

# Memorandum

**TO:** Honorable Mayor &  
City Council Members

**FROM:** Dennis Hawkins, CMC  
City Clerk

**SUBJECT:** The Public Record  
March 28-31, 2011

**DATE:** April 1, 2011

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**ITEMS TRANSMITTED TO THE ADMINISTRATION**

**ITEMS FILED FOR THE PUBLIC RECORD**

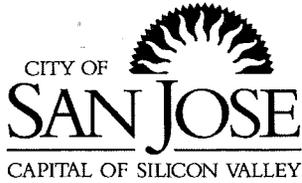
- (a) Memorandum from Janet Shum, Finance Department, to City Clerk, Dennis Hawkins dated March 30, 2011 transmitting the City of San Jose Multifamily Housing Revenue Bonds (Orvieto Family Apartment Project).  
(CD attachment on file in the Office of the City Clerk)
- (b) Notification letter from T-Mobile West Corporation as successor in interest to Omnipoint Communications, Inc. d/b/a/ T-Mobile (U-3056-C) to Consumer Protection and Safety Division dated March 31, 2011 for T-Mobile Site No. SF15042E, SF15063C, SF24662D, SF24664E, & SF24847H.
- (c) Notification letter from T-Mobile West Corporation as successor in interest to Omnipoint Communications, Inc. d/b/a/ T-Mobile (U-3056-C) to Consumer Protection and Safety Division dated March 31, 2011 for T-Mobile Site No. SF24425A.
- (d) Letter from David Wall to Mayor Reed and Council dated March 30, 2011 regarding "Kill the 'Environmental Innovation Center (EIC)'. Transfer the funding to the General Fund."

  
Dennis Hawkins, CMC  
City Clerk

DH/td

Distribution: Mayor/Council  
City Manager  
Assistant City Manager  
Assistant to City Manager  
Council Liaison  
Director of Planning  
City Attorney  
City Auditor

Director of Transportation  
Public Information Officer  
San José Mercury News  
Library  
Director of Public Works  
Director of Finance



# Memorandum

**TO:** Dennis D. Hawkins, CMC  
City Clerk

**FROM:** Janet Shum  
Finance Department

**SUBJECT:** Public Records

**DATE:** March 30, 2011

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Attached is the bond transcript CD for:

- City of San Jose Multifamily Housing Revenue Bonds (Orvieto Family Apartments Project), Series 2010B-1 and Series 2010B-2, \$14,200,000. It was approved by Joint City of San Jose City Council/Financing Authority on 6/22/2010 Item 2, Resolution 75454 and SJFA Resolution No. 101.

Please treat the CD as originals and admit as part of the public records.

If you have any questions regarding these transcripts, please call me at x57016.

JANET SHUM  
Analyst, Finance Department

Attachment on file in the Office of the City Clerk

**T-Mobile**

PUBLIC RECORD b  
T-MOBILE WEST CORPORATION a  
Delaware Corporation  
1855 Gateway Boulevard, 9<sup>th</sup> Floor  
Concord, CA 94520

March 31, 2011

Department of Public Works  
Development Services  
200 E. Santa Clara St.  
San Jose, CA 95113

**RE: Notification Letter for T-Mobile Site No. SF15042E, SF15063C, SF24662D,  
SF24664E & SF24847H:**

During a routine review of our files, we were unable to locate the return receipts for the attached letters of notification. Out of an abundance of precaution, we are resending the letters for your records.

Sincerely,



Jina Hunn  
Compliance Coordination Specialist  
T-MOBILE WEST CORPORATION a Delaware corporation

CC:

Debra Figone, City Manager, City of San Jose, 200 East Santa Clara St., San Jose, CA 95113  
Joseph Horwedel, Planning Director, City of San Jose, 200 East Santa Clara St., San Jose, CA 95113  
Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose, CA 95113

**T-Mobile**

T-MOBILE WEST CORPORATION a  
Delaware Corporation  
1855 Gateway Boulevard, 9<sup>th</sup> Floor  
Concord, CA 94520

September 3, 2010

Anna Hom  
Consumer Protection and Safety Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**RE: T-Mobile West Corporation as successor in interest to Omnipoint Communications,  
Inc. d/b/a T-Mobile (U-3056-C).  
Notification Letter for T-Mobile Site No. SF15042E**

This letter provides the Commission with notice pursuant to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California (CPUC) that with regard to the project described in Attachment A:

- (a) T-Mobile has obtained all requisite land use approval for the project described in Attachment A.
- (b) No land use approval is required because
- 
- 

A copy of this notification letter is being sent to the local government agency identified below for its information. Should the Commission or the local government agency have any questions regarding this project, or if anyone disagrees with the information contained herein, please contact Joni Norman, Senior Development Manager for T-Mobile, at (925) 521-5987, or contact Ms. Anna Hom of the CPUC Consumer Protection and Safety Division at 415-703-2699.

Sincerely,



Rana Ayyoub for Joni Norman  
Sr. Development Manager  
T-MOBILE WEST CORPORATION a Delaware corporation

Enclosed: Attachment A

CC:

Debra Figone, City Manager, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Joseph Horwedel, Planning Director, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

**ATTACHMENT A**

**1. Project Location**

Site Identification Number: SF15042E  
Site Name: Pole Cap North White  
Site Address: In front of 646 North White Road  
County: Santa Clara  
Assessor's Parcel Number: Public ROW, in front of 599-06-119  
Latitude: 37° 22' 55.46" N  
Longitude: 121° 50' 26.81" W

**2. Project Description**

Number of Antennas to be installed: Three (3) Panel, One (1) GPS  
Tower Design: Existing Utility Pole  
Tower Appearance: Antennas on pole extension, behind radome  
Tower Height: 54.75'  
Size of Building: N/A

**3. Business Addresses of all Governmental Agencies**

City of San Jose Debra Figone, City Manager 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Joseph Horwedel, Planning Director 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Lee Price, City Clerk 200 East Santa Clara San Jose, CA 95113
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**4. Land Use Approvals**

Date Zoning Approval Issued: September 2, 2010

Land Use Permit #: F10030

If Land use Approval was not required: N/A

**T-Mobile**

T-MOBILE WEST CORPORATION a  
Delaware Corporation  
1855 Gateway Boulevard, 9<sup>th</sup> Floor  
Concord, CA 94520

October 21, 2010

Anna Hom  
Consumer Protection and Safety Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**RE: T-Mobile West Corporation as successor in interest to Omnipoint Communications,  
Inc. d/b/a T-Mobile (U-3056-C).  
Notification Letter for T-Mobile Site No. SF15063C**

This letter provides the Commission with notice pursuant to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California (CPUC) that with regard to the project described in Attachment A:

- (a) T-Mobile has obtained all requisite land use approval for the project described in Attachment A.
- (b) No land use approval is required because

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Sincerely,



Joni Norman  
Sr. Development Manager  
T-MOBILE WEST CORPORATION a Delaware corporation

Enclosed: Attachment A

CC:

Debra Figone, City Manager, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Joseph Horwedel, Planning Dir, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

October 21, 2010

Page 2 of 2

**ATTACHMENT A**

**1. Project Location**

Site Identification Number: SF15063C  
Site Name: Pole Cap Olmo  
Site Address: Side Yard of 1005 Olmo Court  
County: Santa Clara  
Assessor's Parcel Number: Public ROW, in front of 377-01-050  
Latitude: 37° 18' 37.20" N  
Longitude: 122° 00' 16.08" W

**2. Project Description**

Number of Antennas to be installed: Three (3) Panel, One (1) GPS  
Tower Design: Existing Utility Pole  
Tower Appearance: Antennas on pole extension, behind radome  
Tower Height: 53.2  
Size of Building: N/A

**3. Business Addresses of all Governmental Agencies**

City of San Jose Debra Figone, City Manager 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Joseph Horwedel, Planning Director 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Lee Price, City Clerk 200 East Santa Clara San Jose, CA 95113
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**4. Land Use Approvals**

Date Zoning Approval Issued: October 19, 2010

Land Use Permit #: Special Major Utility Excavation Permit No. F10044



T-MOBILE WEST CORPORATION a  
Delaware Corporation  
1855 Gateway Boulevard, 9<sup>th</sup> Floor  
Concord, CA 94520

October 21, 2010

Anna Hom  
Consumer Protection and Safety Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**RE: T-Mobile West Corporation as successor in interest to Omnipoint Communications,  
Inc. d/b/a T-Mobile (U-3056-C).  
Notification Letter for T-Mobile Site No. SF24662D**

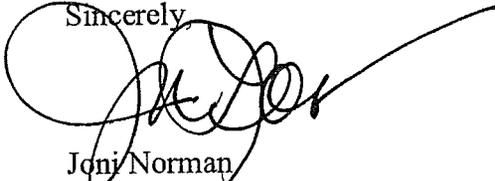
This letter provides the Commission with notice pursuant to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California (CPUC) that with regard to the project described in Attachment A:

- (a) T-Mobile has obtained all requisite land use approval for the project described in Attachment A.
- (b) No land use approval is required because

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A copy of this notification letter is being sent to the local government agency identified below for its information. Should the Commission or the local government agency have any questions regarding this project, or if anyone disagrees with the information contained herein, please contact Joni Norman, Senior Development Manager for T-Mobile, at (925) 521-5987, or contact Ms. Anna Hom of the CPUC Consumer Protection and Safety Division at 415-703-2699.

Sincerely,



Joni Norman  
Sr. Development Manager  
T-MOBILE WEST CORPORATION a Delaware corporation

Enclosed: Attachment A

CC:

Debra Figone, City Manager, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Joseph Horwedel, Planning Director, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

**ATTACHMENT A**

**1. Project Location**

Site Identification Number: SF24662D  
Site Name: Pole Cap Charlotte  
Site Address: In front of 5018 Charlotte Avenue  
County: Santa Clara  
Assessor's Parcel Number: Public ROW, in front of 421-09-060  
Latitude: 37° 15' 01.7" N  
Longitude: 121° 56' 22" W

**2. Project Description**

Number of Antennas to be installed: Three (3) Panel, One (1) GPS  
Tower Design: Replacement Wooden Utility Pole  
Tower Appearance: Antennas on pole, behind radome  
Tower Height: 67'  
Size of Building: N/A

**3. Business Addresses of all Governmental Agencies**

City of San Jose Debra Figone, City Manager 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Joseph Horwedel, Planning Director 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Lee Price, City Clerk 200 East Santa Clara San Jose, CA 95113
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**4. Land Use Approvals**

Date Zoning Approval Issued: October 5, 2010

Land Use Permit #: Special Major Utility Excavation Permit No. F10041

**T-Mobile**

T-MOBILE WEST CORPORATION a  
Delaware Corporation  
1855 Gateway Boulevard, 9<sup>th</sup> Floor  
Concord, CA 94520

October 21, 2010

Anna Hom  
Consumer Protection and Safety Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

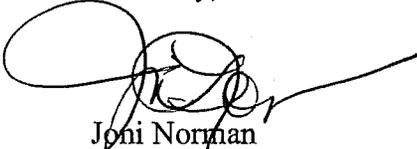
**RE: T-Mobile West Corporation as successor in interest to Omnipoint Communications, Inc. d/b/a T-Mobile (U-3056-C).  
Notification Letter for T-Mobile Site No. SF24664E**

This letter provides the Commission with notice pursuant to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California (CPUC) that with regard to the project described in Attachment A:

- (a) T-Mobile has obtained all requisite land use approval for the project described in Attachment A.
- (b) No land use approval is required because
- 
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A copy of this notification letter is being sent to the local government agency identified below for its information. Should the Commission or the local government agency have any questions regarding this project, or if anyone disagrees with the information contained herein, please contact Joni Norman, Senior Development Manager for T-Mobile, at (925) 521-5987, or contact Ms. Anna Hom of the CPUC Consumer Protection and Safety Division at 415-703-2699.

Sincerely,



Joni Norman  
Sr. Development Manager  
T-MOBILE WEST CORPORATION a Delaware corporation

Enclosed: Attachment A

CC:

Debra Figone, City Manager, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Joseph Horwedel, Planning Dir, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

October 21, 2010

Page 2 of 2

## ATTACHMENT A

### 1. Project Location

Site Identification Number: SF24664E  
Site Name: In front of 259 Meridian  
County: Santa Clara  
Assessor's Parcel Number: Public ROW, in front of 421-07-030  
Latitude: 37° 19' 27.98" N  
Longitude: 121° 54' 49.90" W

### 2. Project Description

Number of Antennas to be installed: Three (3) Panel, One (1) GPS  
Tower Design: Proposed Utility Pole  
Tower Appearance: Antennas on pole extension, behind radome  
Tower Height: 60'10"  
Size of Building: N/A

### 3. Business Addresses of all Governmental Agencies

City of San Jose Debra Figone, City Manager 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Joseph Horwedel, Planning Director 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Lee Price, City Clerk 200 East Santa Clara St. San Jose, CA 95113
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### 4. Land Use Approvals

Date Zoning Approval Issued: October 19, 2010

Land Use Permit #: Special Major Utility Excavation Permit No. F10040



T-MOBILE WEST CORPORATION a  
Delaware Corporation  
1855 Gateway Boulevard, 9<sup>th</sup> Floor  
Concord, CA 94520

September 3, 2010

Anna Hom  
Consumer Protection and Safety Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**RE: T-Mobile West Corporation as successor in interest to Omnipoint Communications,  
Inc. d/b/a T-Mobile (U-3056-C).  
Notification Letter for T-Mobile Site No. SF24847H**

This letter provides the Commission with notice pursuant to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California (CPUC) that with regard to the project described in Attachment A:

(a) T-Mobile has obtained all requisite land use approval for the project described in Attachment A.

(b) No land use approval is required because

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A copy of this notification letter is being sent to the local government agency identified below for its information. Should the Commission or the local government agency have any questions regarding this project, or if anyone disagrees with the information contained herein, please contact Joni Norman, Senior Development Manager for T-Mobile, at (925) 521-5987, or contact Ms. Anna Hom of the CPUC Consumer Protection and Safety Division at 415-703-2699.

Sincerely,

Rana Ayyoub for Joni Norman  
Sr. Development Manager  
T-MOBILE WEST CORPORATION a Delaware corporation

Enclosed: Attachment A

CC:

Debra Figone, City Manager, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Joseph Horwedel, Planning Director, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

**ATTACHMENT A**

**1. Project Location**

Site Identification Number: SF24847H  
Site Name: Pole Cap McLaughlin  
Site Address: In front of 1923 McLaughlin Avenue  
County: Santa Clara  
Assessor's Parcel Number: Public ROW, in front of 477-30-073  
Latitude: 37° 19' 23.8" N  
Longitude: 121° 50' 40.9" W

**2. Project Description**

Number of Antennas to be installed: Three (3) Panel, One (1) GPS  
Tower Design: Existing Utility Pole  
Tower Appearance: Antennas on pole extension, behind radome  
Tower Height: 54.2'  
Size of Building: N/A

**3. Business Addresses of all Governmental Agencies**

City of San Jose Debra Figone, City Manager 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Joseph Horwedel, Planning Director 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Lee Price, City Clerk 200 East Santa Clara San Jose, CA 95113
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**4. Land Use Approvals**

Date Zoning Approval Issued: September 2, 2010

Land Use Permit #: F10031

If Land use Approval was not required: N/A



T-MOBILE WEST CORPORATION a  
Delaware Corporation  
1855 Gateway Boulevard, 9<sup>th</sup> Floor  
Concord, CA 94520

March 31, 2011

Joseph Horwedel, Planning Director  
City of San Jose  
200 East Santa Clara St.  
San Jose, CA 95113

**RE: Notification Letter for T-Mobile Site No. SF24425A:**

During a routine review of our files, we were unable to locate the return receipts for the attached letter of notification. Out of an abundance of precaution, we are resending the letters for your records.

Sincerely,

Jina Hunn  
Compliance Coordination Specialist  
T-MOBILE WEST CORPORATION a Delaware corporation

CC:  
Debra, Figone, City Manager, City of San Jose, 200 East Santa Clara St., San Jose, CA 95113  
Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose, CA 95113



T-MOBILE WEST CORPORATION a  
Delaware Corporation  
1855 Gateway Boulevard, 9<sup>th</sup> Floor  
Concord, CA 94520

September 1, 2010

Anna Hom  
Consumer Protection and Safety Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**RE: T-Mobile West Corporation as successor in interest to Omnipoint Communications,  
Inc. d/b/a T-Mobile (U-3056-C).  
Notification Letter for T-Mobile Site No. SF24425A**

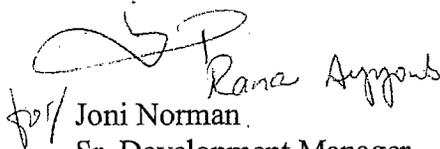
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- (a) T-Mobile has obtained all requisite land use approval for the project described in Attachment A.
- (b) No land use approval is required because

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Sincerely,

  
for Joni Norman

Sr. Development Manager  
T-MOBILE WEST CORPORATION a Delaware corporation

Enclosed: Attachment A

CC:

Debra Figone City Manager, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Joseph Horwedel, Planning Director, City of San Jose, 200 East Santa Clara St., San Jose CA 95113  
Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

September 1, 2010

Page 2 of 2

## ATTACHMENT A

### 1. Project Location

Site Identification Number: SF24425A  
Site Name: Discovery Gardens  
Site Address: 5008 Discovery Ave, San Jose, CA 95111  
County: Santa Clara  
Assessor's Parcel Number: 684-34-047  
Latitude: 37° 15' 56.82" N  
Longitude: 121° 48' 6.26" W

### 2. Project Description

Number of Antennas to be installed: Six (6) Panel, One (1) GPS  
Tower Design: Slim Line Monopole Pole  
Tower Appearance: Slim Line Monopole with Radome  
Tower Height: 44'-5"  
Size of Building: 25' x 10'

### 3. Business Addresses of all Governmental Agencies

City of San Jose Debra Figone, City Mg 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Joseph Horwedel, Planning Director 200 East Santa Clara St. San Jose, CA 95113	City of San Jose Lee Price, City Clerk 200 East Santa Clara San Jose, CA 95113
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### 4. Land Use Approvals

Date Zoning Approval Issued: August 27, 2010

Land Use Permit #: SP10-026

If Land use Approval was not required: N/A

David S. Wall  
P.O. Box 7621

RECEIVED  
San Jose City Clerk

March 30, 2011

2011 MAR 30 P 1:12

Mayor Reed and Members San José City Council  
200 East Santa Clara Street  
San José, California 95113-1905

**Re: Kill the "Environmental Innovation Center (EIC)". Transfer funding to General Fund.**

**EIC is a "boondoggle" and a "brick & mortar monument" to waste of environmental monies.**

**Use of Restricted Use Funds should be: retain City employees, educate and "clean up the City".**

The "**Environmental Innovation Center (EIC)**" was on the City Council Agenda: [Tuesday, (03.29.11); Item 2.10] and is included as required reference material for this discussion.

Testimony from a citizen supported terminating this project. This environmental project does carry with it a \$5.5 Million dollar grant, but like other "grant money" obligations attached to the grant money was not discussed. The aforementioned "grant" should be reinterpreted to fit the "WPA" model described below.

Further, the EIC is a "**brick & mortar monument**" that will only serve a specific region of the city versus an innovative perspective on the use of funding for the EIC to achieve: a greater number of Green Vision Jobs", retention of valuable City employees (i.e. Police Officers, Fire Fighters, Attorneys, Auditors, Code Enforcement Officers Parking Control, City Clerks and other city employees) AND many legal city residents while performing the tasks governed by the restrictions referenced by the Integrated Waste Management FUND (FUND 423). A copy of FUND 423 is also provided as required reference material for this discussion.

For example, a variation of the Works Project Administration (WPA) could easily be constructed using city employees to design, manage and supervise the "clean-up" of the city on a perpetual basis.

The use of various city employees would be justified by an innovative "charge for services" related directly to the restrictions that govern the use of FUND 423.

The employment of hundreds of city residents could then be used throughout the city instead of the proposed EIC program which uses third party contractors.

This would make the City of San José the "cleanest city" in the nation; employ hundreds of people performing much needed environmental tasks governed by the restrictions of FUND 423.

**The EIC is really not innovative at all, it is a boondoggle of perpetual obligations, access to restricted use funding by third party special interest groups that isolates environmental cleanup operations in one sector of San José instead of cleaning up the entire city on a perpetual basis.**

If you want to lay a strong foundation of the local economy, you must use the resources that you have. Innovative and appropriate use of restricted use funds to retain valuable city employees and hiring hundreds of others to clean up the city is as "old timey" as the "WPA" and reflect on those accomplishments.

There will also be a need to modify the "prevailing and living wage" ordinances.

Cc: City Attorney / City Auditor / City Manager... *Respectfully submitted,*

*David S. Wall*  
03.30.11

**Integrated Waste Management Fund****Fund 423****PURPOSE OF THE FUND:**

The Integrated Waste Management Fund accounts for expenditures and revenues related to the integrated waste management program. It enhances the City's ability to provide the fiscal and management controls necessary to meet the challenges of providing a nationally recognized comprehensive integrated waste management program.

**AUTHORITY FOR THE FUND:**

San José Municipal Code Sections 4.80.3050 through 4.80.3080. Revenue and expenditure estimates are budgeted via City Council funding sources resolution and appropriation ordinance, respectively.

**SOURCE OF FUNDS:**

- All moneys received from residential solid waste generators as payments for services under the Recycle Plus Integrated Waste Management Program
- All source reduction and recycling fees
- All payments made to the City by the California Department of Conservation, Division of Recycling, under the City/County Payment Program established by Senate Bill 332 (Chapter 815, Statutes of 1999).
- All moneys received from the Construction and Demolition Diversion Deposit (CDDD) Program that are identified as abandoned deposits or deposits ineligible for refund. Such moneys shall be used only for purposes supporting the CDDD Program.
- Transfers from other funds
- All interest payments and other returns on investment of moneys

**FUND RESTRICTIONS:**

The City Council may at any time transfer moneys in the Integrated Waste Management Fund to the General Fund or to such fund of the City as determined by the City Council; however, except for small balances from late fees, the use of the funds is limited to providing residential integrated waste management services and source reduction and recycling programs.

Fee increases and changes to the charges for Recycle Plus services are subject to Proposition 218 requirements. The use of AB939 fees is restricted to source reduction, reuse, and recycling programs.

**LEAD RESPONSIBILITY:**

Environmental Services Department

**Integrated Waste Management Fund**

**Fund 423**

**FINANCIAL INFORMATION AND LOCATION:**

**Comprehensive Annual Financial Report (CAFR) Designation:**

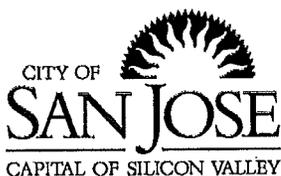
Governmental Fund-Special Revenue

**Budget Location:**

Adopted Operating Budget

**Funding Sources Resolution and Appropriation Ordinance Location:**

Section 28.01



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** David Sykes

**SUBJECT:** SEE BELOW

**DATE:** 03-24-2011

Approved

Date

3-25-11

**COUNCIL DISTRICT:** 3

**SUBJECT: APPROVAL TO REJECT ALL BIDS FOR THE SAN JOSE ENVIRONMENTAL INNOVATION CENTER PROJECT, PHASE II**

## REASON FOR ADDENDUM

To expedite re-bid of the San Jose Environmental Innovation Center Project in order to award and secure grant funding by the end of fiscal year 2010-2011.

## RECOMMENDATION

Approval to reject all bids received for the San Jose Environmental Innovation Center Project, and authorization for the Director of Public Works to re-advertise and re-bid the project.

## OUTCOME

Rejection of all bids will allow staff to re-bid the project following a restructuring of the bid package to better reflect timing of available funding. Council action at this time will allow staff to secure grant funding by the end of the current fiscal year.

## EXECUTIVE SUMMARY

The low bidder on the project, Menghetti Construction, retracted its bid due to a clerical error. The bid of the second lowest bidder, Applegate Johnston Inc. (AJI), was protested by Carpenters Local Union 405, which filed bid protests claiming deficiencies regarding the structural steel sub-contractor listed in AJI's bid. The third lowest bidder, Roebbelen Construction, also filed a protest claiming deficiencies in the subcontractor listings in AJI's bid.

Irrespective of the two protests against the second low bidder, staff has concluded that due to the complexities of grant funding availability, it is in City's best interest to reject all bids, repackage the bid proposals and rebid the project. City is at risk of losing \$5,500,000 in Grant funding if the project is not awarded by end of fiscal year 2010-2011.

HONORABLE MAYOR AND CITY COUNCIL

03-24-11

**Subject: Approval to Reject All Bids for the San Jose Environmental Innovation Center Project, Phase II**

Page 2

## **BACKGROUND**

The San José Environmental Innovation Center (EIC) is located at 1608 Las Plumas Avenue on a 4.2 acre lot. The existing 46,000 square foot warehouse, built in 1958, will be renovated into a Leadership in Energy and Environmental Design (LEED) certified facility with a minimum of silver level certification. Phase II plans develop the EIC into a state-of-the-art technology Clean Tech Demonstration Center (CTDC) where innovators will test and deploy clean and renewable energy projects. In addition, the project provides space for conferences, environmental workshops, job trainings, a Household Hazardous Waste (HHW) facility for Santa Clara County residents, and a materials reuse store.

Phase I work was completed in June 2010, and included: demolition, grading, site preparation, installation of storm drainage, soil and plant bio-retention swale, a modular wetland, asphalt and concrete paving, pervious and porous paving, parking lot, fencing and gates, sidewalk, lighting, landscaping and irrigation, and miscellaneous site amenities.

The EIC project ranked in the highest priority (Level 1) for City programs in the 2010 Community Program Priority Level Ranking Assessment completed as part of the 2010-2011 budget preparation process.

Based upon City Council recommendations, this building is designed towards meeting the criteria of a LEED Silver level facility and has been registered with the USGBC (United States Green Building Council) as targeting silver certification.

The Engineer's Estimate for the base bid is \$14,000,000. Construction is scheduled to begin in July 2011 with completion in September 2012.

## **ANALYSIS**

The bids for this project were opened on February 24, 2011. There were 13 bids received. In addition to the base bid scope of work, there are five Add Alternates:

Alternate 1: Tower

Alternate 2: Free standing canopy

Alternate 3: Painting existing structure

*Alternate 4: Removed from bid by staff*

Alternate 5: Recompact base asphalt on half of Nipper Avenue

Alternate 5a: New base asphalt material on half of Nipper Avenue

The results are as follows:

HONORABLE MAYOR AND CITY COUNCIL

03-24-11

Subject: Approval to Reject All Bids for the San Jose Environmental Innovation Center Project, Phase II

Page 3

<u>Contractor</u>	<u>Base Bid</u>	<u>Add Alt. Total</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/ (Under) Percent</u>
<b>Engineer's Estimate</b>	<b>\$14,000,000</b>	<b>\$513,000</b>	<b>\$14,513,000</b>	---	---
Menghetti Construction (Modesto)	11,420,000	641,000	12,061,000	(2,452,000)	(16.9)
Applegate Johnston Inc. (Modesto)	11,477,000	670,470	12,147,470	(2,365,530)	(16.3)
Roebbelen Construction (El Dorado Hills)	11,498,000	722,250	12,220,250	(2,292,750)	(15.8)
Sausal Corporation (San Leandro)	11,801,000	493,700	12,294,700	(2,218,300)	(15.3)
Swenson and Associates (Campbell)	11,870,000	570,000	12,440,000	(2,073,000)	(14.3)
Zolman Construction (San Carlos)	12,000,000	510,000	12,510,000	(2,003,000)	(13.8)
Gonsalves & Stronk Construction (San Carlos)	12,082,700	557,800	12,640,500	(1,872,500)	(12.9)
Jeff Luchetti Construction (Santa Rosa)	12,195,000	448,000	12,643,000	(1,870,000)	(12.9)
John Planc Construction (Brisbane)	12,248,000	590,000	12,838,000	(1,675,000)	(11.5)
Hangensen Construction (Loomis)	12,499,000	493,000	12,992,000	(1,521,000)	(10.5)
Bogard Construction (Santa Cruz)	12,450,000	648,136	13,098,136	(1,414,864)	(9.7)
Big-D Pacific Builders (Pleasanton)	13,040,000	574,000	13,614,000	(899,000)	(6.2)
Best Contracting Services (Hayward)	13,911,200	685,600	14,596,800	83,800	0.6

During review of the bids, Environmental Services Department (ESD), staff concluded that a restructuring of the bid package to provide flexibility in the addition of the add alternates for a period of 180 days following award was in the City's best interest, as funding for the add alternates would not be available until after the end of fiscal year 2010-2011. Based upon this conclusion, staff suspended its investigation and analysis into the merits of the two protests prior to reaching a definitive conclusion; however, staff intends, in the re-bid package, to make certain clarifications which would address some of the issues raised in those protests.

Council always has discretion to reject all bids and to re-advertise the project. For the reasons stated above, staff recommends that Council rejects all bids, and authorizes the Director of Public Works to re-advertise and re-bid the project. In an effort to award the contract prior to the

end of fiscal year 2011-2012, staff presently plans to proceed to re-advertise the project prior to this item being considered by Council, but in any event subject to Council approval of this recommendation to reject all bids.

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

Report on new bids and recommendation to Council award to lowest bidder on May 24, 2011

### **POLICY ALTERNATIVES**

**Alternative #1:** Keep current bids

**Pros:** Award of only base bid.

**Cons:** ESD will lose the ability to fund the add alternates.

**Reason for not recommending:** ESD is unable to award add alternates at this time, with funding available in July 2011, ESD can award all add alternates. Project will lose \$5,500,000 in grant funding if not awarded by June 30, 2011.

### **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 does not meet any of the criteria listed above. This memorandum will be posted on the City's website for the March 29, 2011 Council agenda.

### **COORDINATION**

This proposed project and memorandum have been coordinated with the Environmental Services Department, Planning, Building and Code Enforcement Department, Bureau of Fire Prevention, the City Attorney's Office and the City Manager's Budget Office.

### **COST IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: None

2. COST OF PROJECT:			
	Construction – base with no add/alternates	\$14,135,000	
	Construction Contingency	2,120,250	*
	Project Delivery:		
	DPW/Group 4 Prior Year Expenditures	<u>2,892,550</u>	**
	DPW Softcosts 2011-2012 Forecasted Expenses	<u>240,000</u>	
	Group 4 2011- 2012 Forecasted Expenses	<u>732,000</u>	
	Public Art:		
	Prior Year Expenditures	60,000	
	2011-2012 Forecasted Expenses	<u>175,000</u>	
	<b>TOTAL PROJECT COSTS</b>	<b><u>\$20,354,800</u></b>	
	Project Delivery Prior Year Expenditures	<u>(2,892,550)</u>	**
	Public Art Prior Year Expenditures	<u>(60,000)</u>	
	<b>REMAINING PROJECT COSTS</b>	<b>\$17,402,250</b>	
	Project Construction (no.add/alternates)	14,135,000	
	<b>AMOUNT NOT FUNDED</b>	<b>\$3,267,250</b>	

\* A minimum 15% construction contingency is allocated for Public Works construction projects. However, staff has not secured a funding source for the contingency. Proceeds from the federal funding strategies which staff is pursuing may be sufficient to fund the contingency reserve if the bids come in low for the base construction cost.

\*\* A total of \$2,892,550 was expended in prior fiscal years for project delivery costs including environmental and architectural consultant services, state and federal regulatory permits, Phase I modifications, historic consulting, energy modeling studies, geotechnical report, interior design survey, LEED documentation and Commissioning agent.

3. SOURCE OF FUNDING:

The EIC construction budget is estimated at \$14,135,000 with no add/alternates. The Budget Reference below outlines the funding sources allocated for this project which currently include a budgeted reserve for the EIC, a variety of ESD funding for the facility, and two federal funding sources currently being pursued by City staff: 1) U.S. Department of Commerce Economic Development Administration (EDA) grant, and 2) federal New Markets Tax Credits (NMTC).

A \$4,000,000 grant is pending before the EDA; the regional EDA office notified the City in November 2010 that its application is one of few being forwarded to Washington D.C. with a recommendation to fund. EDA funding is contingent upon federal appropriations by Congress. If awarded, the EDA grant will be used to fund the CTDC portion of the EIC.

Additionally, the City has retained consultant services to assist with federal NMTC financing for the EIC. Council approved this agreement on December 14, 2010. It is

anticipated that a NMTC transaction will net approximately \$4,000,000 in proceeds, which may be used to pay for outstanding EIC construction and/or soft costs. It is important to note that closing a NMTC transaction will require executed construction contracts for the EIC. The construction bid and award process therefore needs to move in parallel with the process to secure NMTC financing.

ESD staff is working to identify funds for the remaining \$3,267,250 or construction contingency, Public Works soft costs, and architectural contractual services. NMTC financing may support soft costs if there are funds remaining from this source after construction expenses are met.

4. OPERATING COST: There are no cost implications to the General Fund as a result of this action. For a discussion of the total costs associated with this project, please see attachment of the May 21, 2010, staff report "Site Development and Programming Update for the San Jose Environmental Innovation Center," heard at the June 7, 2010 Transportation and Environment Committee meeting.

**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	Total Appn	Possible Funding Sources	2010-2011 Proposed Operating Budget Page	Last Budget Action (Date, Ord. No.)
<b><u>Total Funding for Agreement</u></b>				\$14,135,000		
<b><u>Funding Available</u></b>						
423	7275	Household Hazardous Waste Las Plumas Facility	\$906,000	\$869,000	XI-47	06/29/2010 Ord.No. 28765
423	8258	Reserve for EIC Appropriation	\$6,635,000	\$6,635,000	XI-47	06/29/2010 Ord.No. 28765
423	N/A	Recycle Plus Hauler Negotiation Payment	N/A	\$2,000,000	N/A	N/A
423	8999	HHW 2009-2010 Rebate (AB939 fees) Ending Fund Balance	\$ 321,694	\$206,000	N/A	N/A
423	0762	Non-Personal Equipment	\$2,878,867	\$125,000	XI-47	02/08/2011 Ord.No. 28888
541	8999	Ending Fund Balance	\$19,071,015	\$100,000	XI-79	02/08/2011 Ord.No. 28888
446	8999	Ending Fund Balance	\$ 6,678,538	\$200,000	XI-83	02/08/2011 Ord.No. 28888
423	N/A	Pending EDA/New Market Tax Credit	N/A	\$4,000,000	N/A	N/A
<b><u>Total Funding Available for Agreement</u></b>				\$14,135,000		

HONORABLE MAYOR AND CITY COUNCIL

03-24-11

**Subject: Approval to Reject All Bids for the San Jose Environmental Innovation Center Project, Phase II**

Page 7

**CEQA**

A CEQA Negative Declaration for the renovation for the EIC, including the HHW facility, was adopted on December 1, 2009 (PP09-138).

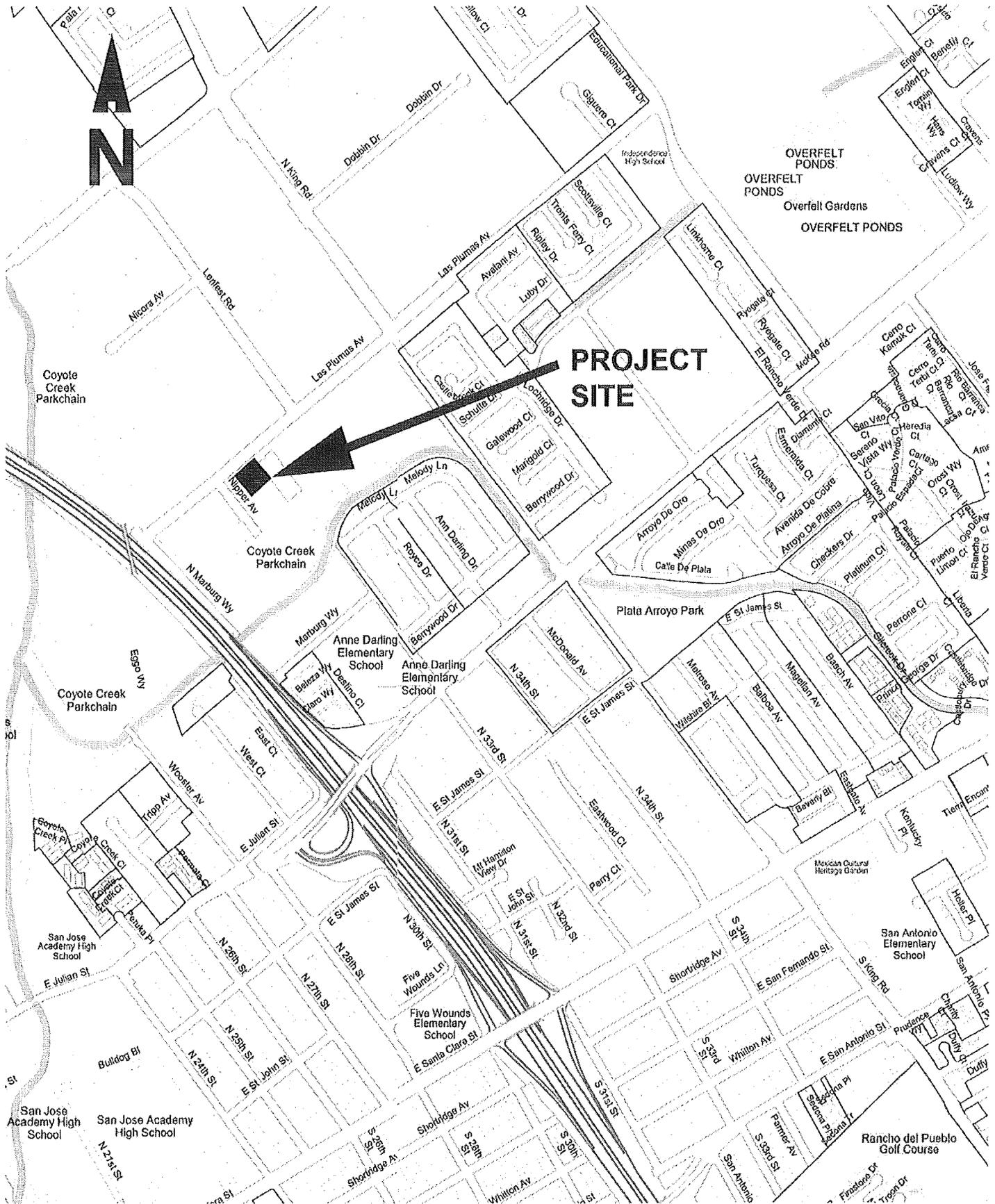
/s/

DAVID SYKES

Acting Director, Public Works Department

For questions, please contact HARRY FREITAS, DEPUTY DIRECTOR, at (408) 535-8300.

MH:pm:le



# ENVIRONMENTAL INNOVATION CENTER

Location Map  
Not to Scale



T&E AGENDA: 06-07-10  
ITEM: d5

# Memorandum

**TO:** TRANSPORTATION AND  
ENVIRONMENT COMMITTEE

**FROM:** John Stufflebean  
Paul Krutko

**SUBJECT:** SEE BELOW

**DATE:** May 21, 2010

Approved

Date

5/28/10

**COUNCIL DISTRICT: 3**

**SUBJECT: SITE DEVELOPMENT AND PROGRAMMING UPDATE FOR THE SAN JOSÉ ENVIRONMENTAL INNOVATION CENTER**

## **RECOMMENDATION**

Accept this status report on site development and programming update for the San José Environmental Innovation Center.

## **OUTCOME**

Update Council on the status of the site development and programming plans for the San José Environmental Innovation Center (EIC). The EIC is being developed as a living laboratory for innovators to demonstrate and deploy emerging technologies in renewable energy, energy efficiency, green building, and clean advanced transportation. Further, the EIC will integrate broad-spectrum workforce training opportunities for individuals seeking to enter the green economy. These program elements will create opportunities to stimulate economic growth, promote energy efficiency and reliability, and reduce waste going to the landfills. Finally, the Household Hazardous Waste (HHW) drop-off facility at the EIC will provide San José residents needed infrastructure to conveniently, safely, and legally dispose of common toxic residential waste. The EIC will significantly accelerate the City's progression toward seven Green Vision goals: Create 25,000 Clean Tech jobs; Reduce per capita energy use by 50%; Receive 100% of our electrical power from clean renewable sources; Build or retrofit 50 million square feet of green buildings; Divert and convert 100% of landfill waste to energy; Ensure that 100 percent of public fleet vehicles run on alternative fuels; and Plant 100,000 trees and replace streetlights with smart, zero-emission lighting.

## **BACKGROUND**

In November 2006, the Staff vacated the City's sole permanent HHW drop-off facility due to the expansion of the Central Service Yard. The Environmental Services Department (ESD) acquired an abandoned City warehouse, located at 1608 Las Plumas Avenue, from the Housing Department with the intention of relocating the HHW drop-off operations to this site. After an extensive California Environmental Quality Act (CEQA) review process, an Environmental Impact Report was certified by the City Council, in June 2007. Design of the facility was completed in April 2009 and construction activities began in August 2009. The construction activities include: advanced storm water mitigation measures, grading and paving, security fencing and gated entries, and street lights. Also included with these improvements is the creation of an outdoor operation area that will enable the County to conduct temporary HHW drop-off events for the public beginning in July 2010. The construction of a permanent HHW building will not begin until the second phase of the project. Substantial completion of this first phase of the project is anticipated in June 2010.

Simultaneous to work on the first phase of the EIC project, staff has been designing the second phase, which includes the renovation of the existing 46,000 square foot building to house the Clean Technology Development Center, a construction materials reuse center, meeting and classroom space for green jobs training, and the construction of a new 7,000 square foot building to provide a permanent facility for HHW operations. The following three principal operations are envisioned for the EIC:

1. The Clean Technology Development Center (CTDC) will provide a continuum of commercialization services necessary to create a full clean technology innovation cluster - from technology innovation through incubation, demonstration to early stage manufacturing and market entry. The CTDC will provide laboratories, demonstration and deployment, and office space to enhance workforce development and facilitate collaboration between public and private sector partners for environmental business incubation purposes. Meeting and classroom space that may, in the future, be equipped with state-of-the-art teleconferencing and distance learning technologies, will be available for green jobs training programs and will serve as the facility's communications hub with regional partners. Based upon previous incubation programs in San José, it is estimated that the CTDC could result in 1,000 potential new jobs over a five-year period within the region.
2. A construction materials reuse center will provide a regional source for surplus and new construction materials to the public.
3. An HHW drop-off facility will provide a convenient avenue for residents to dispose of such materials legally. It is estimated that more than 25,000 drop-offs appointments will be accommodated at this facility annually (compared to the 11,000 drop-off appointments that are currently provided to San José residents at temporary one-day drop-off events run by the County).

In 2007, Staff and Habitat for Humanity began exploring opportunities to open a construction materials re-use center (ReStore) early in the design of the EIC. ReStore is a unique business

model that includes the development of extensive partnerships with large contractors and retailers that donate surplus new or nearly new construction materials, which are then sold to the general public at a significantly reduced price. This business approach emphasizes higher quality material and greater stock turnover than a traditional salvage yard operation. This model better supports the objectives of the EIC by attracting more public to the facility and offering more modern energy efficient construction material at significantly lower prices than other reuse operations. Not only are materials diverted from the landfills through this program, the proceeds from the sale of materials are then used to construct new homes for lower income families within the region. Habitat for Humanity operates ReStore facilities nationwide, with over twenty locations in California. A Restore operation at the EIC would be the first in the South Bay.

When completed, the EIC is anticipated to achieve at least the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Silver rating. Some of the innovative and sustainable design features include a modular wetland filtration unit to screen storm water pollutants prior to entering the storm drain system, pervious pavers and rubber tile sidewalks, light-emitting diode (LED) streetlights, waterless urinals, composting toilets, and energy efficient building lighting and HVAC systems. Staff is actively pursuing grants and other funding sources for additional sustainable features, such as rooftop and carport photovoltaic (PV) systems for energy production. These systems would provide operational savings and opportunities to integrate renewable power technologies with energy efficient systems demonstrated throughout the site. Installation of these features would facilitate achievement of a higher LEED rating.

In January 2010, the Administration completed a Program Prioritization Process, in which 550 Citywide programs were reviewed and ranked by teams of Staff and community stakeholders to inform the preparation of the 2010-2011 Proposed Operating Budget. The HHW program and the EIC were ranked in the highest priority tier of programs through this effort.

## ANALYSIS

### Site Development Status

In summer 2009, the City contracted with Group4 Architecture, Research and Planning (Group4), to develop the design and construction documents for the EIC. A CEQA Initial Study was publicly released and circulated in the fall and a Negative Declaration was adopted in December 2009. In March 2010, staff undertook an extensive value engineering process to reduce costs by modifying design elements that were deemed beneficial, though not critical to serve the essential needs of the facility, while maintaining the estimated cost of construction presented to the Transportation and Environment (T&E) Committee in September 2009.

Progress continues on developing the construction documents and completion is expected mid-July 2010. Staff is targeting a bidding process by fall 2010, to take advantage of the soft bidding climate. If base bid costs are lower than the project budget, or if grant funding is awarded, additional design elements, such as a monument tower, entry canopy, PV system, and living wall, could be funded. Staff is planning to award the project in fall 2010, with a construction

05/21/10

Subject: Status Report on San José EIC Design and Programming

Page 4

start shortly thereafter. Due to the magnitude of the project, substantial construction is estimated to be complete in spring 2012, with full facility occupancy and operations beginning shortly afterwards.

The existing San José Family Shelter, located at 1590 Las Plumas Avenue, which is adjacent to the EIC, will be moving into a new facility in 2012 near the intersection of King Road and Dobbin Drive. Staff anticipates seeking Council approval in late June 2010 to purchase the property at 1590 Las Plumas Avenue for incorporation into the EIC campus with funds (\$2.3 million) included in the 2010-2011 Proposed Operating Budget specifically for this purpose. The revenue from the sale of this property will provide Family Supportive Housing with funding necessary to complete the construction of the new shelter facility. Staff has already completed CEQA review, a site assessment, and obtained an appraisal to purchase the property. Initial site operations will include the consolidated storage, maintenance, and distribution of the City's Public Litter Can program currently housed at the Las Plumas warehouse.

#### Owner / Tenant Structure

ESD and the Office of Economic Development (OED) have been working with their consultant, Business Cluster Development, to develop a proposed governance model and operation plan for the EIC. The details of the organizational structure are being finalized in a business plan to ensure the site meets the City's goals while minimizing liabilities. The preliminary plan will be completed shortly at which point staff will begin negotiations with the tenants to develop lease agreements. Given the varied uses of the EIC, a working committee with representation from the different tenants would likely address issues related to the shared space at the site. Input from the working committee will be helpful in determining the compatibility of short to medium-term uses of the shared spaces that may not be clean tech or workforce development related, such as conferences, meetings, and small businesses incubation activities. Staff anticipates bringing facility lease agreements to Council in late 2010 and bringing the organization structure considerations to Council in mid 2011.

#### Status of Economic Development Administration Grant and Other Funding

Staff has applied for several funding opportunities for construction of the EIC, including a \$4 million grant from the U.S. Department of Commerce Economic Development Administration (EDA) for construction of the CTDC space. Response from the EDA has been positive. The grant proposal received favorable review from the Investment Review Committee in the EDA Seattle Regional Office. Additional interest in the project has been indicated by the U.S. Deputy Assistant Secretary of Commerce for Economic Development, who was impressed by the project after his late 2009 tour of the EIC site.

OED and ESD are proactively pursuing additional funding for the EIC. In early May 2010, the City collaborated with Lawrence Berkeley National Laboratory (LBNL) to submit a regional proposal for the Energy Efficient Building Systems Regional Innovation Cluster (E-RIC) funding opportunity. The E-RIC grant is funded by the US Department of Energy (DOE), EDA, the National Institute of Standards and Technology (NIST), and the Small Business Administration (SBA). The funds from E-RIC would focus on developing systems-based approaches to researching, designing, building, operating, and demonstrating maximized energy

05/21/10

Subject: Status Report on San José EIC Design and Programming

Page 5

efficiency technologies for commercial and residential buildings. The co-applicants for the DOE-funded portion of the grant will research, develop, and test energy efficiency technologies. The co-applicants for the EDA-funded portion of the grant will integrate the technologies developed by the DOE Hub into a broader regional economic development initiative.

As the E-RIC principal applicant and the lead for DOE-funded activities, LBNL formed a team of regional institutional and technology partners with which it will conduct DOE-funded research and development activities. In addition to LBNL, the DOE co-applicants include the National Renewable Energy Laboratory, Oakridge Labs, UC Berkeley, UC Davis, and Stanford. LBNL also conducted a competitive review process to select co-applicants for EDA-funded economic development activities. LBNL chose the City, above all other regional applicants, to be the EDA co-applicant lead. The other EDA co-applicants are San Francisco and the Sacramento Area Regional Technology Alliance (SARTA). The shovel-ready state of the EIC was a key reason for the selection of San José as the lead EDA co-applicant. Of the three regional EDA co-applicants, only the City has a facility that can demonstrate and deploy technologies developed by the Hub. In addition to \$3 million in energy efficiency and solar energy upgrades to the EIC, the City will, if awarded, gain significant leverage and be well positioned to pursue future federal and state funding opportunities for energy efficiency, green building construction and workforce development.

The E-RIC concept brings together a strong partnership between local governments, non-profits, and the private sector, with the idea of producing sustained technology leadership and economic benefits, and specifically with the goal of increasing regional gross domestic product, eliminating gaps between the supply and demand for skilled workers, and enhancing the economic, technological, and commercial competitiveness of the US on the global stage. This grant application submission builds upon an EDA planning grant awarded in 2006, which produced a market analysis and conceptual facility design for an electronic transportation development center at the EIC.

The table below summarizes the funding opportunities that staff is pursuing for various aspects of the EIC.

TRANSPORTATION AND ENVIRONMENT COMMITTEE

05/21/10

Subject: Status Report on San José EIC Design and Programming

Page 6

**Table 1: Funding Opportunities for the EIC**

Funding Agency	Opportunity	Award Amount	Expected Award Date	Status
EDA	EDA American Recovery Program	\$4M	Fall 2010	Submitted by OED. Currently under review by EDA Seattle Regional Office. For EIC construction costs.
DOE, EDA, NIST, SBA	E-RIC Energy Regional Innovation Cluster	\$3M	September 2010	Submitted by OED as part of a joint proposal for a regional innovation cluster focused on energy efficiency systems and green building.
Environmental Protection Agency	Brownfield Clean-Up	\$200K	Fall 2010	Submitted by RDA. Under review by EPA. For groundwater treatment.
FY2011 Appropriations SBA/DOE	Earmark for San José Clean Tech Incubator project	\$500K	Fall 2010	Submitted by OED. Will be reviewed by Senate Appropriations Subcommittee in May-June 2010. For EIC construction costs.
California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA)	Qualified Energy Conservation Bonds (QECCB)	\$2,773,488	N/A	Under review by Finance Department. This will provide solar energy installations and measures that reduce energy consumption.
Electric Vehicle (EV) Charger Grant	DOE Infrastructure Development	4-6 EV chargers	2011	Awarded to Coulomb Technologies and provided to City for electric vehicle charging stations at public facilities.
DOE	Retrofit Ramp-Up	\$30M awarded to Retrofit California projects.	April 2010	Awarded. Staff is coordinating with L.A. County, the lead applicant, for possible use of award funds for energy efficiency retrofits at the EIC.

Identified Funding for EIC Construction

The EIC construction budget is estimated at \$14,135,000. Table 2 below outlines the funding sources allocated for this project which currently include Construction and Demolition Diversion Deposit Program (CDDD) reserves, a U.S. Department of Commerce EDA grant discussed previously in this report, and a variety of other ESD funds for the HHW facility.

The CDDD program was designed to provide a financial incentive for remodelers / contractors to recycling construction waste. In short, the City collects a deposit from those submitting applications for building permits. Those deposits are returned if the applicant recycles their construction and demolition debris with proof from a certified recycler. Ineligible deposits from the CDDD program, accumulating since 2001, are allocated in a specific reserve for the EIC in the 2010-2011 Proposed Operating Budget in the IWM Fund.

**Table 2: Identified Funding for EIC Construction**

<b>Source of Funding</b>	<b>Amount</b>
Reserve for EIC (Proposed 2010 – 2011 Operating Budget – Fund 423)	\$6,635,000
Pending EDA Funding Assistance	\$4,000,000
ESD Funding for HHW Facility	\$3,500,000
<b>Total</b>	<b>\$14,135,000</b>

Funding Strategy for HHW Facility Construction

Construction costs for the HHW building and associated site work at the EIC are estimated at \$3.5 million. Staff explored several different funding strategies, including loans, before identifying funds outlined in Table 3 for the construction, a considerably less expensive option than third-party financing. Budget adjustments to the 2010-2011 Operating Budget will be brought forward for Council Consideration to allocate this funding for the construction of the HHW building in Fall 2010. This HHW facility would be funded by City residential utility ratepayers. If other jurisdictions such as the County use the facility, the cost to use the facility would include the fully-loaded apportioned share of the capital improvement and operational costs. Any such lease payments would be considered revenue for services to residential utility rate payers.

**Table 3: Identified 2010-2011 ESD Funding for HHW Facility Construction**

Source of Funding	Fund	Amount
Recycle Plus Hauler Negotiation Payment	423	\$2,000,000
Las Plumas HHW Capital Appropriation	423	\$825,000
CalRecycle HHW Grant Award	423	\$250,000
Non-Personal/Equipment	423	\$225,000
Ending Fund Balance	541	\$100,000
Ending Fund Balance	446	\$100,000
<b>Total</b>		<b>\$3,500,000</b>

The above strategy includes the use of Storm Sewer Operating Fund and Sewer Service and Use Charge funds for the construction the HHW facility. Completing a permanent HHW facility is a necessary precursor to provide the capacity that can accommodate the additional residential drop-off appointments described in this budget proposal. The proper collection of HHW is an effective means for reducing the amount of toxins that enter the City's storm and sanitary systems, and prevent such materials from threatening both San Francisco Bay and local groundwater supplies. In 2008-2009, it is estimated that the County collected over 1.6 million pounds of HHW from San José residents, of which nearly 1.3 million pounds that could have polluted the City's storm and sanitary sewer systems if not handled and disposed of properly.

**EVALUATION AND FOLLOW UP**

Staff will return to Council on June 22, 2010 to request approval to purchase 1590/1600 Las Plumas Avenue (current San José Family Shelter site) and to allocate funds for the HHW Facility Construction. Additionally, staff plans to return to Council with the following actions: fall 2010 construction contractor award recommendations; late 2010 for approval of lease agreements with tenants; and mid-2011 for Council approval of the CTDC organizational structure.

### PUBLIC OUTREACH/INTEREST

The criteria below do not apply to this staff report.

- 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 had been coordinated with the Department of Public Works, and the Offices of the City Attorney and Economic Development, and the City Manager's Budget Office.

### COST IMPLICATIONS

The Master Agreement with Group4, valued at \$2 million, currently includes a scope of work for design services for the EIC through the second phase of the project. The Master Agreement does not accommodate bid and award support services or construction administration. Should the need for additional services arise, which could occur if the EIC receives grant funding that targets additional improvements to the base design, staff will need to request approval to amend the Master Agreement to include a scope of work for additional services.

### CEQA

A CEQA Negative Declaration for the renovation for the EIC, including the HHW facility, was adopted on December 1, 2009 (PP09-138). Additionally, a CEQA Mitigated Negative Declaration was adopted on February 24, 2010, for the purchase and use of the 1.76 acre San José Family Shelter property located at 1590/1600 Las Plumas Avenue (PP09-206).

/s/

PAUL KRUTKO  
Chief Development Officer,  
Office of Economic Development

/s/

JOHN STUFFLEBEAN  
Director, Environmental Services

For questions, please contact Jo Zientek, Deputy Director, Integrated Waste Management Division, at (408) 535-8557.