

RESOLUTION NO. 75638

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE TO: (1) IMPLEMENT A PILOT PROGRAM, THROUGH DECEMBER 31, 2012, TO AUTHORIZE CITY STAFF TO PROCEED WITH THE DEVELOPMENT OF ANY NEW PARK, TRAIL OR RECREATIONAL FACILITY THAT MEETS CERTAIN FUNDING CRITERIA; AND (2) MODIFY THE PARK MAINTENANCE EXEMPTION TO THE CITY'S PREVAILING WAGE REQUIREMENTS

WHEREAS, on February 9, 2010, the City Council approved City staff's recommendation to delay twelve new park and recreation capital projects in order to avoid the impact of ongoing operations and maintenance costs to the General Fund, and staff was directed to return to the Council with a recommendation to proceed with a particular park project if at least three years of maintenance funding could be identified; and

WHEREAS, staff recommended implementing a pilot program that would allow projects currently on hold to proceed with design and construction if certain funding criteria are met, which would ensure that a proposed project does not move forward unless necessary funding is in place for the full development of the project, including design and construction of all master planned improvements and a three-year establishment period; and

WHEREAS, staff has recommended that the City fund the three-year park establishment period as part of the full cost of the development of any new park, trail or recreational facility by entering into a donation agreement with a donor to provide the work required during the establishment period or by using parkland fees or Construction & Conveyance taxes provided that including such funding does not prevent funding the design and building of a new park, trail or recreational facility identified as an "existing" or "Priority 1" project in the adopted Greenprint Update; and

WHEREAS, City Council adopted staff's recommendation for a pilot program with two modifications: (i) allow projects to move forward utilizing a three-year park establishment period provided that staff identifies a longer term plan for maintenance funding; and (ii) authorize staff to enter into agreements with developers to credit some portion of parkland fees where the developer contributes the same amount to a "maintenance fund" restricted to pay for operation and maintenance for a specific park within the nexus for a minimum of 10 years; and

WHEREAS, the City's prevailing wage policy currently includes an exemption for agreements for donated parks maintenance services (including landscaping, restroom cleaning, and other routine maintenance), when those services are paid for solely by the donor, subject to certain criteria as set forth by the City Council on February 12, 2008; and

WHEREAS, staff has recommended modifications to the park maintenance exemption to the City's prevailing wage requirements to include any donated park establishment services or park maintenance by a developer or other entity, provided that certain conditions are met in order to increase opportunities for public-private partnerships and to move new facilities forward that are currently on hold and to avoid impact to the General Fund; and

WHEREAS, City Council adopted staff's recommendation to modify the park maintenance exemption to the City's prevailing wage requirements with the following exception: No exemption from prevailing wage requirements where the developer has received a credit from parkland fees associated with the specific park the developer is proposing to maintain;

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

SECTION 1. A pilot program is implemented, through December 31, 2012, for the development of new parks, trails or recreational facilities, provided that the City Manager finds the following criteria are met:

- A. An appropriation of all funding necessary for the full development of the project including design and construction for all improvements and amenities set forth in the City Council approved master plan for that project; and
- B. Identification of non-general funding for a three-year park establishment period or a "donation" agreement for all work during the three-year park establishment period, and identification of non-general funding for long-term maintenance, subject to City Manager reasonable discretion, after the completion of the three-year park establishment period or a "donation" agreement for all work during the long term maintenance period; and
- C. Funding for the three-year park establishment period, may, subject to appropriation by the City Council include parkland fees and Construction & Conveyance taxes as part of the full cost of the development of any new park, trail or recreational facility, provided that including such funding does not prevent funding the design and construction of a new park, trail, or recreational facility identified as an "existing" or "Priority 1" project in the adopted Greenprint Update.

SECTION 2. Under the pilot program, the City Manager is authorized to negotiate and execute agreements or amendments to existing agreements with developers willing to receive a credit of some portion of parkland fees where that developer contributes the same amount to a "maintenance fund" approved by the City Manager and restricted to pay for the operation and maintenance for a specific park located within the nexus area of the development that paid the fees for period of a minimum of 10 years, provided that including such contribution in a "maintenance fund" does not

prevent funding the design and construction of a new park, trail, or recreational facility identified as an "existing" or "Priority 1" project in the adopted Greenprint Update.

SECTION 3. The park maintenance exemption to the City's prevailing wage requirements approved by the City Council on February 12, 2008 is modified to include any "donated" park establishment period services or park maintenance by a developer or other entity with, or without, an interest in a development in the City, provided that each of the following conditions exist:

- A. The work occurs on real property that is a part of the City's park inventory or is designated by the City as open space, or the work occurs on real property that is used by the City as a trail, whether or not the trail is improved; and
- B. The donor agrees to perform the work at no cost to the City other than those costs associated with negotiating and approving a donation agreement, providing any needed access, approving a work plan, and inspecting and accepting the work; and
- C. The donor agrees to provide the work for a minimum of two (2) years; and
- D. Before the City enters into a donation agreement, or an extension of any such agreement, City staff consults with the applicable labor organizations, the neighbors surrounding the subject property, and any community groups with an interest in the subject property; and
- E. The City Council approves the donation agreement if the estimated value of the donated work exceeds the amount of the City Manager's authority set forth in San Jose Municipal Code Section 4.04.020, as it may be amended; and
- F. Donor has not received any credit, reduction, or other type of similar benefit from parkland fees associated with the specific park the donor is proposing to maintain.

ADOPTED this 16th day of November, 2010, by the following vote:

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

NOES: NONE.

ABSENT: CAMPOS, CONSTANT.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk