

Memorandum

**TO: HONORABLE MAYOR AND
CITY COUNCIL**

**SUBJECT: APPROVAL OF 2004-2005
GENERAL FUND
REBALANCING PLAN**

FROM: Del D. Borgsdorf

DATE: August 13, 2004

Council District: City-wide

RECOMMENDATION

It is recommended that the City Council:

1. Confirm direction contained in the 2004-2005 Mayor's June Budget Message, approved by the City Council as part of adoption of the 2004-2005 Operating Budget, regarding the 2004-2005 General Fund Rebalancing Plan to utilize the Compensation/State Budget Impact Contingency Plan Earmarked Reserve totaling \$2.0 million and implement a new Emergency Communication System Support Fee to resolve the \$11.4 million General Fund revenue shortfall created by State Budget balancing actions.
2. Approve an Ordinance amending Title 8 of the San José Municipal Code to add a new Chapter 8.20 establishing an Emergency Communication System Support Fee and amending Chapter 4.80 of Title 4 of the San José Municipal Code to add a new Part 51 establishing the Emergency Communication System Support Fee Fund.
3. Direct staff to return with the following actions on August 31, 2004:
 - a. Appropriation Ordinance and Funding Sources Resolution amendments and amendments to applicable fee resolutions necessary to implement the above actions; and
 - b. Resolution approving implementation of the rerouting of wireless 9-1-1 service from the State of California to the City of San José ("San José Wireless E9-1-1 Project"), pursuant to Public Utilities Code Section 2892 and authorizing the City Manager to negotiate and execute all documents necessary to complete the San José Wireless E9-1-1 Project.

BACKGROUND

As the City Council is aware, the State of California faced another significant budget challenge this year with a 2004-2005 shortfall estimated at \$17 billion. The State Senate and Assembly have now approved budget bills that the Governor has signed into law. As expected, the State budget includes provisions that negatively impact the City's current General Fund Adopted Budget. This impact is estimated to be approximately \$11.4 million in both 2004-2005 and 2005-2006. An informational memorandum will be released under separate cover that details the impacts of the State Budget on the City of San José.

BACKGROUND (Cont'd.)

Once the State Budget was passed, the Mayor's June Budget Message for Fiscal Year 2004-2005, approved by the City Council on June 15, 2004, authorized the City Manager to move forward to rebalance the budget using the Compensation/State Budget Impact Contingency Plan as revised from the Plan presented in the 2004-2005 Proposed Operating Budget. This approved Plan was included as Attachment I of the Mayor's June Budget Message and is attached (Attachment A) for reference. The proposals contained in the Plan were ranked in order and the City Manager was directed to implement reductions up to a total of \$13.5 million and to return to the City Council with any necessary implementation ordinances.

Pursuant to that City Council direction, the \$11.4 million General Fund shortfall created by State Budget balancing actions necessitates use of the first two reduction items included in the Compensation/State Budget Impact Contingency Plan. Those two items are 1) use of the Compensation/State Budget Impact Contingency Plan Earmarked Reserve totaling \$2.0 million, and 2) implementing a new Emergency Communication System Support Fee. In order to implement the General Fund Rebalancing Plan as previously approved, several ordinances and resolutions need to be established or amended by the City Council, including 1) approving an ordinance to establish an Emergency Communication System Support Fee and to add a new Emergency Communication System Support Fee Fund, 2) approving appropriation ordinance and funding sources resolution amendments to implement necessary budget changes, 3) approving fee resolution amendments to establish the amount of the Emergency Communication System Support Fee, and 4) in conjunction with the approval of the new Emergency Communication System Support Fee, approving a resolution to implement the rerouting of wireless 9-1-1 service from the State of California to the City of San José.

ANALYSIS

2004-2005 General Fund Rebalancing Plan

The impact of the recently approved State Budget balancing provisions creates a 2004-2005 General Fund shortfall totaling \$11.4 million from reduced Vehicle License Fee (VLF) Property Tax replacement revenues (\$11.1 million) and corresponding lost Interest Earnings (\$300,000). As displayed in the table below, the recommended rebalancing plan to resolve this shortfall includes two items that were previously directed by the City Council.

ANALYSIS (Cont'd.)

2004-2005 General Fund Rebalancing Plan (Cont'd.)

2004-2005 General Fund Rebalancing Plan	
	<u>2004-2005</u>
General Fund Shortfall from State Budget Impact	
Vehicle License Fees (VLF) Property Tax Replacement Revenues	\$ (11,100,000)
Lost Interest Earnings	<u>(300,000)</u>
Total General Fund Budget Shortfall from State Budget Impact	\$ (11,400,000)
Additional Resources	
Compensation/State Budget Impact Contingency Plan Reserve	\$ 2,000,000
Emergency Communication System Support Fee	<u>9,400,000</u>
Total Additional Resources	\$ 11,400,000
General Fund Rebalancing Plan Remaining Balance	<u>\$ 0</u>

Because the Emergency Communication System Support Fee requires ordinance approval for implementation, approval of these budget recommendations will require subsequent City Council consideration of the necessary appropriation ordinances and funding sources resolution amendments to implement the General Fund Rebalancing Plan on August 31st, in conjunction with City Council's consideration of final adoption of the recommended Fee Ordinance.

Emergency Communication System Support Fee Ordinance

The Emergency Communication System Support Fee is proposed to fund a service that is available only to telephone subscribers, the ability to alert emergency responders to their need for assistance. Residents of the City who do not have telephone service must rely on others to alert emergency responders to their need for assistance or wait for the City police and fire personnel to discover the emergency. The proposed San José Emergency Communications System Support Fee would be used to fund the personnel that are directly involved in answering and handling 911 calls. Services funded by the proposed Fee would include the City's emergency medical instruction pre-arrival instruction program, which is only available through telephone contact with the City. The proposed Fee would not be used to pay for the costs of police or fire personnel who respond to emergency calls for assistance.

In preparation for implementing the Emergency Communication System Support Fee proposed in the General Fund Rebalancing Plan, staff, in coordination with the City Attorney's Office, obtained and reviewed ordinances from other jurisdictions that already have such a fee. Staff and the City Attorney's Office have also been tracking fee proposals in other jurisdictions and

ANALYSIS (Cont'd.)

Emergency Communication System Support Fee Ordinance (Cont'd.)

coordinating with staff from other Santa Clara County jurisdictions considering such a fee. Attachment B, entitled "Summary of Ordinance Status-Other Jurisdictions", lists the jurisdictions known to have considered a fee similar to the proposed San José fee.

The fee ordinances from other jurisdictions have a number of common elements, which have been incorporated into the proposed San José Ordinance, including:

- The fee is imposed to recover capital and operating costs associated with providing emergency communications service to telephone subscribers; the ordinances do not allow police and fire emergency response costs to be included in the cost recovery formula.
- The fee is imposed on local telephone subscribers, but is collected by telephone service providers.
- At least two fee levels are established; one for single access lines, and one for "trunk" lines; most trunk line fees in other jurisdictions are 7.5 times the access line fee, based on California Public Utilities Commission information that a trunk line provides 7.5 times the access of a single line, with several jurisdictions having a separate charge for "high capacity" trunk lines.
- Certain subscribers are exempt from the fee, including: lifeline customers; telephone companies; coin operated phones; non-profit hospitals; non-profit tax exempt educational institutions; subscribers upon whom imposition of the fee would violate the federal or State constitution, or other preemptive federal or State law; the local jurisdictions imposing the fee and other local government offices within the jurisdiction (Santa Clara County in the case of San José).
- The fee formula set forth in the ordinances expressly disallow recovery of the cost of providing service to the exempt subscribers; and to provide for these costs to continue to be paid using General Fund revenue.
- The fee revenue is deposited into a special fund, with use of the revenue limited to the cost of providing emergency communications service to fee payers.

All of the other jurisdictions that impose this type of fee, impose the fee on wireless lines as well as land lines. In addition, as Attachment B indicates, most jurisdictions cap the amount of the fee that is required to be paid from any single location, and many expressly allow telephone service providers to collect a percentage of the fee as a service charge. Most recently adopted ordinances also include a review mechanism to ensure that the fee is reviewed on an annual basis, as well as refund and administrative appeal provisions.

A primary goal of having an ordinance that is similar to other jurisdictions that have implemented such a fee is to facilitate the implementation by telephone service providers. The recommended San José Ordinance is designed to achieve this goal, while implementing specific City Council direction for the San José Emergency Communication System Support Fee. For example, the proposed San José Ordinance would impose the fee on both wireless and land lines;

ANALYSIS (Cont'd.)

Emergency Communication System Support Fee Ordinance (Cont'd.)

it includes a finding that trunk lines provide 7.5 times the access provided by a single line; it allows service providers to collect a 1/8 of 1% service charge; and it includes a review mechanism by requiring annual reports from the Finance Director. Per City Council direction contained in the Mayor's June Budget Message, the proposed Ordinance would cap the single location fee at \$20,000 and would sunset two years after the fee goes into effect, on December 31, 2006. The proposed San José Ordinance also includes refund and administrative appeal procedures, similar to those included in the most recent ordinances from other jurisdictions, to allow subscribers to claim a refund if they believe they have been improperly charged.

In addition to developing the proposed San José Ordinance, staff has worked on finalizing the Emergency Communication Center costs to be recovered in the fee recovery formula to confirm the \$9.4 million revenue estimate included in the 2004-2005 General Fund Rebalancing Plan. A worksheet documenting the costs to be recovered is included as Attachment C. The estimate of costs to be recovered is based on total Emergency Communication Center capital and operating costs, at current staffing levels, of \$22,917,324. After deducting for revenue received from Central Fire Protection District for emergency calls from their service area (\$260,000); the cost of providing service to exempt subscribers; and other costs that may be non-recoverable, staff has determined that an amount of \$19,877,270 is eligible for fee recovery. The \$9.4 million revenue estimate for 2004-2005 included in the General Fund Rebalancing Plan assumes that actual fee collections will not begin until January, 2005, due to the substantial lead time required for the over 150 telephone service providers in San José to change their billing systems to incorporate the fee.

If the proposed Ordinance is approved, we will be returning to City Council on August 31st with a recommendation for adoption of a fee resolution. Based on current Statewide information regarding the number of phone lines in San José (1,080,000), it is anticipated that a fee of \$1.75 per access line (\$13.13 per trunk line) will be recommended for implementation. However, it should be noted that a letter has been recently sent to all known San José telephone providers requesting information on the actual number of lines they serve. Staff is especially seeking information on the number of trunk lines versus high capacity lines for the purpose of determining whether to recommend a separate high capacity fee. If the additional information is received, the recommended amount of the fee may change slightly, and a separate high capacity fee may be recommended.

San José Wireless E9-1-1 Project

Currently, all wireless 9-1-1 calls in San José, are first routed to the California Highway Patrol (CHP) and then transferred to the San José Public Safety Answering Point (PSAP), located in the City's Emergency Communications Center, upon CHP determination that the incident is within the jurisdiction of the local agency. CHP does not transfer wireless calls for law enforcement assistance that originate from a CHP patrolled roadway, but all emergency medical and fire calls are transferred to the San José PSAP.

ANALYSIS (Cont'd.)

San José Wireless E9-1-1 Project (Cont'd.)

In January 2001, legislation was approved amending Section 2892 of the Public Utilities Code to enhance wireless 9-1-1 service by allowing certain wireless 9-1-1 calls to be directly routed to PSAPs, provided certain conditions are met, including a determination by the CHP, the State Department of General Services and the PSAP, in consultation with the wireless industry, that direct call routing of calls to the PSAP is in the best interest of the public and will provide more effective emergency service. The Wireless E9-1-1 legislation provides that wireless calls originating from a CHP patrolled roadway must continue to be first routed to the CHP.

Conversion to Wireless E-9-1-1 service has been underway in Southern California for sometime. The Bay Area is the next region targeted by the State to receive Wireless E-9-1-1 service. To date, conversion has been completed in San Francisco, and is underway locally in Palo Alto, Mountain View, Sunnyvale and Milpitas. The State has indicated a goal of January 1, 2005 for beginning the conversion in San José.

The San José Wireless E9-1-1 Project would reduce delays that now occur in receiving and responding to wireless 9-1-1 calls by allowing those calls to be routed directly to the San José Emergency Communications Center. Implementation of the San José Wireless E9-1-1 Project will require the San Jose Police Department and CHP to work with wireless providers to identify specific cellular sites and sectors in San José that do include any portion of a CHP controlled roadway. Once the cellular sites to be directly routed to the San José Emergency Communications Center have been identified, wireless providers will begin making the necessary changes to their facilities in those locations.

Although the Wireless E9-1-1 legislation does not require the City to pay for the direct costs of making the required changes to wireless provider facilities, nor does the legislation require the City to provide any specific level of service to wireless 9-1-1 calls, staff anticipates that wireless call volume would increase with implementation of the Project. Given the additional call volume expected to result from a decision to take on this additional responsibility, staff does not recommend that the City take on the conversion unless the Emergency Communication System Support Fee is implemented.

As a result, we recommend that the City Council consider implementation of the San José Wireless E9-1-1 Project in conjunction with its consideration of final adoption of the recommended Emergency Communication System Support Fee Ordinance on August 31st. If the Fee Ordinance is not approved, we recommend delaying implementation of the San José Wireless E9-1-1 project until a reliable and adequate source of funding can be identified for the emergency communication system function.

HONORABLE MAYOR AND CITY COUNCIL

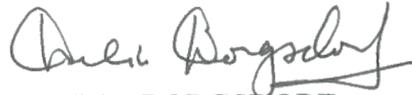
08-13-04

Subject: Approval of 2004-2005 General Fund Rebalancing Plan

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COORDINATION

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



DEL D. BORGSDORF
City Manager

Attachments:

Attachment A – State Budget Reduction Contingency Plan (Mayor's June Budget Message)

Attachment B – Summary of Ordinance Status-Other Jurisdictions

Attachment C – 2004-2005 Emergency Communication System Support Fee Cost Recovery Calculation

Attachment I

State Budget Reduction Contingency Plan

Recommended Ranking	Title	Amount	Cumulative
1	Additional savings in Mayor's message	2,000,000	\$2,000,000
2	Emergency Response Fee	\$9,500,000	\$11,500,000
3	Fleet Management Program	\$127,000	\$11,627,000
4	Fire Training	\$100,000	\$11,727,000
5	Street light Supplies	\$35,000	\$11,762,000
6	Facilities Management Program	\$254,000	\$12,016,000
7	Health and Safety Program Staffing	\$51,000	\$12,067,000
8	Street Light Operations	\$90,000	\$12,157,000
9	Financial Reporting Staffing	\$132,000	\$12,289,000
10	Transit Mall Cleaning and Services	\$90,000	\$12,379,000
11	Community Based Organization Funding	\$74,000	\$12,453,000
12	Technology Support	\$277,000	\$12,730,000
13	Long Range Planning	\$104,000	\$12,834,000
14	HIT consolidation	\$444,000	\$13,278,000
15	Police Administrative Sworn Staffing	\$262,000	\$13,540,000
		\$105,000	\$13,645,000
17	F	\$824,000	
	S	\$66,000	
		\$782,000	
			,000
22	Safe Schools Campus Initiative Efficiencies		\$16,121,000
23	Police Traffic Enforcement Sworn Staffing		
24	Future Teacher Loan program		
25	Anti Graffiti Program		
26	Fire Emergency Response Engine Company		
27	School Crossing Guard 50% reduction		
28	Library Branch Hours Elimination		
29	Domestic Violence After Care Services	\$53,000	\$20,427,000
30	Clean Slate and Striving Toward Achievement		\$20,910,000
31	School Crossing Guard elimination	\$716,000	
32	Police Investigations Sworn Staffing	\$1,506,000	
33	Police Special Operations Sworn Staffing	\$3,554,000	
34			\$30,964,000

SUMMARY OF ORDINANCE STATUS - OTHER JURISDICTIONS				
Jurisdiction	Date Ordinance Adopted	Trunkline Fee/Access Fee	Fee CAP	Collection Fee to Providers
San Francisco	12/23/93	7.5 ¹	35,000	Yes
Santa Cruz County	04/04/02	7.5	10,000	Yes
City of Santa Cruz	09/09/03	7.5	10,000	1/8 of 1%
Watsonville	10/14/2003 ²			
Union City	11/25/03	9.0 ³		1/8 of 1%
Stockton	06/08/04	7.5 ⁴	10,000	1/8 of 1%
Cupertino	⁵			
County of Santa Clara	⁶			

- ¹ San Francisco also has a high capacity trunk line fee of 135 times the access line fee.
- ² Watsonville's ordinance was challenged by referendum and is on the November ballot.
- ³ Union City also has a high capacity trunk line fee of 24 times the access line fee.
- ⁴ Stockton also has a high capacity trunk line fee of 18 times the access line fee.
- ⁵ Cupertino Council has deferred action on an ordinance.
- ⁶ Ordinance rejected by Board of Supervisors Committee 6/04.

2004-2005 EMERGENCY COMMUNICATION SYSTEM SUPPORT FEE COST RECOVERY CALCULATION

Fire

<u>Department</u>	<u>Jobcode</u>	<u>Description</u>	<u>FTE</u>	<u>Salary</u>	<u>Benefit</u>	<u>Total</u>
5400	1156	Secretary	1.00	54,784	19,290	74,074
5400	2314	Battalion Chief	1.00	141,239	39,829	181,068
5400	8512	Supervg Pub Safety Disp *	3.00	265,673	72,773	338,446
5400	8513	Senr Pub Safe Dispatch *	9.00	666,476	174,242	860,718
5400	8514	Public Safety Disp II *	29.00	1,863,056	560,782	2,423,838
Overtime		last year's estimate				150,000
Night Shift diff.		estimate				70,000
			<u>43.00</u>	<u>3,011,228</u>	<u>866,916</u>	<u>4,098,144</u>

Police

<u>Department</u>	<u>Jobcode</u>	<u>Description</u>	<u>FTE</u>	<u>Salary</u>	<u>Benefit</u>	<u>Total</u>
5000	1135	Senr Office Specialist	1.00	50,731	19,303	70,034
5000	8510	Division Mgr, Public Safety	1.00	100,106	28,603	128,709
5000	8512	Supervg Pub Safety Disp *	8.00	715,638	194,611	910,250
5000	8513	Senr Pub Safe Dispatch *	14.00	1,103,636	294,416	1,398,052
5000	8514	Public Safety Disp II *	78.00	5,093,677	1,470,279	6,563,956
5000	8515	Public Safety Disp I *	54.00	3,030,412	929,939	3,960,351
5000	8516	Assist Police Commun Mgr	1.00	101,273	24,118	125,391
5000	8534	Public Safety Disp II PT *	4.00	257,901	23,796	281,697
5000	8535	Public Safety Disp I PT *	1.00	57,116	4,063	61,199
Overtime		last year's estimate				525,000
Night Shift Diff.		last year's estimate				188,867
			<u>162.00</u>	<u>10,510,490</u>	<u>2,989,148</u>	<u>14,213,506</u>

Total, both Departments	<u>205.00</u>	<u>13,521,719</u>	<u>3,856,064</u>	<u>18,311,650</u>
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Overhead Calculations

	<u>Police</u>	<u>Fire</u>	<u>Total</u>
Salary + Benefits (see above)	14,213,506	4,098,144	18,311,650
Salary (w/o Benefits) (see above)	10,510,490	3,011,228	
Grant (A-87) Overhead rate (last year's rate)	0.3278	0.2525	
Overhead amount	3,445,339	760,335	4,205,674
Total cost	<u>17,658,845</u>	<u>4,858,479</u>	<u>22,517,324</u>

Dispatch software cost (\$1 million amortized over 10 yrs)	100,000
Dispatch center facility costs (Based on Sq. Footage times Eligible Costs)	125,000
Estimated phone company collection fees	75,000
City costs to administer "cap" and other exclusions & audit cost	100,000

Current Total 22,917,324

Less: dispatch portion of Central Fire property taxes for 04-05 (260,000)

Total, After Adjustments 22,657,324

Impact of Lifeline exemption:	(1,787,663)
Impact of Governmental exemption (other than educational):	(337,594)
Impact of Educational exemption:	(516,587)
Impact of Coin/Pay Phones exemption:	(138,210)

Total annual impact of exemptions (2,780,054)

Annual Estimated Cost Recovery Amount 19,877,270

\$20,000 per account per service location CAP. Unknown

* These positions have been reduced 10% to account for dispatch work that may be exempt from fee recovery.