

RESOLUTION NO. 75611

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE AND SUBMIT AN APPLICATION TO THE METROPOLITAN TRANSPORTATION COMMISSION UNDER THE COMMUNITY DESIGN AND TRANSPORTATION CAPITAL GRANT PROGRAM FOR A GRANT FOR THE HETCH HETCHY TRAIL RAMP/STAIRCASE PROJECT, IN AN AMOUNT NOT TO EXCEED \$1,500,000, TO ACCEPT THE GRANT IF AWARDED, AND TO EXECUTE ALL RELATED DOCUMENTS

WHEREAS, the City of San José ("City") desires to submit an application to the Metropolitan Transportation Commission (MTC) for \$1,500,000 in funding from the federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) program for the Hetch-Hetchy Ramp/Staircase (herein referred to as PROJECT) for the MTC Resolution, No. 3925, New Federal Surface Transportation Act (FY 2009-10, FY 2010-11 and FY 2011-12) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming (herein referred to as PROGRAM); and

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA) (Public Law 109-59, August 10, 2005) continued the Surface Transportation Program (23 U.S.C. § 133) and the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) through September 30, 2009; and

WHEREAS, SAFETEA has been extended pursuant to Public Law 11-118 and may be subsequently extended pending enactment of successor legislation for continued funding; and

WHEREAS, pursuant to SAFETEA, and the regulations promulgated there under, eligible project sponsors wishing to receive federal Surface Transportation Program and/or Congestion Mitigation and Air Quality Improvement Program (STP/CMAQ) funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, the Metropolitan Transportation Commission (MTC) is the MPO for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of STP/CMAQ funds; and

WHEREAS, the City is an eligible project sponsor for STP/CMAQ funds; and

WHEREAS, as part of the application for STP/CMAQ funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- (1) the commitment of necessary local matching funds of at least 20%; and
- (2) that the sponsor understands that the STP/CMAQ funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional STP/CMAQ funds; and
- (3) that the project will comply with the procedures specified in Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- (4) the assurance of the sponsor to complete the project as described in the application, and if approved, as included in MTC's TIP; and
- (5) that the Project will comply with all the project-specific requirements as set forth in the PROGRAM;

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

1. The City Manager or designee is authorized to execute and file an application to the Metropolitan Transportation Commission for a grant for funding under the Community Design and Transportation Capital Grant program for the Hetch-Hetchy Trail Ramp Staircase Project (PROJECT) in an amount not to exceed \$1,500,000 under the Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement Program (CMAQ) of SAFETEA, any extensions of SAFETEA or any successor legislation for continued funding.
2. The City, by adopting this resolution does hereby state that:
 - a. The City will provide \$645,000 in non-federal matching funds; and
 - b. The City understands that the STP/CMAQ funding for the Project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the City from other funds, and that City does not expect any cost increases to be funded with additional STP/CMAQ funding; and
 - c. The City understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
 - d. The PROJECT will be implemented as described in the complete application and in this resolution and, if approved, for the amount programmed in the MTC federal TIP; and
 - e. The City and the PROJECT will comply with the requirements as set forth in the program.
3. The City is an eligible sponsor of STP/CMAQ funded projects.

4. The City is authorized to submit an application for STP/CMAQ funds for the PROJECT.
5. There is no legal impediment to City making applications for the funds.
6. There is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of City to deliver such PROJECT.
7. The City Manager, or designee, is authorized to execute and file an application with MTC for STP/CMAQ funding for the PROJECT as referenced in this resolution and to accept the grant, and to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for completion of the PROJECT.
8. A copy of this resolution will be transmitted to the MTC by the City Manager or designee in conjunction with the filing of the application;
9. The MTC is requested to support the application for the PROJECT described in the resolution and to include the PROJECT, if approved, in MTC's TIP.

ADOPTED this 26th day of October, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST



LEE PRICE, MMC
City Clerk