

**RESOLUTION NO. 75526**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL SURFACE TRANSPORTATION PROGRAM ("STP") AND/OR CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT ("CMAQ") FUNDING FOR THE DEVELOPMENT OF CONSTRUCTION DOCUMENTS FOR THE LOS GATOS CREEK 5 B/C (SAN CARLOS STREET TO MONTGOMERY AVENUE) TRAIL PROJECT ("PROJECT") AND COMMITTING THE NECESSARY NON-FEDERAL MATCH AND STATING THE ASSURANCE TO COMPLETE THE PROJECT**

**WHEREAS**, the City of San José ("CITY") is submitting an application to the Metropolitan Transportation Commission ("MTC") for \$1,250,000 in funding from the federal Surface Transportation Program ("STP") and/or Congestion Mitigation and Air Quality Improvement ("CMAQ") Program for the Los Gatos Creek Reach 5 B/C Trail ("PROJECT") for the MTC Resolution No. 3925, New Federal Surface Transportation Act (FY 2009-2010, FY 2010-2011 and FY 2011-2012) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming ("PROGRAM"); and

**WHEREAS**, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA") (Public Law 109-59, August 10, 2005) authorized 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 through December 31, 2010 pursuant to Public Law 111-147, March 18, 2010 and may be subsequently extended pending enactment of successor legislation for continued funding; and

**WHEREAS**, pursuant to SAFETEA and the regulations promulgated thereunder, 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 (9) 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 of San José ("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 the 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 project-specific requirements as set forth in the PROGRAM; and
6. That the PROJECT (transit only) will comply with MTC Resolution No. 3866, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the Region;

**NOW, THEREFORE,** BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN JOSE is authorized to execute and file an application for funding for the PROJECT 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; and it is

**FURTHER RESOLVED** THAT THE COUNCIL OF THE CITY OF SAN JOSE by adopting this Resolution does hereby state that:

1. The CITY will provide at least \$320,000 in non-federal matching funds; and
2. 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 the CITY does not expect any cost increases to be funded with additional STP/CMAQ funding; and
3. The CITY understands the funding deadlines associated with the funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
4. 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
5. The CITY (for a transit project only) agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866; and

6. The CITY and the PROJECT will comply with the requirements as set forth in the PROGRAM, including but not limited to providing 24 hour public access to the constructed PROJECT; and therefore be it

**FURTHER RESOLVED** THAT THE COUNCIL OF THE CITY OF SAN JOSE is an eligible sponsor of STP/CMAQ funded projects; and be it

**FURTHER RESOLVED** THAT THE COUNCIL OF THE CITY OF SAN JOSE is authorized to submit an application for STP/CMAQ funds for the PROJECT; and be it

**FURTHER RESOLVED** that there is no legal impediment to CITY making application for the funds; and be it

**FURTHER RESOLVED** that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of the CITY to deliver such PROJECT; and be it

**FURTHER RESOLVED** THAT THE COUNCIL OF THE CITY OF SAN JOSE authorizes the City Manager or designee to execute and file an application with MTC for STP/CMAQ funding for the PROJECT as referenced in this Resolution and negotiate and execute any documents to accept grant funding for the PROJECT; and be it

**FURTHER RESOLVED** that a copy of this Resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it

**FURTHER RESOLVED** that 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 10th day of August, 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