
Harmony Makers	Approval to execute a three-year (April 2013 – March 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$300,000
Lekha School of Creative Writing	Approval to execute a three-year (June 2013 – May 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$300,000
Noteworthy Music School	Approval to execute a three-year (April 2013 – March 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$300,000
Robin Pickel dba Yoga Lite	Approval to execute a three-year (April 2013 – March 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$300,000
Todd Dissly Athletics dba South Bay Tennis Academy	Approval to execute a three-year (April 2013 – March 2016) vendor agreement to provide leisure and recreation classes throughout San José. Costs are 100% supported by participant fees.	Up to \$300,000

ATTACHMENT B

Compensation Paid to the City of San José		
AGREEMENT	DESCRIPTION	PROPOSED 2012-2013 BUDGET
Alum Rock Union School District	City is the service provider for After School Education and Safety (ASES) grant money in the S. J. A. S. program.	City is reimbursed for expense receipt of up to \$530,000
California Emergency Management Agency	To apply and accept funds if awarded for a California Gang Reduction, Intervention and Prevention (CalGrip) grant to support the Mayor's Gang Prevention Task Force.	\$500,000 over 2 years
California Wellness Foundation	To apply and accept funds if awarded to support the Mayor's Gang Prevention Task Force.	\$300,000 over 2 years
County of Santa Clara – Mental Health Services	Joint provision of mental health services at City's Grace Community Center.	City estimates receipt of up to \$451,000
County of Santa Clara Agreement for Senior Nutrition Program	Joint provision of a nutrition program for seniors.	City estimates receipt of up to \$904,606

ATTACHMENT C

Delegation of Contract Authority to PRNS Director		
AGREEMENT	DESCRIPTION	PROPOSED 2012-2013 BUDGET
Santa Clara Valley Family Health Plan	Approval for the Director of PRNS to execute an agreement to supports the Children's Health Initiative and provides health insurance to approximately 1,700 children whose families have income at or below 300% of the federal poverty level.	Approval to execute an agreement up to \$2,100,000
San Jose B.E.S.T. Grants	Support for the Mayor's Gang Prevention Task Force	Up to \$2,199,573
Senior Wellness Grants	Provide funding to support senior wellness programming.	Up to \$600,000
Safe Summer Initiative Grants	Provide funding to support summer activities and programming for youth.	Up to \$200,000
Evaluation Consultant Agreement	Approval for the Director of PRNS to execute an Evaluation Consultant Agreement to assess PRNS programs/services.	Up to \$200,000 per year for a five-year term (up to \$1,000,000 for a five-year period.)
Mayor's Gang Prevention Task Force Memorandum of Understanding	Approval for the Director of PRNS to execute memorandums of understanding for agency participation in MGPTF Technical Team meetings.	No monetary exchange.
Community Center Reuse	Approval for the Director of PRNS to negotiate and execute service providers to provide services in community center reuse facilities.	No monetary exchange.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Welsh
Julie Edmonds-Mares
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: May 29, 2012

Approved

Date

6/5/12

COUNCIL DISTRICT: 3

SUBJECT: APPROVAL TO AMEND THE TWO OPTION AGREEMENTS WITH COLEMAN AIRPORT PARTNERS, LLC TO REDUCE THE PURCHASE PRICE UNDER ONE OPTION AS A RESULT OF A REDUCTION OF 7.529 ACRES AND INCREASE THE PURCHASE PRICE UNDER ANOTHER OPTION AS A RESULT OF SELLING AN ADDITIONAL 1.843 ACRES AND ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN VARIOUS FUNDS.

RECOMMENDATION

Adopt a Resolution:

1. Authorizing the City Manager to negotiate and execute amendments to the HUD documents to allow for the use of proceeds from the sale of the Airport West property for the payment of the 2008F Lease Revenue Bonds. If HUD does not approve the amendments, staff will seek Council and City of San Jose Financing Authority approval of issuance commercial paper notes to fund the shortfall in the amount required for the defeasance of the 2008F Lease Revenue Bonds.
2. Authorizing the City Manager to negotiate and execute amendments to Option Agreements with Coleman Airport Partners LLC to:
 - a. Reduce the purchase price of the property at 1125 Coleman Avenue (Airport West) to be sold to Coleman Airport Partners LLC under the Development Site Option Agreement by \$11.928 million in order for the City to retain approximately

- 7.529 acres for the construction of a four-field, artificial turf bond-funded, community soccer facility.
- b. Increase the purchase price of the property located at 1125 Coleman Avenue to be sold to Coleman Airport Partners LLC under the HUD Commercial Site Option Agreement by \$1.846 million as a result of the increase in the acreage to be sold from 8.956 acres to 10.799 acres.
3. Adopt the following 2012-2013 Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund (Fund 471) in order to reallocate Construction and Property Conveyance Tax funds previously spent on Happy Hollow Park and Zoo:
 - a. Decrease the Contingency Reserve by \$1,339,000; and
 - b. Establish a transfer to the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes in the amount of \$1,339,000.
 4. Adopt the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):
 - a. Establish a transfer from the Parks and Recreation Bond Projects Fund in the amount of \$1,339,000;
 - b. Establish transfers totaling \$900,000 or \$100,000 each from the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council Districts #1, #2, #4, #5, #6, #7, #8, #9 and #10;
 - c. Establish a transfer from the Subdivision Park Trust Fund in the amount of \$100,000; and
 - d. Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the Coleman Soccer Fields project in the amount of \$2,339,000.
 5. Adopt the following 2012-2013 Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
 - a. Decrease the Reserve: Ryland Pool by \$100,000; and
 - b. Establish a transfer to the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes in the amount of \$100,000.
 6. Adopt the following 2012-2013 Appropriation Ordinance amendments in each of the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council Districts #1, #2, #4, #5, #6, #7, #8, #9 and #10:
 - a. Decrease the Ending Fund Balance by \$100,000 in each fund, for a total of \$900,000; and
 - b. Establish a transfer to the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes in the amount of \$100,000 in each fund, for a total of \$900,000.

OUTCOME

Adoption of this recommendation facilitates development of a distinctive job and amenity rich location directly adjacent to the Airport, Caltrain and the proposed Earthquakes stadium. Council approval would result in the development of a community soccer facility at Airport West using 2000 Measure P Park Bond funding. Including the community soccer fields would decrease the amount of acreage allocated to the jobs portion of the project and thereby decrease the amount of revenue generated through the land sales to the Developer. Although the developable acreage would be reduced at Airport West, the existing development entitlements would remain including 1.5 million square feet of Office/R&D, 75,000 square feet of Retail and 300 hotel rooms. The community soccer facility would be constructed on the City acreage adjacent to an existing City-owned practice soccer field which is leased by Earthquakes Soccer LLC. The community soccer facility would be a complementary use to the proposed major league soccer stadium to be developed by Earthquakes Soccer LLC. The combination of an Office/R&D development, Major League Soccer Stadium and a community soccer facility would create a unique destination development adjacent to the Airport, Caltrain and freeway.

EXECUTIVE SUMMARY

In 2005, the City purchased the 74.8 acre site at 1125 Coleman Avenue, referred to as the Airport West property (formerly known as FMC), to develop the site for airport and economic development purposes to support job and revenue generation. The City financed the purchase of the Airport West property with the proceeds of lease revenue bonds and a HUD Section 108 loan.

In 2008, the City entered into option agreements with two developers for the sale of the bulk of the Airport West property to be developed into a variety of office, retail, hotel uses and a major league soccer stadium. Approximately 9.3 acres of the Airport West property was reserved for a future Bay Area Rapid Transit ("BART") facility. Shortly after entering into the option agreements the economy entered into a prolonged economic downturn and the financial viability for developing the site under the terms of the original option agreements diminished. In addition, BART informed the City it would no longer need the 9.3 acre portion of the Airport West property that had been reserved for a proposed maintenance facility. In 2009, the City Council approved changes to the option agreements to provide more time for real estate and credit markets to recover. The approved changes to terms reduced the amount of net sale proceeds the City would receive from the sale of the Airport West property as well as extended the time for the developers to exercise their options. In 2010, the City Council approved a lease of a 2.6 acre portion of the former BART site with the Earthquakes for a practice field, leaving 6.7 acres remaining.

Concurrently Parks, Recreation and Neighborhood Services (PRNS) has been seeking a site over the past several years to build a community soccer facility with the funding provided through the Measure P bond measure. After multiple sites were evaluated and deemed not viable, staff

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identified the property at Airport West (formerly designated for the BART maintenance facility) as a potential site for a four-field community soccer facility adjacent to the Earthquakes practice field. In order to build the four community soccer fields to regulation size and maintain the land for the practice field, the amount of necessary acreage would need to be increased by 5.68 acres from 9.3 acres to 14.98 total City retained acres. Staff's proposal to develop the soccer facility will reduce the salable acres thus reducing the sale proceeds from the development site. Should the four soccer fields not be constructed at Airport West, the most likely use of the remaining City acreage would be mini-storage. Mini-storage is not as an attractive adjacent use for headquarter operations or corporate users in general. The choice before City Council represents a tradeoff between better functioning, complementary uses that can assist the long-term viability of the entire development project versus greater revenue generation from selling more acreage to the Developer. Through this action Council is determining if the City will be able to fulfill the construction of a community soccer facility funded through the voter approved 2000 Measure P Bond.

There are insufficient Measure P funds to fund the costs for land acquisition for the soccer facility, and moreover, Measure P funds cannot be used to pay for land the City already owns. Therefore, the proposed change in terms noted above results in a funding shortfall for the project. Staff has identified mitigations intended to offset the shortfall over an extended period of time (currently estimated at 16 years under a certain set of assumptions as described later in this document). The proposed terms result in the City owning a 14.98 acre regional soccer facility that will include four community serving fields and one city-owned practice field currently being leased to the Earthquakes.

It is important to note that the analysis focuses on all the property being sold at one time for the purpose of conveying in aggregate terms the funding impacts. The Developer has until 2015 to purchase the property and may do so at anytime.

BACKGROUND

In 2005, the City of San José purchased the 74.8 acre property located at 1125 Coleman Avenue from FMC. The property is now known as the Airport West property. The City's intent was to purchase only 51.6 acres of the property to support the Airport expansion program. FMC was unwilling to sell the City only a portion of the site. In order to assist the Airport, the City acquired the additional 23.2 acres. To finance the acquisition of the 23.2 acres, the City entered into a HUD Section 108 loan in the amount of \$25,810,000. To finance the acquisition of the 51.6, acres the City of San Jose Financing Authority (the "Authority") issued \$80,025,000 of lease revenue bonds (the "2005 Bonds"). As a result of the economic crisis in 2008, the Authority refunded the 2005 Bonds in 2008 with its Series 2008F Lease Revenue Bonds (the "2008F Bonds").

Table 1: Funding Sources for Airport West	Acquisition of Airport West-2005	Outstanding Debt (July 2012)	Estimated Annual Debt Service (2012-2013)
2008F Lease Revenue Bonds (51.6 acres)	\$80,025,000	\$65,590,000	\$3,154,000
HUD Section 108 Loan (23.2 acres)	25,810,000	20,803,000	1,346,000
Total Financing	\$105,835,000	\$86,393,000	\$4,500,000

The 51.6 acre portion of the Airport West property acquired with the 2005 Bonds was used by the Airport during the construction of the Terminal Area Improvement Projects (the "TAIP") for construction lay-down and other Airport uses through fiscal year 2010. With the substantial completion of the TAIP in fiscal year 2010, the Airport's use of the Airport West property terminated as of June 30, 2010.

Subsequent to the City's acquisition of the Airport West property, the City received a proposal from Coleman Airport Partners LLC and FWSH Partners LLC for the development of all of the property except 9.3 acres reserved by the City for a BART maintenance facility. In May 2008, the City Council approved a Memorandum of Understanding (MOU) between the City and FWSH Partners LLC and Coleman Airport Partners LLC (the "Developer") that outlined the price, option period and uses on the Airport West property. Approved uses included the development of a proposed San Jose Earthquakes major league soccer stadium on roughly 14 acres of the site, development of a 9.3 acre BART maintenance facility, and development of the remaining 51 acres for 1.5 million square feet of Office/R&D, 300 hotel rooms and 75,000 square feet of retail space.

Due to the different financing structures related to the HUD Loan and the 2008F Bonds and uses of the properties, on July 24, 2008, the City entered into three separate option agreements for the sale of the Airport West property. The City and Coleman Airport Partners LLC entered into two option agreements. The first option agreement is for the "Development Site" which includes approximately 42.1 acres and the second option agreement is for the "HUD Commercial Site" which includes approximately 8.9 acres, or roughly 51 acres. The third option agreement is between the City and FWSH Partners for the "HUD Stadium Site" which is approximately 14 acres (Refer to Exhibit A). On May 5, 2009, the City Council approved amendments to the Development Site and HUD Commercial Site option agreements. The amendments reduced the purchase price and the option payments to be paid by Coleman Airport Partners and extended the option period on the HUD Commercial and Development sites until 2015 in recognition of the economic downturn and its impact on the value of the property.

In 2009, the City was informed that BART no longer needed the 9.3 acre portion of the Airport West property located towards the back of the property adjacent to the railroad tracks. On June 23, 2009, Council approved a Memorandum of Understanding (MOU) with Earthquakes Soccer LLC to develop a roughly 2.6 acre practice field for the Earthquakes soccer team on a portion of

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the 9.3 acre site. On January 25, 2010 the City and Earthquakes Soccer LLC entered into a lease for the soccer practice field. The lease payment for the soccer practice field is \$24,000 annually.

On February 23, 2010, the City and the Developers entered into Amended and Restated Options Agreements to further facilitate the development of the sites.

Staff began looking at alternatives for the best future use of the remaining 6.7 acres formerly reserved for BART and developed a proposal to locate a community soccer facility to be funded by Measure P general obligation bonds. The former BART parcel is ideal because Coleman Avenue provides good circulation and access to the proposed site. In addition, there is little impact to surrounding neighborhoods from the light and noise associated with a soccer facility of this size. The primary purpose of the community fields is to attract adult soccer play to the proposed facility and bring relief to City neighborhood fields for area youth play. PRNS has pursued multiple alternative sites in other areas of the City to place a community soccer facility and has been unable to secure a site. In addition Measure P funds did not include funds for land acquisition. Therefore, as discussed in the Analysis section that follows, a funding plan has been developed to mitigate the reduction in sales proceeds resulting from the City's proposed retention of acreage to locate the soccer fields.

Airport West provides the greatest opportunity and synergy for a successful venue given the proximity to a major league soccer stadium. The addition of the soccer fields adjacent to the Stadium and the office R&D makes the property a unique and desirable office, hotel and retail location.

ANALYSIS

Proposed Change in Use of the Airport West Property

In developing a site plan for the community soccer facility, it was determined that additional acreage would be necessary to accommodate the width of the fields. To provide enough acreage for the soccer facility and adjacent roadway, it is necessary to reduce the size of the Development Site by approximately 7.529 acres (see Exhibit A). The reduction in acreage to the Development Site will intensify the existing development entitlements, which is consistent with the General Plan 2040. The current development entitlements of 1.5 million square feet of Office/R&D, 300 hotel rooms and 75,000 square feet of Retail would remain on the site.

Partially offsetting the reduction in acreage for the Development Site discussed above, the Developer has agreed to purchase an additional 1.843 acres of the adjacent City property (see Exhibit A) for \$23 a square foot. This acreage was originally part of the non-entitled acreage to be used by BART. The acquisition of the additional former BART acreage will allow the Developer to provide additional parking to serve the Development Site.

Should Council approve the recommendation in this memorandum and the Operations and Maintenance Agreement with Earthquakes Soccer LLC, the City Council will also consider

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approval of the design-build contract for the development of a community soccer facility and adjacent roadway funded by Measure P funds.

Policy Alternatives

The development proposal as recommended by staff offers an opportunity to create a very distinctive and desirable location that combines office and commercial uses directly adjacent to significant recreational and transportation amenities. The soccer fields are a draw for potential corporate users. The addition of four community soccer fields enhances the functionality and appeal of the site, potentially increasing revenues from the commercial development that will occur. Additional property tax, sales tax, and transient occupancy tax generated by development of the office, retail, and hotel components of the project will accrue to the City. Retailers and hoteliers will be attracted by the daily and tournament activity that will bring customers and overnight guests to the area. As mentioned before, Measure P did not include dollars for land costs. If the fields are not constructed at this site, staff would have limited opportunities to identify additional sites that can accommodate soccer fields with lights that are not a significant concern to adjacent residents. The choice to include the community soccer fields at this location results in \$13 million less revenue generated from the sale of City land at the site.

Alternative – Project does not include the community soccer fields on the Airport West site.

Pros: The City would generate higher net sale proceeds of \$10.1 million under the current option agreement for the Airport West Sites to pay the debt service of the HUD Loan and the 2008F Bonds. This option would also generate an estimated \$3.0 million in additional revenue from the sale of the 6.7 acres that had previously been set aside for a potential BART maintenance facility.

Con: The City has attempted to build adult soccer practice fields to expend Measure P bond funds for many years. The soccer field is one of two projects remaining in the 2000 Measure P Bond Fund program. By foregoing this opportunity Parks, Recreation and Neighborhood Services will need to identify a different parcel to develop additional adult practice soccer fields. There are insufficient Measure P dollars to pay for the cost of land acquisition for the soccer facility. In addition, the City would not retain ownership of 14.977 acres of the Airport West property and would not generate ongoing revenue currently estimated at \$700,000 annually from the operation of the soccer fields. The opportunity for synergy between the Earthquakes professional stadium, community soccer fields and the office, hotel and retail uses would be lost. As a result, the tax revenue generated by the development to the City in the longer-term may be lessened.

Financial Implications Before Mitigations and Offsets

The analysis below reflects the initial financial implications that result from fewer acres being sold to the Developer. The mitigations and offsets identified will be discussed in further detail following the discussion of financial implications.

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The proposed reduction in the size of the Developer's parcel for the Development Site by approximately 7.529 acres would reduce the purchase price by \$11.928 million. This reduction would be partially mitigated by the sale of 1.843 acres under the HUD Commercial Site Option Agreement, generating revenue of \$1.846 million. The net impact of these changes is a reduction in sale proceeds of \$10.08 million under the option agreements and results in the net loss of 5.68 acres to be sold to the developer.

If the developer does not proceed with development as currently planned, the action will result in decreased revenues and fewer acres to sell to a future developer, but does not impact the amount of development capacity for the site. In addition, this proposal would use the acreage that had previously been set aside for BART for the community soccer fields. This parcel would no longer be available to sell, reducing potential sale proceeds by an estimated \$3.0 million based on \$10.50/sq ft. for the remaining 6.7 acres. The former BART site has no development entitlements, infrastructure, access or visibility; it is located along the back of the property. The most likely alternative use for the property would be mini storage.

The combined impact of the lower sale price and the loss of potential sale proceeds from the parcel previously set aside for BART totals \$13.1 million.

City's Debt Issuance on Airport West

The decrease in acres sold by 5.686, acres from 51.089 acres to 45.4 acres will allow the City to continue to own 14.977 acres (2.6 acres for the Earthquakes Practice Facility and 12.3 acres for the community soccer facility). However, because debt related to the 2008F Bonds is secured by a lease of the Development Site, the City will be required to pay off 2008F Bonds concurrent with the Developer's purchase of the Development Site portion of the property. Tables 2 and 3 identify sale proceeds, outstanding debt and the projected shortfall. Mitigations that address the shortfall are presented below.

Table 2			
Current Agreement	Sales Proceeds*	Outstanding Debt	Remaining Debt
2008F Lease Revenue Bonds	\$61,750,351	(\$65,590,000)	(\$3,839,649)
Section 108 HUD Loan	19,188,787	(20,803,000)	(1,614,213)
Total	\$80,939,138	(\$86,393,000)	(\$5,453,862)

*Option credit of \$7 million applied against sales proceeds

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Table 3			
Proposed Agreement	Sales Proceeds*	Outstanding Debt	Remaining Debt
2008F Lease Revenue Bonds	\$49,822,329	(\$65,590,000)	(\$15,767,671)
Section 108 HUD Loan	\$21,035,251	(\$20,803,000)	\$232,251
Total	\$70,857,580	(\$86,393,000)	(\$15,535,420)

*Option credit of \$7 million applied against sales proceeds

As shown in the tables above, in the current option there is a \$5.45 million shortfall between the purchase price and the amount of outstanding debt if the all of the property is sold. Mitigations to be discussed below including the sale of the remaining 6.7 acres of land could address some of the shortfall in the current option. Staff is currently in discussions with HUD to allow the City to use a portion of the proceeds from the sale of the Airport West property financed with HUD loan for the repayment of the 2008F Bonds.

Under the proposed agreement, the City's shortfall for paying off the outstanding debt increases to \$15.54 million as a result of the reduction in acreage sold to the Developer. Of the \$15.54 million shortfall under the proposed agreement, the City will need to pay \$15.77 million concurrently with the close of the Development Site option to defease the 2008F Bonds and release the associated lease. Once again, if approved by HUD, a portion of sale proceeds from the sale of the Airport West property financed with the HUD Section 108 loan could be used to repay the outstanding debt under the 2008F Bonds, thus leaving approximately \$15.5 million of outstanding debt under the HUD Section 108 Loan. The City could then apply the mitigations and revenues proposed below to repay the HUD loan.

Summary Breakdown of Sale Proceeds Combined with Mitigations and Offsets

The table below summarizes by source and use the various funds and revenue proposed to offset the loss of sale proceeds over time. The table compares the anticipated sale proceeds and other mitigating payments and revenues with the outstanding debt on the Airport West property under the current agreement and the proposed agreement. The proposed mitigations include one-time payments from the 2008F Bond Reserve, potential option payments (depending on the timing of the sale of the property), and Parks capital project funding. On-going revenues are expected to be generated from soccer field operations (\$8.0 million over a 16-year period) and from the rent associated with the practice fields (\$360,000 over a 15-year period). These revenues are expected to be applied to cover debt service costs over these time periods. Staff is coordinating with HUD to allow the sale proceeds from the property financed with the HUD loan to repay the 2008F Bonds. The City then would continue to make payments of the HUD loan.

The analysis and tables below assume that the Developer exercises the Development Site, HUD Commercial Site and HUD Stadium site options all at the same time. If the Developer only exercises the HUD Stadium Site option before June 2012, the City is not obligated to repay the 2008F Bonds at that time as outlined below.

Source and Use of Funds for Airport West Property
(Assumes Sale of Property Under Option Agreements At the Same Time)

Table 4		
Sources	Current Agreement	Proposed Agreement
Sale of Stadium Site (\$11.50 per square foot, 14.497 acres; \$7,000,000 less \$2,000,000 credits= \$5,000,000)	\$5,000,000	\$5,000,000
Sale of Development and Commercial Sites (\$36.37 per square foot, 51.089 acres (current)/43.56 acres (proposed))	80,939,138	69,011,115
Developer purchase additional property (\$0 (current), \$23 per square foot, 1.843 acres (proposed))		1,846,465
2008F Bond Reserve	1,860,000	1,860,000
Soccer Practice Field Revenue (\$24,000 annually for 15 years)	360,000	360,000
Sell Land Previously Set-Aside for BART 6.7 acres at \$10.50/sq. ft.	3,000,000	-
Construction Tax and Property Conveyance Tax Fund (City-Wide)		2,339,000
Option Payment Credit*	(5,000,000)	(5,000,000)
Option Payments (\$1,000,000 due Dec. 2013 and \$2,000,000 due Dec 2014 if the property sale is not completed).	3,000,000	3,000,000
Estimated Net Income from Soccer Operations (Over 16-Year Period)**		8,000,000
Sub-total sources	\$89,159,138	\$86,416,580
Uses (as of July 2012)		
2008F Lease Revenue Bonds	(\$65,590,000)	(\$65,590,000)
HUD Section 108 Loan	(20,803,000)	(20,803,000)
Sub-total uses	(\$86,393,000)	(\$86,393,000)
Potential Surplus	\$2,766,138	\$23,580

*The original terms of the agreement required a \$5,000,000 option payment paid by the developer to be credited towards the purchase price of the Development Site and HUD Commercial Site. Revised option terms modified the

agreement with regard to the stadium, which states that if a sale occurs before June 2012 the developer will be able to apply a \$2,000,000 option payment from December 2010 to the purchase price of the HUD Stadium Site for a total of \$7 million in credits against the purchase price for all sites. The Developer has notified the City that he will exercise the option to purchase the Stadium Site by June 30th, 2012. The City will therefore receive \$5M for purchase of the stadium site.

** 16 year period is the remaining term of the HUD loan. Excludes debt service costs associated with the remaining debt over this period of time.

Detailed Breakdown of Mitigations and Offsets

If the City proceeds with the proposed soccer facility and reduces the amount of the Development Site acreage, there are proposed offsets to mitigate the \$15.54 million shortfall. The offsets are a combination of funding from capital funds for park development and acquisition projects, sale of additional land to the developer, and recognition of future revenues from the operations of the soccer fields. However, at the time that the Developer purchases the Development Site, the City must pay off the 2008F Bonds entirely concurrent with the sale of the Development Site.

	Current Agreement	Proposed Agreement	Comment
2008F Bonds *	(\$3,839,649)	(\$15,767,671)	<ul style="list-style-type: none"> Need to pay immediately upon sale when the Developer exercises the Development Site option
Section 108 HUD Loan Shortfall	(1,614,213)	232,251	<ul style="list-style-type: none"> City could pay off debt or if approved by HUD continue to pay debt service as currently budgeted
Current Projected Debt Shortfall	(\$5,453,862)	(\$15,535,420)	
Proposed One-Time Offsets Available at Time of Sale			
2008F Bond Reserve	\$1,860,000	\$1,860,000	2008F Bond debt reserve This funding is specifically used for 2008F Bond Debt and would be applied at time of sale

<p>Sell the 6.7 acre former BART parcel</p>	<p>3,000,000</p>	<p>Not in Proposed Agreement</p>	<p>In the event that the City does not move forward with reducing the Development Site acreage and allowing for the proposed soccer facility to be built, the City could sell the 6.7 acres of the former BART site. Current estimates of market rates suggest the sales of the 6.7 acres would generate approximately \$3.0 million.</p>
<p>Construction Tax and Property Conveyance Tax Fund: Parks Purposes – Citywide</p>	<p>0</p>	<p>2,339,000</p>	<p>Funding to be transferred to the City-Wide Construction and Conveyance Tax Fund from the following: \$100,000 from nine of the District Construction and Conveyance (C&C) Tax Funds (\$900,000), offset by Ending Fund Balance in those funds), the Park Trust Fund (\$100,000, offset by a reduction to the Ryland Park Pool Reserve), and the Park and Recreation Bond Projects Fund (\$1,339,000 offset by the Contingency Reserve to reimburse the City-Wide C&C Fund for prior year bond-eligible expenditures). This funding would be put towards the 2008F Bond Debt at time of sale.</p>
<p>Option Payments to be paid in 2013 and 2014 (not a credit against the purchase price)</p>	<p>3,000,000</p>	<p>3,000,000</p>	<p>*Depending on timing of the sale these options may or may not be received</p>

<i>Sub-total one-time offsets available at time of sale</i>	\$7,860,000	\$7,199,000	
Proposed Ongoing Offsets			
Estimated Net Income from Soccer Operations (16-Year Period)**	Not Applicable	\$8,000,000	Once the community soccer facility is operational, it is anticipated that this facility will generate annual revenues of at least \$700,000 of which at least \$500,000 is anticipated to be applied to pay the debt service costs remaining after the sale of the properties over 16 years.
Practice Field Revenue. \$24,000 annually for 15 years.	360,000	360,000	
<i>Sub-total ongoing offsets</i>	\$360,000	\$8,360,000	
Total Proposed Offsets	8,220,000	15,559,000	
Revised Projected Surplus	\$2,766,138	\$23,580	

*Depending upon the timing of when the Developer exercises the option, some or all of this money may not be paid to the City. The Current option payments for the Commercial and Development Sites are structured as follows: \$1,000,000 option payment due December 22, 2013, and \$2,000,000 option payment due December 22, 2014. If the Developer exercises the option earlier, the option payments would not be received. If the developer exercises the option earlier, debt service will be significantly decreased.

** 16 year period is the remaining term of the HUD loan. Excludes debt service costs associated with the remaining debt over this period of time.

With the exception of the potential revenue from option payments, the figures presented in this memorandum assume the full sale of the Airport West property. The Developer has told the City that it is proceeding with the purchase of the Stadium site before July 1, 2012. The sale proceeds from this purchase would reduce the amount of Section 108 HUD loan by \$5 million and have no effect on the 2008F Bonds.

May 29, 2012

Subject: Amended Option Agreements for the Airport West Property

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If this sale of the entire Airport West property does not occur by June 30, 2012, the City's General Fund will continue to pay the debt service for the 2008F Bonds and the Section 108 HUD Loan, which is estimated at \$4.5 million in 2012-2013 and increases to \$6.7 million annually by 2016-2017. These debt service amounts have been factored into the 2013-2017 Five-Year Forecast that was released in March 2012.

Request for HUD Approval or use of Commercial Paper

Staff has requested that HUD amend the HUD Loan agreement to allow the City to use a portion of the proceeds of the sale of the Airport West Property finance with the HUD loan for the repayment of the 2008F Bonds. If approved, the debt under the HUD loan would remain outstanding. The City would pay debt service on the outstanding debt using the revenue generated from soccer field operations. The remaining debt would be substantially lower than the debt service amounts currently factored into the Five-Year General Fund Forecast.

If HUD does not approve the request, staff could request the City Council and the Authority to approve issuance of commercial paper as a source of funds to finance the shortfall. Approximately \$40 million in unallocated commercial paper capacity is currently available. The City Council is scheduled to consider a request for issuance of \$10 million in commercial paper for the additional projects related to the Convention Center Expansion and Renovation project. The proposed soccer fields would require an allocation of \$11.1 million leaving a balance of \$18.9 million in commercial paper capacity.

Risks Associated with Commercial Paper

Commercial paper is a useful short-term financing tool; however there is a level of risk in assuming its longer term availability. The issuance of commercial paper requires a letter of credit (LOC) to be in place. Should State Street Bank and CalSTRS, the current providers of the letter of credit for the commercial paper program, decide not to renew their LOC in January 2013 and no replacement banks are identified, the commercial paper notes outstanding will need to be repaid in full. The General Fund is ultimately responsible for the repayment of outstanding notes. LOC fees are subject to change at future renewal dates based on market conditions. It should also be noted that commercial paper is variable rate and subject to interest rate risk, which may increase significantly depending on the overall financial market conditions.

Contribution of Community Soccer Facility

In summary, by retaining the 14.977 acres which will consist of the City-owned community soccer facility and the City-owned Earthquakes practice field, the City is forgoing the potential of \$14,928,000 in revenue from the sale of the property as follows:

- (1) \$11,928,000 in the sale of 7.529 acres to developer at \$36.37 per square foot and
- (2) \$3,000,000 in the sale of a portion of the former BART acreage.

However, this impact is being mitigated by the following actions, which allow the Community Soccer Facility to defray the cost of land upon which it (and the practice facility) will reside:

- (1) \$1,846,465 sale of additional portion of the Airport West property to the Developer
- (2) \$2,339,000 contribution from Parks capital funds
- (3) Annual contributions of up to \$500,000 per year from projected net revenue generated from the Community Soccer Facility (\$8.0 million over an 16-years); The annual contribution of \$500,000 does not include debt service costs associated with the remaining debt over this period of time.

City staff will also work on a funding strategy for replacement of the artificial turf at the end of its useful life (estimated at 13 to 15 years) in order to provide for a sustainable service delivery model and a sustainable revenue source for the City.

EVALUATION AND FOLLOW UP

Staff will return to Council if required based on the results of ongoing negotiations with the Developer and HUD and the timing of when the Developer elects to exercise the option to purchase the various components of Airport West. Staff will return to City Council and the Authority if HUD does not approve the use of a portion of the sale proceeds from the Airport West properties financed with the HUD loan for the repayment of the 2008F Bonds and seek to proceed with issuance of commercial paper to address the project shortfall.

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.

This memorandum will be posted on the City's web site and discussed at the June 19, 2012 City Council meeting.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the Public Works Department, and the Finance Department.

FISCAL/POLICY ALIGNMENT

The project aligns with the City's Economic Development Strategy #11 "Revise Key Land Use and Transportation Policies to Reflect the new Realities for the San Jose Economy" and Strategy #12 "Encourage Sporting Teams, Events, and Facilities, Professional as well as Amateur."

COST SUMMARY/IMPLICATIONS

As discussed above, the proposed reduction in the size of the Developer's parcel for the Development Site by approximately 7.529 acres would reduce the purchase price by \$11.9 million. This reduction would be partially mitigated by the sale of 1.843 acres under the HUD Commercial Site Option Agreement, generating revenue \$1.846 million. The net impact of these changes is a reduction in sale proceeds of \$10.08 million under the option agreements. In addition, this proposal would use the acreage that had previously been set aside for BART for the community soccer fields. This parcel would no longer be available to sell, reducing sale proceeds by an estimated \$3.0 million.

To partially offset this impact, it is recommended that \$2.339 million in Parks capital funding be allocated to the project in order to defray the shortfall on the repayment of the outstanding debt associated with the purchase of the Airport West Property designated to be used for the community soccer field project. The source of this funding is as follows:

- (1) \$1,339,000 in costs for the Happy Hollow bridge project which were previously paid for by the Citywide Construction and Conveyance Tax (C&C) Fund are being reallocated to the Parks and Recreation bond fund, freeing up \$1,339,000 from the Citywide C&C fund for use on the Coleman project;
- (2) \$1,000,000 in funds from District specific park capital funds. This consists of \$100,000 from nine of the ten Council District's C&C funds. The only exception is council district 3 as \$100,000 is being recommended from the Ryland Pool reserve in the Parks Trust Fund as opposed to the District 3 C&C fund balance. It is appropriate for each council district to contribute from their respective C&C funds as this project will have a citywide benefit and accordingly provide a benefit to each council district. Additionally, the contribution from the Parks Trust Fund from the Ryland Pool reserve is appropriate as the Coleman soccer project is within the nexus area for the use of these funds and the proposed soccer facility is a community service facility.

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In addition, once the community soccer facility is operational, it is anticipated that this facility will generate annual revenues of at least \$700,000, of which at least \$500,000 (\$8.0 million over a 16-year period) is proposed to be applied to pay the debt service costs associated with (a) either the repayment of the HUD loan if HUD approves the use of the sale proceeds for the repayment of the 2008F Bonds or (b) the issuance of commercial paper to fund the shortfall between the purchase price for the property and the amount required to pay off the 2008F Bond. The proposed community soccer facility would also provide an ongoing revenue stream and would generate Sales Tax and potentially Transient Occupancy Tax for the City.

BUDGET REFERENCE

Fund #/ Name	Appn #	Appn. Name	Total Appn	2012-2013 Proposed Budget Page	Last Budget Action (Date, Ord. No.)
377 – District 1 C&C Fund	8999	Ending Fund Balance	\$2,230,409	V-309	Budget adoption 6/19/12
378 – District 2 C&C Fund	8999	Ending Fund Balance	\$698,170	V-317	Budget adoption 6/19/12
381 – District 4 C&C Fund	8999	Ending Fund Balance	\$1,518,493	V-328	Budget adoption 6/19/12
382 – District 5 C&C Fund	8999	Ending Fund Balance	\$1,064,879	V-338	Budget adoption 6/19/12
384 – District 6 C&C Fund	8999	Ending Fund Balance	\$864,261	V-345	Budget adoption 6/19/12
385 – District 7 C&C Fund	8999	Ending Fund Balance	\$446,761	V-353	Budget adoption 6/19/12
386 – District 8 C&C Fund	8999	Ending Fund Balance	\$1,875,790	V-359	Budget adoption 6/19/12
388 – District 9 C&C Fund	8999	Ending Fund Balance	\$986,712	V-367	Budget adoption 6/19/12
389 – District 10 C&C Fund	8999	Ending Fund Balance	\$1,373,519	V-375	Budget adoption 6/19/12
375 – Park Trust Fund	8147	Reserve: Ryland Pool	\$379,000	V-443	Budget adoption 6/19/12
471 – Parks and Recreation Bond Projects Fund	8190	Contingency Reserve: Parks and Recreation Bond Projects	\$8,721,765	V-473	Budget adoption 6/19/12

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

CEQA: EIR Resolution No. 71716, File No: PP08-093 and File No: PDC09-004

/s/

JULIE EDMONDS-MARES

Acting Director, Parks, Recreation &
Neighborhood Services

/s/

KIM WALESH

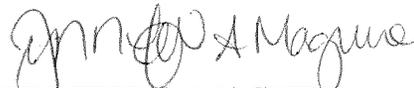
Director of Economic Development
Chief Strategist



JENNIFER A. MAGUIRE

Budget Director

I hereby certify that there will be available for appropriation in the Construction and Conveyance Tax Fund (City-Wide Parks Purposes) in the Fiscal Year 2012-2013 moneys in excess of those heretofore appropriated therefrom; said excess being at least \$2,339,000.

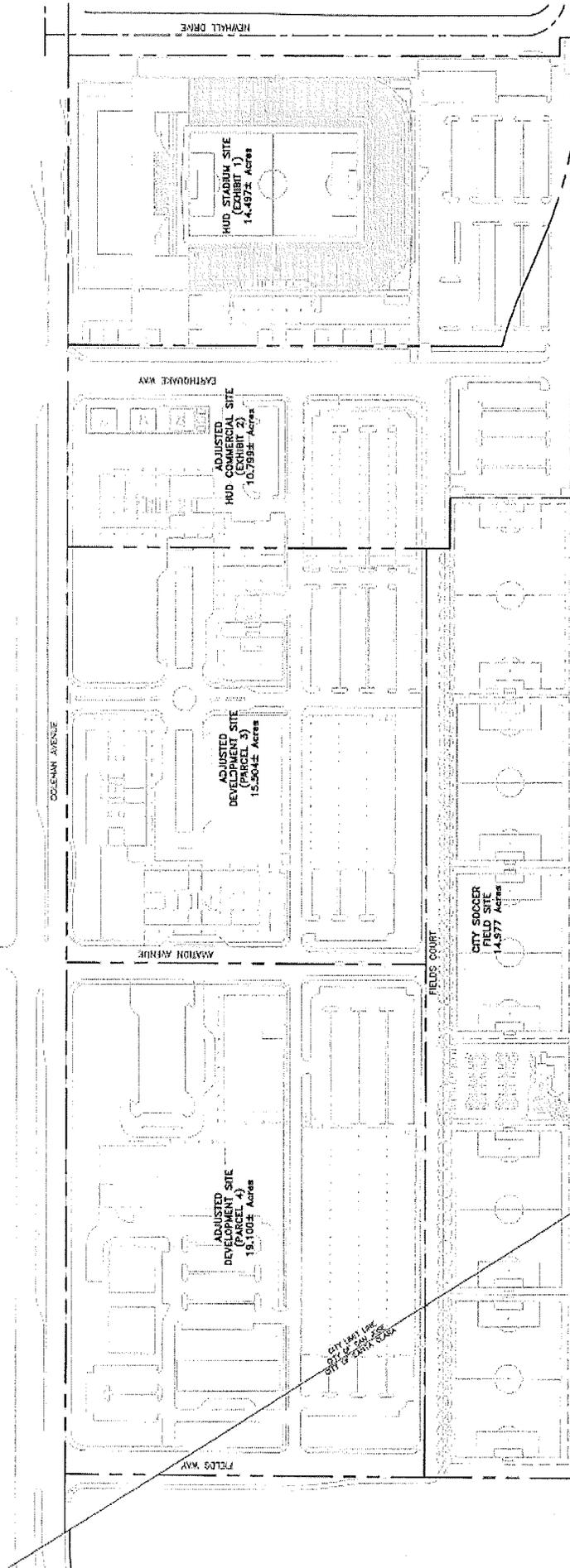


JENNIFER A. MAGUIRE

Budget Director

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

Exhibit A





Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Julie Edmonds-Mares

SUBJECT: SEE BELOW

DATE: May 29, 2012

Approved

Date 6/5/12

COUNCIL DISTRICT: 3, Citywide

**SUBJECT: APPROVAL OF AN OPERATIONS AND MAINTENANCE AGREEMENT
WITH SAN JOSE EARTHQUAKES MANAGEMENT, LLC**

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute an Operations and Maintenance Agreement (Agreement) between the City of San José and San Jose Earthquakes Management, LLC (Contractor) commencing on completion of construction of the Coleman Avenue Soccer Fields (Soccer Facility) for a term of five years, and including an option for the City to extend the term for up to two, five year term extensions. The Contractor will receive an annual fixed fee of \$332,803 (Management Fee) and potential revenue performance based fees not to exceed \$332,803 annually (Performance Increase) for a maximum total of \$665,606 annually, adjustable by the Consumer Price Index (CPI).

OUTCOME

This Council action will allow for the operations of a City of San José community soccer facility on the Airport West site at 1125 Coleman Avenue to be constructed with 2000 Measure P Park Bond funding. The community soccer facility will be constructed on the City acreage adjacent to the existing City-owned practice soccer field which is currently being leased to Earthquakes Soccer, LLC.

BACKGROUND

In 2000, the voters of San José passed Measure P, the 2000 Parks Bond Measure. The ballot language authorized the City to issue general obligation bonds for the construction or renovation of various park, community center, and recreational improvements including "new recreational

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Subject: Approval of an Operations and Maintenance Agreement with San Jose Earthquakes Management, LLC

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sports facilities.” To date, 94 of the 96 projects initially planned to be funded by Measure P have been completed. The only two exceptions are a soccer and softball complex. This memorandum addresses staff’s recommendation regarding the operations of the soccer complex. Staff will bring forward a recommendation for the scope of the softball complex project at a later date.

The soccer complex is proposed to be located at the Airport West site on Coleman Avenue. Staff identified the Airport West site as suitable for the soccer fields for which funding was authorized in the Parks Bond Measure P and has proceeded to design the Soccer Facility. The details of the City’s acquisition of the land for development of the soccer fields are specified in a separate memorandum on this same City Council agenda. The City Council’s consideration of approval of the operations and maintenance agreement is contingent upon City Council’s approval of the various actions related to the sale of a portion of the Airport West site that the City Council will consider as a separate agenda item. These separate actions related to the Airport West site are required prior to the approval of this Agreement as it affects the boundaries of the premises subject to the proposed Operations and Maintenance Agreement with the Earthquakes.

The Department of Public Works has received bids on a design-build package in order to identify a firm for the Soccer Facility development and a recommendation for proceeding with award of the design-build contract for the project is included as part of a separate memorandum. Construction is anticipated to begin mid 2012 and to be completed in fall 2013. The Soccer Facility will serve the community primarily for recreational and competitive soccer tournaments, clinics, leagues, and practices.

ANALYSIS

Staff issued a Request for Proposal (RFP) to hire a qualified company to provide operation and maintenance services including management, marketing, operation, security, parking, labor, equipment, signage, building and grounds maintenance, full scheduling of training and tournaments, and concession/retail sales. The RFP for soccer field operations and maintenance services was posted on the City’s BidSync site from December 16, 2010 to February 4, 2011. In addition, known soccer entities that provide these services were notified of the opportunity in writing through direct mail. The RFP notified potential proposers of what they would need to include in their submittal package and also provided an exemplar agreement on which contract negotiations would be based. In addition, the RFP informed potential operators that the City would be required to enter into Qualified Management Agreement (QMA) for the project due to the tax-exempt bond funding which will be used to build the facility.

IRS regulations limit the amount of private use of the facilities financed with tax-exempt bonds. Since the federal government receives less income tax revenues when the interest on municipal bonds is tax exempt, IRS regulations require that facilities built with tax-exempt bond proceeds are used for a governmental purpose, and that such facilities are not used for “private activity.” In order to have a private party operate a facility financed with tax-exempt bonds, such as the proposed soccer fields, the City must follow IRS regulations for QMAs.

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Subject: Approval of an Operations and Maintenance Agreement with San Jose Earthquakes Management, LLC

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The RFP generated only one proposal, from San Jose Earthquakes Management, LLC. The proposal was determined to be complete and responsive. The proposal was reviewed by staff and the proposer was interviewed on February 24, 2011. Based on qualifications, experience, past performance, and local and regional connections to existing soccer organizations, the San Jose Earthquakes Management, LLC demonstrated an ability to fully program, operate and maintain the Soccer Facility. On March 1, 2011, the Director of Parks, Recreation and Neighborhood Services (PRNS) directed staff to begin negotiations with San Jose Earthquakes Management, LLC.

The Contractor will be responsible for oversight and payment of the management, operations and maintenance costs of the Soccer Facility in accordance with the terms of the final Agreement. Key parameters of the agreement are as follows:

- Manage and operate the Soccer Facility including financial management, league and tournament programming, general daily maintenance and minor repair services, coordination with City and other stakeholder partners, and administrative services.
- Participate in collaborative event planning with the management team of the proposed San Jose Earthquakes Stadium to ensure coordination of traffic management plans and overflow parking strategies.
- Establish cash flow management and control and financial reporting systems for the Soccer Facility in conjunction with the City's representatives and an independent auditor selected by the Contractor subject to City approval.
- Collect revenues from the Soccer Facility and deposit such revenues in the City's account as provided for in the Agreement.
- Contractor shall be responsible for payment of all operational expenses of the Soccer Facility from its management fee. Contractor shall make necessary disbursements to carry out the operation of the Soccer Facility.
- Grant access to oversight agency representatives and parties responsible for maintenance of the mitigation and monitoring wells located on the Soccer Facility.
- Participate in an advisory team during the design-build phase of the Soccer Facility to provide program input during mutually agreed upon times and dates.
- Advertise and conduct public relations programs related to the Soccer Facility.
- Organize and manage admissions, merchandising, security and parking facilities at the Soccer Facility.
- Prepare and submit an annual Operations Plan including budgets, policies, fees and hours of operation of the Soccer Facility.
- Employ and manage all Soccer Facility personnel in accordance with City employment standards and policies.
- Procure all necessary supplies, materials and retail inventory required for the operation of the Soccer Facility.
- Procure and maintain insurance policies and an emergency management plan for the Soccer Facility.
- Appoint a representative to meet with a City representative on a regular basis or as needed to ensure successful operations.

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Subject: Approval of an Operations and Maintenance Agreement with San Jose Earthquakes Management, LLC

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- Prepare and submit an annual report to the City that describes operations, maintenance, marketing and finance outcomes of the Soccer Facility.
- Collect fees for use of the facility in accordance with the City's schedule of fees for the facility.

Additionally, the Contractor will provide the City with up to \$78,000 in tickets to Earthquakes games each year in order to serve youth participants in PRNS programs. The term of the Agreement will be five years commencing upon completion of construction of the Soccer Facility, and includes options for the City Manager to extend the term for up to two, five year term extensions. The City and Contractor will establish a team to review the annual pro forma and budget, to ensure efficient operations, and to resolve any disputes that may arise.

The Contractor is responsible for the Soccer Facility 365 days a year. It is anticipated the Soccer Facility will be open seven days a week from 8:00 a.m. to 10:00 p.m. The Contractor will remit to the City all revenues from the operation of the facility. The City will use those revenues to pay the Contractor an annual fixed fee discussed in the Cost Implications section of this memo. The potential uses of any net General Fund revenues will be brought forward as part of the annual budget process. It is important to note that the City will need to plan appropriately for capital infrastructure maintenance, including replacement of the artificial turf in order to ensure that the facility continues to provide services and generate revenue far into the future.

Staff proposes that the City enter into the Agreement with the Contractor prior to the commencement of construction in order for the City to be able to benefit from best practices and lessons learned from the Contractor's existing facilities to improve on design. However, payment of the Contractor will not commence until the facility is operational. PRNS has a strong tradition of partnering with consultants and businesses to improve service delivery. As proposed, this Agreement will enable the City to move forward with the operations and maintenance of the Soccer Facility.

EVALUATION AND FOLLOW-UP

Staff will report on expenses and revenues related to the soccer facility as a part of the City's annual budget process.

POLICY ALTERNATIVES

***Alternative:* The City could choose not to move forward with the direction to locate and develop the community Soccer Facility and continue to market the property for development.**

Pros: The City will avoid the risk that the Contractor will not generate sufficient revenue to pay the fixed fee. However, the City's maximum annual liability, assuming the facility generated

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Subject: Approval of an Operations and Maintenance Agreement with San Jose Earthquakes Management, LLC

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zero revenue, would be only half of the fixed management fee because the City has the ability to terminate the agreement upon no less than 14 calendar days if gross revenues from the facility have not at least equaled the management fee due to contractor over any 180 day period.

Cons: The City does not proceed with the development of a soccer complex as authorized by Measure P and the City does not increase sports fields to address the citywide inventory shortage.

Reason for Not Recommending: The City has a significant need for additional sports fields to serve the needs of the residents and placing four lighted artificial turf soccer fields in one location will provide a significant increase in availability of fields for the public.

PUBLIC OUTREACH/INTEREST

- ✓ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: Email and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item meets Criteria 1 and will be posted on the City's website for the June 19, 2012 Council agenda.

COORDINATION

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

FISCAL/POLICY ALIGNMENT

This project is consistent with Council-approved 2010-2011 Budget Balancing Strategy principles because it protects vital core city services and considers alternative service delivery mechanisms to reduce costs of delivering needed services to the community.

COST SUMMARY/IMPLICATIONS

The operations and maintenance of this project is projected to have a net positive benefit to the General Fund with a Management Fee of \$332,803 to be paid to the Contractor and anticipated net City revenues in excess of \$500,000 annually after payment of this Management Fee. In addition, the Contractor does have the ability to achieve a Performance Increase of up to an additional \$332,803 if certain triggers are achieved. There are four separate levels for the Performance Increase – 25%, 50%, 75% and 100%. For example, if the Contractor achieves a 25% increase in projected gross revenue, i.e. gross revenues are \$1,432,451.25 they will receive 25% of the Performance Increase, i.e. the Contractor's fee of \$332,803 plus \$83,250 (25% of a possible \$332,803). If they achieve a 50% increase in projected gross revenue they will receive 50% of the Performance Increase, and so on. As noted above, the maximum amount the Contractor is eligible for as a Performance Increase is an additional 100% of the annual Management Fee. An annual increase will be applied to the Management Fee and the Performance Increase calculation will begin on July 1 of each year. The annual increase will be based on the San Jose-San Francisco-Oakland average annual CPI percentage change for all urban consumers, but in no event shall exceed 3%.

The Contractor is required to pay for all facility operating and maintenance costs out of their Management Fee. In addition, initial City funding of \$167,000 will be required in Fiscal Year 2013-2014, starting on July 1, 2013, to fund the first six months of the management fee until revenues are sufficient to cover this cost. It is anticipated that this initial investment will be recovered by the end of the 2013-2014 Fiscal Year.

Under the Operating Agreement, if the gross revenues from the Facility do not at least equal the Management Fee due to the Contractor over any six month period, the City may exercise an option of early termination with no less than 14 days notice to the Contractor. This will allow the City to limit any potential liability associated with ongoing payment of the fixed management fee if revenues from the site are not meeting expectations.

As discussed in a separate memorandum on this agenda, this facility is proposed to be built on the Airport West property, which has significant outstanding debt. Currently, Coleman Airport Partners, LLC and FWSH Partners, LLC have an option to purchase the majority of this property, including a small portion of the land proposed for the Coleman Avenue Soccer Fields. To construct this facility, the option agreement is proposed to be modified as discussed in the separate memorandum. The approval of this agreement is contingent upon prior approval of the amendment of the option agreement relating to the sale of the Airport West property.

CEQA

CEQA: Mitigated Negative Declaration, PP 10-155, November 2011

HONORABLE MAYOR AND CITY COUNCIL

May 29, 2012

Subject: Approval of an Operations and Maintenance Agreement with San Jose Earthquakes Management, LLC

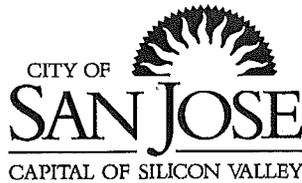
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/s/

JULIE EDMONDS-MARES

Acting Director of Parks, Recreation and
Neighborhood Services

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



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: May 29, 2012

Approved

Date

6/5/12

SUBJECT: REPORT ON BIDS AND AWARD OF CONTRACT FOR THE COLEMAN SOCCER FIELDS DESIGN BUILD REBID PROJECT AND ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE PARKS AND RECREATION BOND PROJECTS FUND FOR THE SOCCER COMPLEX PROJECT

RECOMMENDATION

- a. Subject to approval of items 5.2 and 5.3, report on bids and award of contract for the Coleman Soccer Fields Design Build Project Rebid to the low bidder, Interstate Grading and Paving, Inc., for the base bid and Add Alternate No. 1 in the amount of \$11,873,000, and approval of a contingency in the amount of \$1,187,300.
- b. Adoption of the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund (Fund 471) in 2012-2013;
 1. Increase the Soccer Complex appropriation in the Parks, Recreation and Neighborhood Services Department in the amount of \$14,270,310;
 2. Increase the Contingency Reserve: Parks and Recreation Bond Projects in the amount of \$212,690; and
 3. Eliminate the Reserve: Soccer Complex appropriation by \$14,483,000.

OUTCOME

Approval of this contract to Interstate Grading and Paving, Inc., will allow the Coleman Soccer Fields Design Build Project Rebid to be built and occupied for use by the community by February 2014. Approval of a ten percent contingency will provide funding for any unanticipated work necessary for the proper completion or construction of the Project.

May 29, 2012

Subject: Coleman Soccer Fields Design Build Project Rebid and Adoption of Appropriation Ordinance Amendments in the Parks and Recreation Bond Projects Fund

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BACKGROUND

In 2000, the voters of San José passed the San José Safe Neighborhood Parks and Recreation Bond with over 78 percent of the vote with the following language:

To improve San Jose's neighborhoods parks' safety and expand recreation opportunities for children, families and seniors by: installing lighting, reconstructing deteriorating playgrounds and restrooms; reserving open space; constructing trails; constructing new recreational sports facilities; improving community and senior centers; and constructing improvements to regional parks like Happy Hollow, shall the City issue \$228,030,000 in bonds, at the best rates possible, with guaranteed annual audits, a citizen's oversight committee and no money for parks administrators' salaries.

To date, the City has completed 95 of the 97 projects which have been funded as part of the Parks Bond. This includes:

- 73 neighborhood park renovation projects;
- 9 community center renovations and reconstructions;
- 7 regional park renovations, including the reconstruction of Happy Hollow Park & Zoo;
- 6 trail projects totaling 2.5 miles of new City trails.

The two remaining projects to be constructed are the sports facilities: one for soccer and one for softball. This City Council action allows the City to proceed with the soccer facility construction. A recommendation for construction of the softball facility will be brought forward to the City Council at a later time.

The Coleman Soccer Complex is proposed to be located at the Airport West site on Coleman Avenue (see attached map). The details of the City's acquisition of the land for development of the soccer fields, and the operations and maintenance agreement with the Earthquakes are specified in two separate memoranda on this City Council agenda. These separate actions related to the Airport West site are required prior to the approval of this contract as they affect the location, funding of the operations, and maintenance of the facility.

The soccer field complex is located on a former manufacturing property that stored and used a variety of hazardous materials. As a result, the property has undergone extensive investigations, remediation and health risk assessments under the regulatory oversight of the State Department of Toxic Substances Control (DTSC). The City completed a Soil Management Plan in April 2011 to address future site development including the soccer field complex. The plan, which was approved by the DTSC, includes oversight during construction and mitigation measures such as capping the soccer fields with hardscape or clean soil to further ensure the development is safe for the public.

After receiving and reviewing the initial Coleman Soccer Fields Design Build Project bids on October 6, 2011, staff concluded that the Project specifications should be revised to better reflect

May 29, 2012

Subject: Coleman Soccer Fields Design Build Project Rebid and Adoption of Appropriation Ordinance Amendments in the Parks and Recreation Bond Projects Fund

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the City's interests and needs for the Project. Accordingly, staff recommended that the City Council reject all bids, revise the project specifications and rebid the Project. On December 13, 2011, City Council approved rejection of all prior bids. A rebid package was released on December 21, 2011, and was advertised for 51 days.

The base bid scope of work for the Project consists of the following:

- Design development and production of construction documents
- Subsequent construction of the soccer field project to include site demolition and preparation, grading and drainage, installation of four artificial turf soccer fields with night use lighting and amenities
- Construction of concession/restroom and changing room multi-service building
- Construction of a 54 car parking lot, fencing and gates
- Frontage road improvements, including a temporary access road from Coleman Avenue
- Irrigation and planting
- The decorative metal fence adjacent to the frontage road which will incorporate a public art element
- Undergrounding of the existing overhead PG&E electrical lines, currently located along the west fence line, will be incorporated into the new frontage road
- Removal of hazardous soils as necessary.

In addition to the base bid scope of work, there are two add alternate bid items as follows:

Description

Add Alternate No. 1: Increase from half to full street improvements

Add Alternate No. 2: Extend full street improvements to Newhall Drive

It is anticipated that the design build project for the four soccer fields will begin in July 2012 with construction completed in February 2014. The operator will have the opportunity to provide input during the design process.

ANALYSIS

Bids were opened on February 9, 2012, with the following results:

<u>Contractor</u>	<u>Base Bid</u>	<u>Add Alt. No. 1</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/ (Under) Percent</u>
Engineers Estimate	\$13,400,000	\$550,000	\$13,950,000	--	--
Pavex Construction (San José)	12,861,162	413,868	13,275,030	(674,970)	(5)

HONORABLE MAYOR AND CITY COUNCIL

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Subject: Coleman Soccer Fields Design Build Project Rebid and Adoption of Appropriation Ordinance Amendments in the Parks and Recreation Bond Projects Fund

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Top Grade Const. (Livermore)	12,998,885	285,000	13,283,885	(666,115)	(5)
Roebbelen (El Dorado Hills)	12,236,085	345,411	12,581,496	(1,368,504)	(10)
Robert A. Bothman (San José)	12,157,000	299,500	12,456,500	(1,493,500)	(11)
Interstate Grading and Paving (S. San Francisco)	11,713,000	160,000	11,873,000	(2,077,000)	(15)

The low bid submitted by Interstate Grading and Paving, Inc., in the amount of \$11,873,000 is 15 percent under the Engineer's Estimate. Further evaluation showed that the Engineer's Estimate for grading, paving and artificial turf was conservative. Interstate Grading and Paving, Inc. was the apparent low bidder on the previous bid. The rebid is \$118,000 lower than Interstate's first base bid.

Subsequent to the bid opening and in consultation with Parks, Recreation and Neighborhood Services, Add Alternate No. 1 is recommended for award. The benefit of Add Alternate No. 1 is that it would provide the necessary parking for the soccer fields with parallel parking on both sides of the street. Staff evaluated the benefits of Add Alternate No. 2 and, based on the cost of \$350,000, it is not being recommended, as the roadway extension is not absolutely necessary to proceed with the project.

Based upon the above information, staff recommends awarding the project to Interstate Grading and Paving, Inc. This Project is approximately 55 percent grading, earthwork and paving. Interstate is well suited to perform as the prime contractor. Their qualifications and references were verified by City staff at the time of the original bid process.

Council policy does not provide for a standard contingency for design build projects. Due to various unknown underground conditions that may be encountered on this project, a ten percent contingency is recommended to provide funding for any unanticipated work necessary for the proper completion or construction of the project. There are sufficient funds to provide the recommended contingency.

Included in this memorandum is a recommendation to eliminate the Soccer Complex Reserve appropriation (\$14,483,000) and shift a majority of the funding to the Soccer Complex appropriation (\$14,270,310) to ensure sufficient funding is available to award the construction contract. Since the construction bids for this project were lower than anticipated, the reserve exceeds the anticipated need for the Soccer Complex. Therefore, this memorandum also includes a recommendation to allocate a small portion of funding from the Soccer Complex Reserve to the Parks and Recreation Bond Projects Contingency Reserve (\$212,690). This funding will be available (if needed) for the Softball Complex, the only remaining project that has not been completed in the Parks and Recreation Bond Projects Fund.

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Subject: Coleman Soccer Fields Design Build Project Rebid and Adoption of Appropriation Ordinance Amendments in the Parks and Recreation Bond Projects Fund

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EVALUATION AND FOLLOW-UP

This project is currently within budget and on schedule. No additional follow up action with the City 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)**

This item meets 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 June 19, 2012 City Council agenda.

COORDINATION

This proposed project and memorandum have been coordinated with the Departments of Parks, Recreation and Neighborhood Services, the Office of Economic Development, Planning, Building and Code Enforcement, Environmental Services, the State Department of Toxic Substances Control, the City Attorney's Office and the Cultural Affairs/Public Art Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION: \$11,873,000

Project Delivery *	\$2,016,650
Construction	\$11,873,000
Contingency	<u>\$1,187,300</u>
TOTAL PROJECT COSTS	\$15,076,950
Prior Year Expenditures	<u>(\$579,640)</u>
REMAINING PROJECT COSTS	\$14,497,310

* Project Delivery includes preparation of the design build package, initial geotechnical report, project management, inspection, construction management, consultant fees (including preparation of the mitigated negative declaration), construction monitoring, coordination with DTSC, adjusting the monitoring wells on-site, Partnering and Dispute Resolution Board.

2. COST ELEMENT OF CONSTRUCTION CONTRACT:

Design	\$600,000
Various Standard Construction Allowances	1,780,000
Mobilization, Demolition, Site Preparation	1,267,000
Grading, Drainage and Utilities	1,140,000
Fencing, Sports Equipment	400,000
Asphalt and Concrete Paving	600,000
Electrical	1,900,000
Irrigation, Planting, Artificial Turf	2,400,000
Building	1,300,000
Operations, Maintenance, Miscellaneous	326,000
Add Alternate 1	<u>160,000</u>
Total Construction Contract Amount	\$11,873,000

3. SOURCE OF FUNDING: 471 - Parks and Recreation Bond Projects Fund

4. OPERATING COST: The estimated operating and maintenance impact associated with this project is addressed in a separate memorandum that is agendized to be reviewed by the City Council on June 19, 2012. This facility is proposed to be operated and maintained by the San José Earthquakes organization.

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.

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Subject: Coleman Soccer Fields Design Build Project Rebid and Adoption of Appropriation Ordinance Amendments in the Parks and Recreation Bond Projects Fund

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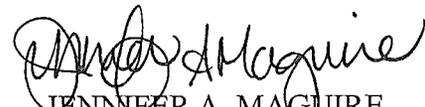
Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2011-2012 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
Remaining Project Costs				\$14,497,310			
Current Funding Available							
471	6841	Soccer Complex	161685	\$227,000	\$227,000	V-569	6/21/11 Ord. No. 28928
Additional Funding Recommended*							
471	8129	Reserve: Soccer Complex	N/A	\$14,270,310*	\$11,646,000	V-573	6/21/11 Ord. No. 28928
Total Project Funding				\$14,497,310	\$11,873,000		

*Included in this memorandum is a recommendation to shift \$14,270,310 from the Reserve: Soccer Complex allocation to the Soccer Complex appropriation to ensure sufficient funding is available to award the construction contract award. The Reserve: Soccer Complex allocation has a total of \$14,483,000 budgeted, however, since the construction bids were lower than estimated, this memorandum also recommends reallocating the remaining \$212,690 in the reserve to the Parks and Recreation Bond Projects Contingency Reserve. This funding will then be available for the Softball Complex, which is the only remaining bond project.

CEQA

CEQA: Mitigated Negative Declaration, PP10-155, May 10, 2011.

/s/
DAVID SYKES
Director of Public Works


JENNIFER A. MAGUIRE
Budget Director

For questions please contact Harry Freitas, Assistant Director, Public Works Department, at 408-535-8300.

Attachments
Coleman Soccer Fields Design Build Project REBID



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Hans F. Larsen

**SUBJECT: AUTHORIZATION TO AWARD
PAVEMENT MAINTENANCE
PROJECTS**

DATE: May 29, 2012

Approved

Date 6/4/12

RECOMMENDATION

Approve the following actions to resurface and repair 51 miles of streets at various locations having an approximate cost of \$12,700,000.

1. Adoption of a resolution that:
 - a. Authorizes the Director of Public Works to determine the lowest responsive and responsible bidder, and to award the construction contract for the 2010 STP Resurfacing and Rehabilitation – Citywide Project in an amount not to exceed the funds appropriated for the project, and/or to reject all bids and re-bid the project; and
 - b. Authorizes the Director of Public Works to determine the lowest responsive and responsible bidder, and to award the construction contract for the 2012 Remove and Replace Asphalt Concrete Pavement Project in an amount not to exceed the funds appropriated for the project, and/or to reject all bids and re-bid the project; and
 - c. Authorizes the Director of Public Works to decide any timely bid protests, including issues of bidder responsiveness or responsibility.
2. Approve a contingency equal to five percent of the base contract award amount.

OUTCOME

The recommended actions will enable the City to resurface and rehabilitate up to 24 miles of arterial streets and to repair another 27 miles of arterial streets for in preparation for a subsequent surface sealing treatment. Resurfacing the street will improve the structural integrity, appearance, and ride quality of the street. Preparing the streets for a surface seal will extend the usual life and defer more costly construction expenses. Approval of a five percent contingency will provide funding for any unanticipated work necessary for the proper construction and/or completion of the project(s).

May 29, 2012

Subject: Authorization to Award Pavement Maintenance Projects

Page 2 of 5

BACKGROUND

2010 STP Resurfacing and Rehabilitation - Citywide Project

On September 28, 2010, City Council approved a resolution to accept Federal STP grant funds in the amount of \$7,987,000 and to commit a local match of 11.47% (\$1,035,000) for the resurfacing of streets within San José. The streets identified to be resurfaced as part of the project are listed in the Attachment. Bids are on a unit cost basis therefore, if there is available funding after receiving bids for the contract, additional streets for resurfacing may be added to the project. The scope of the project includes removal of the top layer of asphalt, fixing any underlying roadway damage, resurfacing the streets, and installing new roadway striping and markings. The anticipated 2012-2013 allocation for Federal Pavement Maintenance is \$7,294,000. While the contract costs associated with this project are \$9,044,622, it is assumed that \$7,044,622 will come out of the Federal Pavement Maintenance appropriation, with the remaining \$2.0 million in costs covered with funds available through State Gas Tax proceeds, as included in the 2012-2013 Capital Budget.

2012 Remove and Replace Asphalt Concrete Pavement Project

The Department of Transportation annually schedules streets to be surface sealed as a preventative maintenance measure to extend their useful life and reduce long-term maintenance costs to the City. The process of surface sealing streets is typically performed in two separate stages. The first stage removes the structurally failed areas of pavement and replaces them with new asphalt concrete. The second stage applies a new surface seal over the entire street. The first stage of sealing work will be performed as part of the 2012 Remove and Replace Asphalt Concrete Pavement Project and will prepare approximately 27 miles of arterial streets throughout the City which are listed in the Attachment. After the first stage of the work is completed, a second project which is scheduled for award in August 2012 will apply the final sealing treatment to these streets.

ANALYSIS

Award of the 2010 STP Resurfacing and Rehabilitation Project must occur in FY 2012-2013 due to the timing and availability of funding. However, for construction to be completed in 2012, it is necessary that the project be awarded in July 2012. Award of the 2012 Remove and Replace Asphalt Concrete Pavement Project also needs to occur in July 2012 so that the sealing application can take place during the warmer summer and early fall months of this year. In order to meet the deadlines described above, staff is recommending that the City Council delegate authority for the Director of Public Works to award the contracts. Delegation would include the authority to make the City's final determination as to the lowest responsive and responsible bidder or to reject all bids and re-bid the project(s). The authority will also allow the Director of Public Works to decide any timely bid protests in accordance with the project specifications and any other applicable requirements. The decision of the Director of Public Works regarding any and all bid protests will be final.

May 29, 2012

Subject: Authorization to Award Pavement Maintenance Projects

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Bid opening for the 2010 STP Resurfacing and Rehabilitation Project and for the 2012 Remove and Replace Asphalt Concrete Pavement Project are set for June 7, 2012. Construction for both projects is scheduled to begin in July 2012 and will be completed before the end of December 2012.

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

EVALUATION AND FOLLOW-UP

The Department of Transportation provides an ongoing evaluation of the City's pavement conditions and will provide future reports on this topic to the Transportation and Environment Committee.

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 will be posted on the City's website for the City Council agenda. To solicit contractors this project will be listed on Bidsync and advertised in the *San José Post Record*.

In addition, when the projects commences, the contractor, as stated in the specifications, will provide advance notification regarding working hours, duration of project, and any appropriate schedule and lane closures to affected businesses and residents. To inform traveling motorists of upcoming construction activities and potential traffic delays, changeable message signs may be used on selected streets stating the schedule dates and time for work to occur on the street.

COORDINATION

This memo has been coordinated with the Department of Public Works, City Attorney's Office, and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

These projects support the Transportation and Aviation Services City Service Area goal to Preserve and Improve Transportation Assets and Facilities.

COST SUMMARY/IMPLICATIONS

1. COST OF PROJECT (2010 STP Resurfacing and Rehabilitation Project) :

Project Delivery/Development	\$904,462
Construction Contract	\$9,044,622
Contingency	\$452,231
TOTAL STP PROJECT COSTS:	\$ 10,401,315

2. COST OF PROJECT (2012 Remove and Replace Asphalt Concrete Pavement) :

Project Delivery/Development	\$200,000
Construction Contract	\$2,000,000
Contingency	\$100,000
TOTAL R&R PROJECT COSTS:	\$ 2,300,000

3. SOURCE OF FUNDING: 465 – Construction Excise Tax

4. FISCAL IMPACT: This project will have no net operating and maintenance costs to the General Fund.

BUDGET REFERENCE

The table below identifies the fund and appropriation proposed to fund the contract recommended as part of this memo, including project delivery, construction, and contingency costs.

Fund #	Appn #	RC #	Appn. Name	Total Appn	Amt. for Contract	2012-2013 Proposed Capital Budget Page	Last Budget Action (Date, Ord. No.)
465	7280	166815	2010 STP Resurfacing and Rehabilitation	\$7,294,000*	\$ 7,044,622	V-682	N/A
465	5216	170860	Gas Tax – Pavement Maintenance	\$9,024,000*	\$ 4,000,000	V-684	N/A
Total Current Funding Available =				\$16,318,000	\$ 11,044,622		

*The 2012-2013 Appropriation totals include recommended rebudgets as included in MBA #46

HONORABLE MAYOR AND CITY COUNCIL

May 29, 2012

Subject: Authorization to Award Pavement Maintenance Projects

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CEQA

Exempt, File No. PP11-035.

/s/

HANS F. LARSEN

Director of Transportation

For questions, please contact Rene Cordero, Division Manager, at (408)794-1986.

Attachment

ATTACHMENT

2010 STP Resurfacing and Rehabilitation Project

CD	STREET NAME	FROM	TO
3	HEDDING ST	13TH ST	GUADALUPE PKWY
9	LOS GATOS ALMADEN RD	ROSSWOOD DR	LEIGH AV
5,8	OCALA AV	130' W/RIDGEMONT DR	CAPITOL EXPWY
8	QUIMBY RD	CAPITOL EXPWY	TULLY RD
10	REDMOND AV	ALMADEN EXPWY	CAMDEN AV
STREETS TO BE INCLUDED BASED ON AVAILABLE FUNDING			
10	SANTA TERESA BL	STEINBECK DR	DUNN AV
5	STORY RD	KING RD	CLAYTON RD

2012 Remove and Replace Asphalt Concrete Project

CD	STREET NAME	FROM	TO
3	1ST ST N	HENSLEY ST	TAYLOR ST
4	1ST ST N	NORTECH PKWY	LIBERTY ST
3	1ST ST S	REED ST	WILLIAMS ST
3	BALBACH ST	ALMADEN BL	MARKET ST
6	CURTNER AV	ALMADEN EX OVP	STONE AV
1	HAMILTON AV	CAMPBELL AV	400' E/BECK DR
6,9	HILLSDALE AV	ALMADEN EXPWY	MERIDIAN AV
4	HOLGER WY	ZANKER RD	HEADQUARTERS DR
3,4,5	KING RD N	BERRYESSA RD	MCKEE RD
3	MARKET ST	SAN CARLOS ST	REED ST W
6	MERIDIAN AV	PATIO DR	CHERRY GROVE DR
2	MONTEREY RD	MENARD DR	METCALF RD
3	MONTGOMERY ST S NB	SAN CARLOS ST W	PARK AV
6	RACE ST	SAN CARLOS ST	PARK AV
3	SAN SALVADOR ST E	S 10TH ST	S 13TH ST
2,7	SENER RD	MONTEREY HWY	HELLYER AV
7	SENER RD	NEEDLES DR	BURKE ST
5,7	STORY RD	MCLAUGHLIN AV	REMILLARD CT
5	WHITE RD S	CUNNINGHAM AV	TULLY RD
3	WOZ WY	ALMADEN BL	SAN CARLOS ST



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Hans F. Larsen

**SUBJECT: MEASURE B VEHICLE
REGISTRATION FEES
AGREEMENT**

DATE: May 29, 2012

Approved

Date

6/4/12

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute a funding agreement with the Santa Clara Valley Transportation Authority (VTA) for the receipt of Measure B Vehicle Registration Fees approved by Santa Clara County voters on November 2, 2010, and collected by the California Department of Motor Vehicles.

OUTCOME

Enable the City to receive payment from VTA's Measure B Vehicle Registration Fee (VRF) Program to fund pavement maintenance projects.

BACKGROUND

In 2009, Senate Bill 83 (Hancock) was signed into law authorizing countywide transportation agencies such as VTA to implement a Vehicle Registration Fee (VRF) of up to \$10 on motor vehicles registered within the county for transportation programs and projects. The statute requires that the fees collected be used only to pay for programs and projects that have a relationship or benefit to the owners of motor vehicles paying the fee and that are consistent with the Regional Transportation Plan (RTP).

On October 7, 2010, the VTA Board of Directors adopted administrative procedures related to the transportation programs and projects to be funded by the VRF and included the adopted programs and projects in the Expenditure Plan for the measure. On November 2, 2010, Santa Clara County voters approved Measure B by majority vote and the California Department of Motor Vehicles began collecting the fee in April 2011. The initial distribution of VRF revenues from VTA to the fifteen cities and the County of Santa Clara is expected to occur in July 2012. Based on the procedures adopted by the VTA Board, 80% of the VRF funds will be distributed

May 29, 2012

Subject: Measure B Vehicle Registration Fees Agreement

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based on each jurisdiction's population and these funds are to be dedicated to the Local Road Improvement and Repair program. The current VRF revenue estimate for the Local Road Improvement and Repair program is approximately \$10,300,000. The City of San José will be eligible for an allocation of roughly \$4,900,000 based upon its population share. 15 percent of the revenue from the VRF will be made available for a competitive Countywide Program that is currently estimated at \$2,100,000. Up to 5% of the VRF revenue is reserved for Program Administration with unused funds disbursed through the Countywide Program.

The Attachment provides the projected distribution of the Local Road Improvement and Repair program funds based upon the approved Expenditure Plan methodology and the latest revenue estimates. VTA staff will review and update these revenue estimates and distributions each July using actual revenue amounts, the latest population data from the State Department of Finance, and road data from the Metropolitan Transportation Commission (MTC).

ANALYSIS

The proposed Funding Agreement will govern the transfer of Local Road Improvement and Repair Program funds from VTA to the City. The agreement would be in effect so long as VTA continues to make disbursement of funds to the member cities and county as approved by the voters of Santa Clara County. Below is a summary of the key points:

- The proposed agreement reflects the requirement that each member agency must certify that it will make a good faith effort to maintain a level of expenditures on VRF eligible activities equivalent to the expenditures on these activities during the FY 2011 year. This means that the VRF funds will be used to supplement the 2011 (base year) and not replace funds that had been previously committed to similar improvements. The base year may be revised every five years, if needed, and will exclude VRF revenues in the calculation.
- The funding agreement also discusses the required annual report of expenditures of Local Road Improvement and Repair Program funds. Each report will cover 12 months consisting of the previous State fiscal year. Reports must be submitted to VTA by October 15 of each year as a condition of receiving the funds. VTA staff will distribute report forms to all member agencies after the funding agreement has been executed. The City is required to use the funds for only eligible projects approved by Measure B and all interests earned on the funds must be used on the eligible projects.

VTA will issue the initial Local Road Improvement and Repair program fund disbursement, consisting of funds received by VTA from the California Department of Motor Vehicles which will include revenues through June 30, 2012. VRF funds will be distributed following receipt of each agency's signed funding agreement and initial report and the initial funds are expected to be available July of this year.

May 29, 2012

Subject: Measure B Vehicle Registration Fees Agreement

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These funds may be used for pavement rehabilitation and reconstruction, traffic control signals, curb and gutter rehabilitation and reconstruction, roadway related facilities to improve safety, automobile related environmental mitigation including roadway sweeping and litter control. As previously discussed with the City Council, the City currently has significant unfunded needs in pavement maintenance; therefore, as part of the Proposed 2013-2107 Capital Improvement Program, staff is recommending to use all of the VRF funding for pavement maintenance purposes.

EVALUATION AND FOLLOW-UP

Staff will follow up with the City Council with reports and recommended budget actions on the future use of Measure B VRF funding.

PUBLIC OUTREACH/INTEREST

- ✓ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

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

COORDINATION

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

FISCAL/POLICY ALIGNMENT

The recommended action aligns with the Transportation and Aviation Services CSA Outcome related to preserving and improving transportation assets and facilities.

HONORABLE MAYOR AND CITY COUNCIL
May 29, 2012
Subject: Measure B Vehicle Registration Fees Agreement
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COST SUMMARY/IMPLICATIONS

The recommendations in this memo would initiate the process required for the VTA to provide funds to the City of San José in an amount of approximately \$4,900,000 annually.

CEQA

Not a Project, File No. PP10-066.

/s/
HANS F. LARSEN
Director of Transportation

For questions, please contact Ben Tripousis, Manager of Regional Transportation Planning and Policy at (408) 975-3717.

Attachment

Vehicle Registration Fee: Local Road Improvement and Repair Program

\$12,910,000	VRF receipts from DMV for 2012
\$1,936,500	Revenue for countywide program. (15%)
\$645,500	Revenue for program administration (5%)
\$10,328,000	Revenue for local road and repair program (80%)
\$1,549,200	Local road and repair program-Santa Clara County amount
\$8,778,800	Local road and repair program-amount for cities

Agency	Population	Pop % without county	City Guarantee Amount
Total County	1,797,375		
Campbell	39,664	2.32%	\$203,428
Cupertino	58,747	3.43%	\$301,300
Gilroy	49,391	2.89%	\$253,315
Los Altos	29,176	1.70%	\$149,637
Los Altos Hills	7,980	0.47%	\$40,928
Los Gatos	29,651	1.73%	\$152,073
Milpitas	67,476	3.94%	\$346,069
Monte Sereno	3,364	0.20%	\$17,253
Morgan Hill	38,309	2.24%	\$196,478
Mountain View	74,723	4.37%	\$383,237
Palo Alto	64,943	3.79%	\$333,078
San Jose	958,789	56.01%	\$4,917,412
Santa Clara	118,169	6.90%	\$606,062
Saratoga	30,195	1.76%	\$154,863
Sunnyvale	141,099	8.24%	\$723,665
Unincorporated County	85,699	0.00%	see above
Total Without County	1,711,676	100.00%	\$8,778,800

Totals may not equal sum due to independent rounding.

Source: California Department of Finance, Report E-1: City/County Population Estimates with Annual Percent Change (1/1/2011 data)



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow
Jennifer A. Maguire

**SUBJECT: SOUTH BAY WATER RECYCLING
STRATEGIC/MASTER PLAN**

DATE: May 29, 2012

Approved

Date

6/5/12

RECOMMENDATION

1. Adopt a resolution authorizing the City Manager to execute a cost sharing agreement between the City of San José and the Santa Clara Valley Water District to share the cost of developing a strategic master plan for the South Bay Water Recycling Program, estimated to cost up to \$2,400,000 with each party to contribute up to \$1,200,000; and to share in reimbursements from the United States Department of Interior Bureau of Reclamation Grant of up to \$1,200,000 for costs associated with developing the plan.
2. Adopt the following 2011-2012 Appropriation Ordinance and Funding Source Resolution amendments in the San José/Santa Clara Treatment Plant Capital Fund:
 - a. Increase the Estimate for Earned Revenue by \$1.2 million;
 - b. Increase the SBWR Master Plan appropriation by \$132,000; and
 - c. Increase the Ending Fund Balance by \$1,068,000.

OUTCOME

An arrangement with the Santa Clara Valley Water District (District) is beneficial to the City by enabling the City to develop a comprehensive strategic master plan for the South Bay Water Recycling Program that addresses both wastewater and water supply needs by sharing in the planning costs and subsequent reimbursements from the Bureau of Reclamation Grant.

BACKGROUND

The City's Environmental Services Department operates SBWR to divert wastewater from the San José/Santa Clara Water Pollution Control Plant (Plant), and deliver wholesale recycled water to retailers in Milpitas, San Jose and Santa Clara. SBWR began operations in 1995 as a wastewater diversion program to meet the Plant's National Pollutant Elimination Discharge System (NPDES) permit, and has supported maintaining plant flows below the 120 million gallons per day (mgd) flow trigger.

In April 2012, the Recycled Water Policy Advisory Committee, a joint committee composed of City Council and District Board members, supported City and District staff's recommendation to approve a cost sharing agreement to implement the SBWR strategic/master planning process.

City and District staffs recommend that the cost of SBWR's strategic and master planning efforts be shared equally, with the San José/Santa Clara Treatment Plant Capital Fund and the District each contributing up to \$1,200,000, for a total project cost of \$2,400,000, and share in the reimbursements from Bureau of Reclamation Feasibility Study Grant for costs associated with developing the plan.

ANALYSIS

The Plant's flows are approximately 25 mgd below the flow trigger based on current use of the wastewater system. Given this buffer, City staff recognized an opportunity to conduct a comprehensive planning effort to identify and prioritize the short and long-term improvements necessary to maintain, improve, and potentially expand the SBWR system to meet regulatory and financial commitments into the future. The outcome of this planning effort will provide Council and the District an opportunity to consider the optimum approaches toward operating and maintaining current and future SBWR assets; and improving distribution system reliability and water quality, as well as fiscal considerations of the SBWR system.

The agreement for funding the Feasibility Study between the City and the District provides that the District will transfer a \$1,200,000 contribution to the San José/Santa Clara Treatment Plant Capital Fund to share in the cost of the study. These funds will be held separately in a special account until funds are expended for service orders related to the strategic and master planning tasks. The District will earn interest on the funds that are not expended during the course of this agreement. Furthermore, the funds that are not expended plus the interest earned on those funds will be returned to the District either due to termination or expiration of this agreement.

The City or the District has the right to terminate the agreement without cause at any time. If the District terminates their participation in this agreement, the City will complete a reduced scope of work focused on operating and maintaining the existing infrastructure and meeting the specific water recycling requirements of the Plant's NPDES permit with funds from the San José/Santa Clara Treatment Plant Capital Fund, which come from San José, Santa Clara and Plant Tributary Agencies.

The procurement process to select technical consultants to support SBWR's strategic planning effort is now underway and is expected to be completed in August 2012, with the consultant selection process being a collaborative effort with the Plant Tributary Agencies and the District. The overall strategic/master planning process will be concluded by late 2013.

In September 2011, the City of San José was awarded a grant from the United States Bureau of Reclamation to develop a Feasibility Study for the Improvement and Expansion of SBWR Facilities. The grant would provide for 50% reimbursement to the City for master planning activity costs up to \$2,400,000. As part of the agreement with the District, the City would pass a proportional share of the grant to the District, up to a maximum of \$600,000, to offset 50% of the District's contributions.

EVALUATION AND FOLLOW-UP

Staff will present an update on the SBWR Master Planning process to the Transportation and Environment Committee in January 2013. Staff is expecting to bring a recommended Master Plan consultant selection to Council in August 2012.

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 recommendation meets Criteria 1 above. This item will be heard at the June 14, 2012 Treatment Plant Advisory Committee (TPAC) meeting, and will be posted on the City's website for the June 19, 2012 City Council meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office. This item is scheduled to be heard at the June 14, 2012 TPAC meeting.

COST SUMMARY/IMPLICATIONS

The cost for this strategic and master planning project is up to \$2,400,000. The City of San José and the Santa Clara Valley Water District will share the cost of the project, with the District contributing up to \$1,200,000, or half of the project cost. While it is expected that 50% of the total Master Planning costs will be reimbursed by the District under this agreement, the District and the City have the right to terminate the agreement without cause at any time. In the event that this agreement is terminated, the City will return any unspent funds as well as interest earned on those funds to the District.

Of the total \$2,400,000 needed for the strategic and master planning project, \$2,268,000 is available in 2011-2012 in the SBWR Master Plan appropriation in the San José/Santa Clara Treatment Plant Capital Fund. The appropriation action recommended in this memorandum augments this appropriation by \$132,000 using the funding provided by the District, bringing the total funding available to \$2.4 million. Additionally, the appropriation actions in this

05-29-12

Subject: South Bay Water Recycling Strategic/ Master Plan

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memorandum reimburse the San José/Santa Clara Treatment Plant Capital Fund by the District for \$1,068,000 that was provided up front by the Fund toward the master planning project.

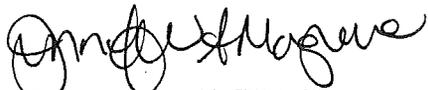
An action was included for City Council consideration to rebudget the funding in the SBWR Master Plan appropriation, and the related revenue recognized in this memorandum, as part of the Manager's Budget Addendum #46, Recommended Adjustments to the 2012-2013 Proposed Operating and Capital Budgets that will be considered by the City Council as part of the 2012-2013 Mayor's June Budget Message on June 12, 2012.

Grant funding through the US Bureau of Reclamation approved through Council Resolution No. 79587 will reimburse the City of San José up to \$1,200,000 or 50% of allowable project costs up to \$2,400,000. Through this cost sharing agreement, the City will transfer up to 50% of approved federal reimbursements of the District's share to the District. Of this U.S. Bureau of Reclamation grant funding, \$268,000 was recognized in 2011-2012, of which \$220,000 was recommended for rebudget as part of the Manager's Budget Addendum #46, Recommended Adjustments to the 2012-2013 Proposed Operating and Capital Budgets that will be considered by the City Council as part of the 2012-2013 Mayor's June Budget Message on June 12, 2012; \$446,000 is being recognized for 2012-2013 as part of the Proposed Capital Budget; and another \$446,000 is expected to be reimbursed in 2013-2014, and is included in the U.S. Bureau of Reclamation Grant total in the 2013-2017 Proposed CIP. The balance of \$40,000 is expected to be retained by the U.S. Bureau of Reclamation for administrative expenses.

In the event that the project costs less than the anticipated \$2.4 million including assumed reimbursements from the grant, the District's share of any unspent funding will be returned to the District.

CEQA

Not a Project, File No. PP 10-069(a), Staff Reports.

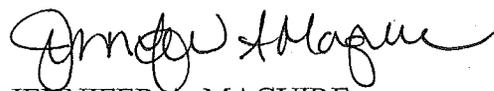


JENNIFER MAGUIRE
Budget Director

/s/

KERRIE ROMANOW
Acting Director, Environmental Services

I hereby certify that there will be available for appropriation in the San José/Santa Clara Treatment Plant Capital Fund in the Fiscal Year 2011-2012 monies in excess of those heretofore appropriated therefrom, said excess being at least \$1,200,000.



JENNIFER A. MAGUIRE
Director, Budget Office

For questions please contact David Tucker, SBWR Program Manager at (408) 795-1865.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes

SUBJECT: SEE BELOW

DATE: May 29, 2012

Approved

Date

6/4/12

**SUBJECT: 1750 - MONTEREY-RIVERSIDE SANITARY SEWER
REHABILITATION PHASE V PROJECT**

RECOMMENDATION

Report on bids and award of contract for the 1750 - Monterey-Riverside Sanitary Sewer Rehabilitation Phase V Project to the low bidder, SAK Construction of CA, LP, in the amount of \$2,455,670 and approval of a contingency in the amount of \$246,000.

OUTCOME

Award of this construction contract will rehabilitate and extend the service life of approximately 12,000 feet of 24 to 27 inch diameter sanitary sewer pipes which were constructed in the 1960's and are now exhibiting signs of deterioration. Approval of a ten percent contingency will provide funding for any unanticipated work necessary for the proper completion of the project. This project supports the Environmental and Utility Services City Service Area outcome of obtaining "reliable utility infrastructure."

BACKGROUND

The Monterey-Riverside Sanitary Sewer Rehabilitation Phase V Project is located on Santa Teresa Boulevard between Bayliss Drive and Encinal Drive (south of Cottle Road). Video inspection taken inside the existing sewer pipes indicate signs of corrosion and root intrusion. In order to maintain the structural integrity of the sewer pipes, the proposed project will rehabilitate approximately 12,000 feet of 24-inch and 27-inch diameter reinforced concrete sanitary sewer pipe (RCP) with a Cured-in-Place Pipe (CIPP) Liner. This trenchless rehabilitation method will decelerate corrosion in the pipe, inhibit root intrusion, minimize the reduction in diameter and maintain adequate capacity in the sewer. It is a cost effective way to extend the life of the aging infrastructure.

May 29, 2012

Subject: 1750 - Monterey-Riverside Sanitary Sewer Rehabilitation Phase V Project

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Construction is scheduled to begin in September of 2012 with completion in June 2013.

ANALYSIS

Bids were opened on May 10, 2012, with the following results:

Contractor	Bid Amount	Variance Amount	Over/(Under) Percent
Michels Corporation DBA Michels Pipeline Construction (Salem, OR)	\$2,926,626	\$264,626	10
Insituform Technologies, Inc. (Chesterfield, MO)	\$2,774,914	\$112,914	4
Engineer's Estimate	\$2,662,000	---	---
SAK Construction of CA, LP (O'Fallon, MO)	\$2,455,670	(\$206,330)	(8)

Submitted bids varied from eight percent under the Engineer's Estimate to 10 percent over the Engineer's Estimate. All three bids were within a very competitive range. The low bid submitted by SAK Construction of CA, LP is eight percent under the Engineer's Estimate. Staff considers this reasonable for the work involved.

Council Policy provides for a standard contingency of 10 percent on public works projects involving utilities. The standard contingency is appropriate for this project.

EVALUATION AND FOLLOW-UP

This project is currently within budget and on schedule to be completed in June 2013. No additional follow-up actions are 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)**

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Subject: 1750 - Monterey-Riverside Sanitary Sewer Rehabilitation Phase V Project

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- 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 project meets criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. It has been listed on *BidSync* and has been advertised in the *San José Post Record*. Bid packages for all Department of Public Works construction projects are routinely provided to a standard list of various contractor organizations and builders' exchanges. This memo will be posted online to the June 19, 2012 Council agenda.

COORDINATION

This project and memorandum have been coordinated with the Departments of Planning, Building and Code Enforcement, Transportation, Finance, the City Attorney's Office and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-Approved Budget Strategy Economic Recovery Section in that it will spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT: \$2,455,670

Project Delivery	\$700,000 *
Construction	2,455,670
Contingency	<u>246,000</u>

TOTAL PROJECT COSTS **\$3,401,670**

Prior Year Expenditures 255,000

REMAINING PROJECT COSTS **\$3,146,670**

- * Project delivery includes \$260,000 for Planning and Design Services, \$150,000 for Construction Management, \$200,000 for Inspection Services, and \$90,000 for Laboratory Services, Project Management and support close-out phases.

2. COST ELEMENTS OF CONSTRUCTION CONTRACT:

3. SOURCE OF FUNDING: 545 – Sewer Service and Use Charge Capital Improvement Fund.

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Subject: 1750 - Monterey-Riverside Sanitary Sewer Rehabilitation Phase V Project

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

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amt. For Contract	2012-2013 Proposed Capital Budget (Page)	Last Budget Action (Date, Ord. No.)
Remaining Project Costs				\$3,146,670			
Current Funding Available							
545	7360	Monterey-Riverside SS PH V	168095	*\$3,337,000	\$2,455,670	V-74	N/A
Total Current Funding Available				\$3,337,000	\$2,455,670		

*The 2012-2013 Proposed Capital Improvement Program is scheduled to be considered on June 19, 2012.

CEQA

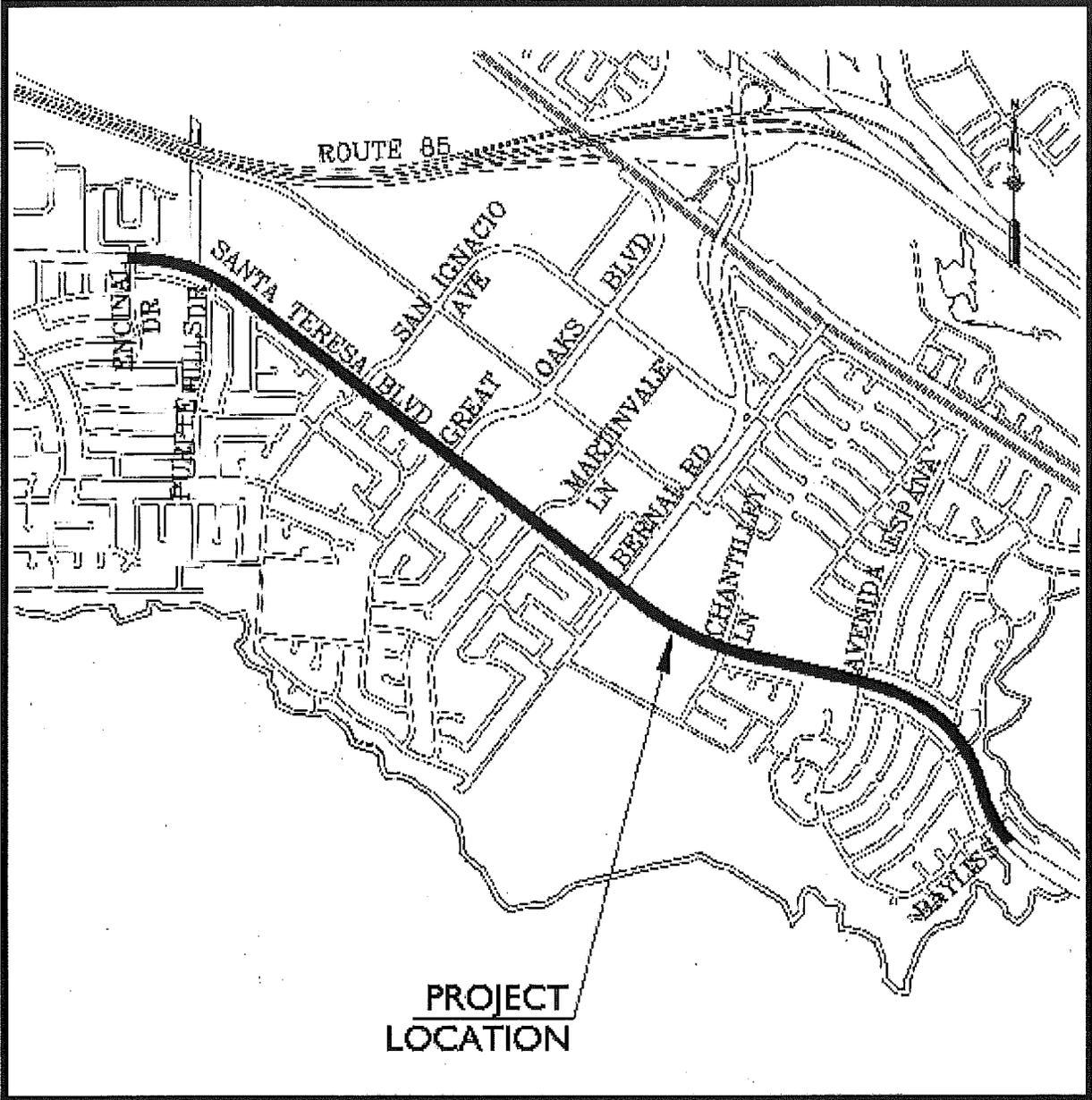
CEQA: Exempt, File No. PP12-045, dated April 5, 2012.

/s/
DAVID SYKES
Director of Public Works

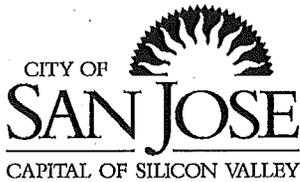
For questions please contact Michael O'Connell, Deputy Director, at (408) 535-8300.

Attachment
Proj.ID:#1750

MONTEREY-RIVERSIDE SANITARY SEWER REHABILITATION PHASE V



Location Map
Not to Scale



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: APPROVAL TO PURCHASE FOUR
TRACTOR DRAWN AERIAL LADDER
TRUCKS

DATE: May 29, 2012

Approved

Alex Guerra

Date

6-5-12

RECOMMENDATION

Adopt a resolution authorizing the City Manager to determine the lowest responsive and responsible bidder and award the purchase of four Tractor Drawn Aerial Ladder Trucks subject to the following conditions:

1. All necessary funds are appropriated and available to be encumbered.
2. All protests (if any) are final and no bidders have filed an appeal to Council within the required time period.

OUTCOME

This action will allow the Purchase Order to be placed during the City Council recess period and ensure timely delivery of the vehicles to meet the operational needs of the Fire Department.

BACKGROUND

The Fire Department is in critical need of four new aerial ladder trucks. Three of the units will replace existing apparatus and one unit is an additional truck for the fleet. In order not to increase the replacement costs and maintenance and operating costs associated with the Fire Department's emergency fleet, one engine and one Hazardous Incident Team (HIT) vehicle were removed from the fleet to add the truck. The cost to repair these vehicles exceeded the total value of the vehicles, and the Fire Department determined that a truck would be more useful to the service delivery needs of the Department.

May 29, 2012

Subject: Aerial Ladder Truck Purchase

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As a result of reductions in the Fire companies over the last few years, utilization of each ladder truck has significantly increased. Currently the Fire Department has two stations staffed only with a ladder truck. Two additional stations are designated brown out stations. On days when the engine company in these stations is browned out, the ladder truck becomes the only response vehicle.

In early 2012, one of the ladder trucks identified for replacement sustained a significant mechanical failure. The Public Works Department and the Fire Department determined that the cost to repair this apparatus exceeded the total value of the apparatus. The other two replacements are for apparatus reaching the end of their useful service life.

In addition, in May 2012, the Fire Department implemented a department wide single piece ladder truck company model as a component of the Squad pilot program. This response model removed the second apparatus from each two piece truck company. As such, the primary apparatus used by the truck company needs to be able to carry all of the tools and equipment that were originally carried by two apparatus. The result of this model change was that the Fire Department only now has one relief aerial ladder truck that is able to meet this equipment carrying need.

The addition of these new ladder trucks will allow other apparatus to be reassigned to better meet the demands of the overall fleet.

ANALYSIS

On April 20, 2012, the City issued a Request for Bid (RFB) 11-12-40 for four Tractor Drawn Aerial Ladder Fire Trucks pursuant to the City's procurement policies. The bid process requires that the recommendation of award is to the lowest responsive bidder that meets all bid specifications.

A mandatory pre-bid conference was held on May 9, 2012, and representative of the four major manufacturing companies were in attendance.

The Bid is currently scheduled to close on June 6, 2012, with a ten day protest period that starts once the recommendation of award is published.

The bid timeline is aggressive and there is a strong likelihood the bid close date will be extended. If this occurs, the ten day protest period will not be complete before the City Council meeting on June 19, 2012. In order to expedite the contract award, staff is requesting approval from the City Council to award the bid to the lowest bidder in accordance with the City's purchasing rules, and subject to the conditions listed above.

The estimated cost for one truck is \$1,100,000.

EVALUATION/FOLLOW-UP

No further Council follow-up is anticipated. However, in the event that there is a protest and subsequent appeal to the City Council, the appeal will be heard by the City Council as early in August as possible.

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 will be posted on the City's website for the June 19, 2012 City Council agenda.

COORDINATION

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

FISCAL/POLICY ALIGNMENT

This project is consistent with the following General Budget Principles "We must focus on protecting our vital core city services for both the short- and long-term" and, "We must continue to streamline, innovate, and simplify our operations so that we can deliver services at a higher quality level, with better flexibility, at a lower cost."

May 29, 2012

Subject: Aerial Ladder Truck Purchase

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COST SUMMARY/IMPLICATIONS

These vehicles will be partially funded by the Community Development Block Grant Fund (\$1,100,000 approved by City Council on May 4, 2010 and an additional \$550,000 approved on February 28, 2012). The remaining balance (\$2,750,000) will be funded by the General Fund Capital Improvement Fire Apparatus Replacement appropriation.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	Total Appn.	2011-2012 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
001	6363	Fire Apparatus Replacement	\$5,073,973	V - 614	10/18/2011 Ord. No. 28979
441	3829	Fire Engines	\$1,650,000	XI - 16	06/21/2011 Ord. No. 28928

CEQA

Not a Project, File No. PP10-066(a) Agreements and Contracts.

/s/

JULIA H. COOPER
Acting Director of Finance

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



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL AND CITY
OF SAN JOSE FINANCING
AUTHORITY BOARD

FROM: Julia H. Cooper
David Sykes

SUBJECT: SEE BELOW

DATE: June 1, 2012

Approved

Date

6/5/12

**SUBJECT: ISSUANCE OF CITY OF SAN JOSE FINANCING AUTHORITY
COMMERCIAL PAPER PROGRAM FOR CONVENTION CENTER
IMPROVEMENTS**

RECOMMENDATION

a. It is recommended that City Council take the following actions:

1. Conduct a public hearing concerning the approval of the issuance by the City of San José Financing Authority of commercial paper notes in order to finance certain public capital improvements of the City, consisting of additional projects related to the expansion and renovation of the San José McEnery Convention Center (the "Convention Center").
2. Adopt a resolution to approve the issuance of commercial paper notes pursuant to the previously established commercial paper program designated as "City of San José Financing Authority Lease Revenue Commercial Paper Notes" to provide financing for additional projects related to the Convention Center Expansion and Renovation Project in an amount not to exceed \$10 million and to state the City Council's determination that there will be significant public benefits accruing from such financing.

b. It is recommended that the City of San José Financing Authority Board:

1. Adopt a resolution to approve the issuance of City of San José Financing Authority Commercial Paper Notes to provide financing for the additional projects related to the Convention Center Expansion and Renovation Project in an amount not to exceed \$10 million.

OUTCOME

Approval of these recommendations will allow the issuance of commercial paper notes to fund the financing requirements of additional projects related to the Convention Center Expansion and Renovation Project (the "Project").

BACKGROUND

Commercial Paper Program

The Commercial Paper ("CP") Program utilizes a lease revenue financing structure. Under this program, the City of San José Financing Authority (the "Authority") is able to issue commercial paper notes ("CP Notes") at prevailing interest rates for periods of maturity not to exceed 270 days. Although the maturity of a CP Note may not exceed 270 days, the Authority may issue additional CP Notes to pay off the maturing notes instead of repaying the principal and interest owed on the maturing CP Notes.

The CP Notes are secured by a direct-pay letter of credit ("LOC") provided by State Street Bank and Trust Company ("State Street") and the California State Teachers' Retirement System ("CalSTRS") (together, the "Banks") and are additionally secured by a pledge of lease revenues from various City assets. The current LOC expires on January 27, 2013. On May 30, 2012, CalSTRS indicated to the City that it does not intend to renew the LOC on the CP Program after January 2013. Finance Department staff is examining its various options to find a replacement LOC or reduce the size of the CP Program.

The City has leased to the Authority various City-owned facilities pursuant to a Site Lease (as amended, the "Site Lease"). The Authority subleased these same facilities back to the City pursuant to a Sublease (as amended, the "Sublease") in exchange for the rental payments which support repayment of the CP Notes. The facilities subject to the Site Lease and Sublease are the Tech Museum, the Animal Care Center, Fire Station No. 1, and the South San José Police Substation.

The Authority issues the CP Notes under the Marks-Roos Local Bond Pooling Act of 1985 pursuant to an Amended and Restated Trust Agreement between the Authority and Wells Fargo Bank, National Association (as amended and supplemented, the "Trust Agreement") and an Amended and Restated Issuing and Paying Agent Agreement between the Authority and Wells Fargo Bank, National Association. Barclays Capital, Inc. serves as the dealer for the CP Notes pursuant to an Amended and Restated Commercial Paper Dealer Agreement. As noted above, the CP Notes are backed by an LOC issued by the Banks, pursuant to the Letter of Credit and Reimbursement Agreement among the Banks, the City and the Authority (as amended, the "Letter of Credit Agreement"). Per the terms of the Letter of Credit Agreement, the Banks are separately, not jointly, responsible for payments on all draws made on the LOC, with State Street Bank obligated for 75% and CalSTRS obligated for 25% of all payments.

The CP Program was initially established in January 2004 and has been amended and expanded through various City Council and Authority Board actions over time. A summary of these program amendments is provided in Attachment A.

Convention Center Expansion and Renovation Project

In 2009, the City established its Convention Center Facilities District No. 2008-1 (the "CCFD") to generate a source of funding for the Project. The CCFD was created pursuant to the San José Municipal Code, which incorporates State law regarding community facilities districts. Qualified electors in the CCFD (generally, hotel owners throughout the City) approved the establishment of the special tax and the issuance of bonds for the Project by a 78% affirmative vote (based on one vote per hotel room). Since July 1, 2009, the City has levied a special tax on hotel properties within the CCFD calculated as a percentage of taxable hotel revenues collected by such hotels. The CCFD special tax is levied annually and collected monthly through the same process as used for general City transient occupancy tax collections.

On December 14, 2010, City Council authorized the City Manager to negotiate and execute a contract with Hunt Construction for the Project in an amount not to exceed \$117 million, and established a City-controlled contingency in the amount of \$3 million, subject to the completion of the related bond financing and appropriation actions. Refer to Manager's Budget Addendum #40 regarding the San José McEnery Convention Center Expansion and Renovation Project Update dated May 17, 2012 (MBA #40) for more information on the Project.

On April 12, 2011, the City of San José issued \$107.4 million of special hotel tax bonds and the Authority issued \$31.0 million in lease revenue bonds for a total of \$138.4 million to finance the costs of the Project.

ANALYSIS

As described in MBA #40, staff has identified \$10 million in additional projects to be funded at the Convention Center as part of the Project beyond those identified as part of the \$120 million contract with Hunt Construction. To provide financing to enable construction of the additional projects, staff recommends that the City Council and the Authority Board authorize the issuance of CP Notes in an amount not to exceed \$10 million. It is projected that the CP Notes, if authorized, would be repaid over a period not to exceed seven (7) years.

Source of Repayment

The City would repay any CP Notes issued for these purposes, including interest and all associated fees, from the revenues from the Convention and Cultural Affairs Fund (Fund 536). In the event revenues are insufficient, repayment of the CP Notes could be made first from the CCFD special tax revenues, if available, and then from any legally available funds of the City.

The Convention and Cultural Affairs Fund accounts for the costs of managing the Convention Center and other various convention/cultural facilities. In March 2011, the City Council established a goal for the Convention and Cultural Affairs Fund of having at least \$1.5 million in fund balance at the end of the Convention Center Expansion and Renovation Project. Based on most recent projections developed by City Administration and Team San José (“TSJ”), as reviewed by CSL, the City’s industry advisor, the Convention and Cultural Affairs Fund has capacity to support this repayment and meet the minimum fund balance goal of \$1.5 million. The issuance of commercial paper, and resulting debt payments, for the additional projects was assumed in the development of the 2012-2013 Proposed Operating Budget, as included in the Source and Use of Funds Statement for the Convention and Cultural Affairs Fund.

Authorization to Issue Commercial Paper Notes

It is necessary that Council conduct a public hearing, as required by State law, in order to authorize the issuance of CP Notes. No later than 5 days before the public hearing to be held by the City Council on June 19, 2012, a notice advertising the hearing will be published in the *San Jose Mercury News*.

The public hearing will allow the City Council and Authority Board to hear and consider information concerning the approval of the financing by the Authority and the City for the issuance of CP Notes, the additional projects related to the Convention Center Expansion and Renovation Project, and the significant public benefit of such financing with the Authority as issuer. Under State law “significant public benefit” includes lower costs of financing. Establishing the financing with the Authority as the issuer, rather than the City as the issuer, makes the financing less complicated (because the Authority can issue CP Notes whereas the City would have to issue CP Certificates of Participation) and, accordingly, less costly. Additionally, as no amendments to any of the documents that established the CP Program are necessary, the Authority’s issuance of CP Notes to finance the Project is less costly than any other form of financing available to the City.

Utilization of the CP Program

At the time of the City Council/Authority Board’s initial approval of the expanded CP Program in November 2005, the Authority was authorized to have up to \$116.0 million in CP Notes outstanding at any time. It was also contemplated that the City Council could at a future date authorize the issuance of CP Notes to provide funding for additional projects.

The amount of CP Notes currently outstanding is \$46.7 million of the total program capacity of \$116.0 million. On a by-project basis, the outstanding amounts of CP Notes are as follows: \$23.5 million for the Central Service Yard Phase II Project, \$3.6 million for the CUBS Project, \$5.5 million for the HP Pavilion Project and \$14.1 million for the Housing Loan. Each project has additional authorization for issuance above the outstanding amount.

June 1, 2012

Subject: **Actions related to the CP Program**

Page 5

The unused program capacity of \$48.5 million is available for funding additional projects including, but not limited to, those related to the additional projects for the Convention Center Expansion and Renovation Project. This issuance may limit the City and the Authority's ability to fund other capital projects in the future. Examples of potential capital projects that may be considered by Council in the future for use of the CP Program include, but are not limited to, the LED streetlights project, various energy improvements and solar energy projects, technology acquisition and improvements, and other potential capital equipment acquisitions. It should be noted that these projects are provided as examples only and do not represent staff recommendations. None of these projects have been analyzed internally for project feasibility and none have been discussed with Council for further guidance.

Risks associated with the CP Program

The CP Program is subject to the following risks:

- LOC Renewal Risk - Should the Banks decide not to renew the LOC at the end of the current three-year term in January 2013 and no replacement banks are identified, the CP Notes outstanding will need to be repaid in full. The General Fund is ultimately responsible for the repayment of outstanding notes. LOC fees are subject to change at future renewal dates based on market conditions.
- Interest Rate Risk – interest rate for CP Notes may increase significantly depending on the overall financial market conditions.
- Downgrade Risk – the Banks' credit ratings may be downgraded in the future due to changes in the market's perception of the financial health of the Banks. To the extent a downgrade occurs, the CP Notes may become unmarketable.
- Marketability Risk – If there is a lack of market demand for CP Notes, the notes may be tendered back to the Authority and the Authority may not be able to find buyers for these notes.
- The LOC is backed by certain real properties pledged as leased assets by the City and Authority with a total replacement value of approximately \$125 million. If any of the underlying leased assets as described above are no longer available, replacement assets would need to be identified or the CP Program capacity may adversely be impacted. Replacement assets require approval by LOC providers.

EVALUATION AND FOLLOW-UP

This memorandum presents the set of recommendations related to the City Council and the Authority Board's approval of various actions related to the City of San José Financing Authority Lease Revenue Commercial Paper Program and requires no additional evaluation or follow-up to the City Council or the Authority Board.

PUBLIC OUTREACH/INTEREST

The City Council will hold a public hearing on June 19, 2012, as required by Section 6586.5 of the Government Code of the State of California, to consider information concerning the approval of issuance of the CP Notes. The Notice of Public Hearing to be held in conjunction with the approval of the issuance of the CP Notes will be published in the *San José Mercury News* no later than 5 days before the June 19th hearing announcing the time and location of the public hearing.

The proposed resolutions of the City Council and the Financing Authority Board will be posted to the agenda webpage for the joint meeting of the City and the Authority on or about June 8, 2012.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This report was prepared by the Finance Department in coordination with the Department of Public Works, Office of Economic Development, and the City Attorney's Office.

COST SUMMARY/IMPLICATIONS

The CP Notes issued for the identified purposes, including all associated fees and interest, will be repaid (in priority order) from revenues of Fund 536, CCFD Special Tax revenues as available, and then from any legally available funds of the City.

June 1, 2012

Subject: **Actions related to the CP Program**

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CEQA

Resolution No. 72767 and Addenda thereto. File No. PP08-002.

/s/
JULIA H. COOPER
Acting Director of Finance

/s/
DAVID SYKES
Director of Public Works

For questions, please contact Julia H. Cooper, Acting Director of Finance, at (408) 535-7011

Attachment A

Date	City Council/City of San José Financing Authority Board Actions
January 13, 2004	Authorized the issuance of tax-exempt lease revenue commercial paper notes in an amount not to exceed \$98 million to finance public improvements of the City including the offsite parking garage for the new City Hall and non-construction costs for technology, furniture, equipment, and relocation services for the new City Hall.
November 9, 2004	Authorized use of the commercial paper program to finance the acquisition of the City's consolidated utility billing system ("CUBS").
June 21, 2005	Authorized the issuance of taxable lease revenue commercial paper notes, under the same \$98 million not to exceed limitation as the tax-exempt notes. This subsequent authorization permits the Authority to issue taxable commercial paper notes to pay for expenses otherwise authorized under the commercial paper program, but ineligible to be paid from tax-exempt commercial paper proceeds.
November 15, 2005	Authorized expanding the capacity of the lease revenue commercial paper program from \$98 million to \$116 million and authorizing the issuance of commercial paper notes to pay a portion of the costs of the Phase II improvements at the City's Central Service Yard and a portion of the demolition and clean-up costs at the City's Main Service Yard.
May 22, 2007	Authorized the issuance of lease revenue commercial paper notes to pay for capital improvements at the City's HP Pavilion.
October 21, 2008	Authorized the issuance of lease revenue commercial paper notes to refund bonds and other obligations of the City or the Authority pursuant to Government Code Sections 53570 et seq and 53580 et seq.
December 8, 2009	Authorized staff to amend and renew the letter of credit agreement supporting the lease revenue commercial paper notes. The current Letter of Credit Agreement between the Authority and the Banks expires on January 27, 2013.
April 20, 2010	Authorized the issuance of lease revenue commercial paper notes to fund a loan to low and moderate income housing fund and to fund short-term cash flow needs of the City.
March 15, 2011	Authorized the execution and delivery of a Third Amendment to the Site Lease, a Third Amendment to the Sublease, and other related actions pertaining to the Authority's Lease Revenue Commercial Paper Program in order to provide for the substitution of certain components of the property under the Site Lease and the Sublease. The facilities currently subject to the Site Lease and Sublease are: the Tech Museum, the Animal Care Center, Fire Station No. 1, and the South San José Police Substation.