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Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Vilcia Rodriguez

SUBJECT: Early Council Packet

DATE: December 2, 2008

Approved

Date

12/2/08

EARLY DISTRIBUTION COUNCIL PACKET FOR DECEMBER 16, 2008

Please find attached the Early Distribution Council Packet for the December 16, 2008 Council Meeting.

4.x Agreement between EHC Lifebuilders and its Creditors.

Recommendation: Adopt a resolution:

- (a) Authorizing the Director of Housing to Negotiate and Execute a Forbearance and Release Agreement between EHC, Comerica Bank, the County of Santa Clara, and the City in order to facilitate the sale of the identified EHC properties;
- (b) Authorizing the Director of Housing to Negotiate and Execute a conditional grant agreement with Mid-Peninsula Housing Corporation in an amount not to exceed \$1.4 million for the transfer of existing affordability restrictions at EHC's Gifford Avenue, 5th Street, and East Younger Avenue properties to Mid-Peninsula's Country Hills property, located at 124 Rancho Drive, to be paid from the proceeds of the sale of property;
- (c) Approving the Relocation Impact Statement and Last Resort Housing Plan for EHC's Markham Terrace property at 2112 Monterey Road;
- (d) Approving the Relocation Impact Statement and Last Resort Housing Plan for EHC's properties at Gifford Avenue, 5th Street, and East Younger Avenue;
- (e) Authorizing the Director of Housing to expend up to \$2.1 million for the relocation of tenants at the Markham Terrace site;
- (f) Authorizing the Director of Housing to expend up to \$400,000 in short-term operational assistance to replace the loss of rental income at Markham Terrace during tenant relocation;

- (g) Authorizing the Director of Housing to negotiate and execute an amendment to the existing agreement with Associated Right of Way Relocation consultants by \$450,000, from \$129,000 to \$579,000 to implement the EHC relocation plans; and,
- (h) Authorizing the Director of Housing to negotiate and execute a \$500,000 predevelopment loan to Charities Housing Development Corp. (Charities Housing), or its designated affiliate, for the redevelopment of the Markham Terrace site.

CEQA: Exempt, File No. PP08-270. Council Districts 3 and 7. (Housing)

4.x Funding commitment for site acquisition for the Orvieto Family Apartment.

Recommendation: Adopt a resolution approving a funding commitment of up to \$3,680,000 of Low and Moderate Income Housing Funds (20% Funds) to the ROEM Development Corporation, or its legal affiliate, for a land acquisition loan for future development of the 92-unit Orvieto Family Apartments, an affordable multifamily rental project located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive, to be made available to extremely low-income and very low-income households.

CEQA: EIR Resolution No. 72768 adopted June 21, 2005, File Number PDC07-101. Council District 7. (Housing)

4.x Funding commitment for site acquisition for the First and Rosemary Senior Apartments Project.

Recommendation: Adopt a resolution approving a funding commitment for site acquisition of up to \$6,300,000 of 20% Housing Funds to the ROEM Development Corporation or its legal affiliate, for a land acquisition loan for the development of the 184-unit First and Rosemary Family Apartments, an affordable multifamily rental project located at the Southeast corner of Rosemary and North First Streets, to be made available to extremely low-income, very low-income, and low-income households. CEQA: EIR Resolution No/ 72768 adopted June 21, 2005, File Number PDC07-101. Council District 3. (Housing)

4.x Funding commitment for site acquisition for the First and Rosemary Family Apartments Project.

Recommendation: Adopt a resolution approving a funding commitment for site acquisition of up to \$3,700,000 from the 20-percent Low and Moderate Income Housing Fund to the ROEM Corporation, or its legal affiliate, for a land acquisition loan for the development of the 106-unit First and Rosemary Senior Apartments, an affordable multifamily rental project on a 1.06-gross acre site located at the southeast corner of Rosemary and North First Streets, to be made available to extremely low-income and

very low-income households. CEQA: EIR Resolution No. 72768 and Addendum thereto, PDC07-101. Council District 3. (Housing)

4.x IIG Program Grant Award for Kings Crossing Affordable Housing Family Rental Development.

Recommendation:

- (a) Adopt a resolution:
 - (1) Authorizing the Director of Housing to accept a \$4,495,840 Infill Infrastructure Grant Program award from the California Department of Housing and Community Development to fund infrastructure improvements necessary for the Kings Crossing affordable housing family rental project.
 - (2) Authorizing the Director of Housing to negotiate and execute all necessary documents.
 - (b) Adopt the following amendments to the 2008-2009 Appropriation Ordinance and Funding Sources Resolution in the Multi-Source Housing Fund (Fund 448):
 - (1) Create the Infill Infrastructure Grant Program appropriation by \$4,495,840.
 - (2) Increase the estimate for Grant Revenue in the amount of \$4,495,840.
- CEQA: Resolution No. 74196, File No. PDC07-015. Council District 3. (Housing/City Manager's Office)

4.x Willow Glen Community Benefit District Hearing and Election.

Recommendation:

- (a) Conduct a public hearing for the formation of proposed Willow Glen Community Benefit District and authorize the City Clerk to tabulate ballots;
- (b) Adoption of a resolution by casting a ballot in favor of the establishment of the Willow Glen Community Benefit District as the property owner of two parcels within the proposed district, APN 429-17-036 and APN 429-17-107, and the imposition of an assessment on City-owned property;
- (c) Direct the City Clerk to report the results of the tabulation of ballots;
- (d) If the proposed District is approved by property owners, adopt a resolution by Council:
 - (1) Approving the Willow Glen Community Benefit District Management Plan and Engineer's Report; and,
 - (2) Approving and imposing the respective assessments.

CEQA: Exempt, File No. PP08-097. Council District 6. (Public Works)

4.x Award of contract for the Fire Station No. 2 – Rebuild Project.

Recommendation:

- (a) Report on bids and award of contract for the Fire Station No. 2 Rebuild Project to the low bidder, Santa Clara Valley Corporation dba Swenson Development and Construction, to include the base bid, the revocable item and Add Alternates No. 1 and No. 3, in the amount of \$5,193,253, and approval of a contingency in the amount of \$625,000.
- (b) Approve the schedule reset to extend the projected Beneficial Use Date of Fire Station No. 2 to August 1, 2010 from November 2009.
- (c) Adopt the following 2008-2009 Appropriation Ordinance amendments in the Neighborhood Security Bond Fund (Fund 475):
 - (1) Increase the Contingency Reserve by \$590,000;
 - (2) Decrease the Fire Station No. 2 – Rebuild appropriation by \$590,000.
- (d) Adopt the following 2008-2009 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax: Fire Protection Services Fund (Fund 392):
 - (1) Increase the Ending Fund Balance by \$124,000;
 - (2) Decrease the Fire Station No. 2 – Rebuild appropriation by \$124,000.

CEQA: Exempt, PP05-220. (Public Works/Fire/City Manager's Office)

5.x Memorandum of Understanding for the shared planning, development and operation of recreational facilities.

Recommendation: Approve the Memorandum of Understanding (MOU) between the City of San José and the East Side Union High School District for the shared planning, development and operation of recreational facilities. CEQA: Not a Project. Council Districts 2, 3, 4, 5, 7 and 8. SNI: Mayfair, KONA, West Evergreen. (Parks, Recreation and Neighborhood Services)

(Deferred from 12/02/08 – Item 5.2)

NOTE: TO BE DISTRIBUTED SEPARATELY

5.x Grant application for the Guadalupe Creek Trail.

Adopt a resolution authorizing the City Manager to:

- (a) Submit a grant application in an amount not to exceed \$2,500,000 under the River Parkways Grant program administered by the State Resources Agency (Resources Agency) for the Guadalupe River Park & Gardens Circuit Pathways, Native Plants Installation and Interpretive Signage project.
- (b) Accept any grant funds and to negotiate and execute all necessary documents related to the grant award.

CEQA: Negative Declaration, PP08-253. Council District 10. SNI: Hoffman/Via Monte. (Parks, Recreation and Neighborhood Services)

5.x Emergency Tree Services Ordinance.

Recommendation: Approve an ordinance amending Chapter 13.28 of Title 13 of the San José Municipal Code to enable the City to invoice the property owner for emergency tree services performed on behalf of the adjacent property owner. CEQA: Not a Project. (Transportation)

6.x Award contract for the Environmental Services Building Repair Project.

Recommendation:

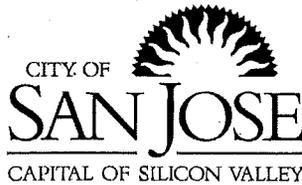
- (a) Report on bids and award of contract for the construction of the Environmental Services Building Repair Project to the lowest responsible bidder, Zolman Construction & Development, Inc., in the amount of \$3,600,000, and approval of a contingency in the amount of \$540,000.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement with Allana Buick & Bers, Inc. for professional services related to the repair and modifications of the San José/Santa Clara Water Pollution Control Plant's Environmental Services Building, modifying the scope of services and increasing the compensation by an amount not to exceed \$200,000 for a total maximum amount not to exceed \$787,495; and extending the term of the agreement by five months to December 31, 2010.

CEQA: Exempt, PP08-157. (Public Works/Environmental Services)

These items will also be included in the Council Agenda Packet with item numbers.



VILCIA RODRIGUEZ
Sr. Executive Analyst



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: November 24, 2008

Approved

Date

12-2-08

COUNCIL DISTRICT: 3, 7

SNI AREA: N/A

SUBJECT: APPROVAL FOR THE DIRECTOR OF HOUSING TO NEGOTIATE AND EXECUTE AN AGREEMENT BETWEEN EHC LIFEBUILDERS (EHC) AND ITS CREDITORS AND OTHER RELATED ACTIONS

RECOMMENDATION

It is recommended that the City Council adopt a resolution:

- a. Authorizing the Director of Housing ("the Director") to Negotiate and Execute a Forbearance and Release Agreement between EHC, Comerica Bank, the County of Santa Clara, and the City in order to facilitate the sale of the identified EHC properties;
- b. Authorizing the Director of Housing to Negotiate and Execute a conditional grant agreement with Mid-Peninsula Housing Corporation in an amount not to exceed \$1.4 million for the transfer of existing affordability restrictions at EHC's Gifford Avenue, 5th Street, and East Younger Avenue properties to Mid-Peninsula's Country Hills property, located at 124 Rancho Drive, to be paid from the proceeds of the sale of property;
- c. Approving the Relocation Impact Statement and Last Resort Housing Plan for EHC's Markham Terrace property at 2112 Monterey Road;
- d. Approving the Relocation Impact Statement and Last Resort Housing Plan for EHC's properties at Gifford Avenue, 5th Street, and East Younger Avenue;
- e. Authorizing the Director of Housing to expend up to \$2.1 million for the relocation of tenants at the Markham Terrace site;
- f. Authorizing the Director of Housing to expend up to \$400,000 in short-term operational assistance to replace the loss of rental income at Markham Terrace during tenant relocation;

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- g. Authorizing the Director of Housing to negotiate and execute an amendment to the existing agreement with Associated Right of Way Relocation consultants by \$450,000, from \$129,000 to \$579,000 to implement the EHC relocation plans; and,
- h. Authorizing the Director of Housing to Negotiate and Execute a \$500,000 predevelopment loan to Charities Housing Development Corp. (Charities Housing), or its designated affiliate, for the redevelopment of the Markham Terrace site.

OUTCOME

There are several outcomes that will result from this action. First, this action will enable EHC to take the final steps necessary to strengthen its financial position and reduce its debt by selling several of its real estate assets. Second, the City will ensure that one of its largest providers of homeless shelter and services, and the nonprofit that runs the County's cold weather shelters, will continue to operate. Lastly, the City will be repaid what it has invested in these properties, will ensure that there is not a reduction in the number of affordable units available to lower-income persons, and will ensure that people currently living in the affordable units are relocated according to State relocation law.

BACKGROUND

EHC Lifebuilders (EHC) is the largest provider of homeless shelter and services in Santa Clara County. In September 2007, EHC announced that the organization would be restructuring its operations to stabilize its financial standing. Since that time, EHC has reduced its operating budget by approximately 50% from \$13 million to just under \$7 million and reduced staffing by approximately 44% with remaining staff taking salary cuts. In addition, 16 Federal and State contracts were eliminated or transferred to other providers.

Since the beginning of 2008, EHC has been successful in raising \$2 million in operating support to continue providing services to the homeless community. A Public-Private Funders Collaborative, led by the Packard Foundation, was established to raise these funds and determine how they would be used to strengthen EHC's operations. The funds raised have been used for a variety of capacity building activities: board development, staff development, fund development, and financial management. This Collaborative has met several times over the past 14 months to review EHC's progress in implementing these activities.

The nonprofit has taken considerable steps to improve its financial processes and procedures. EHC's recently released audit found no material deficiencies, and was issued as an unqualified opinion, meaning that the financial statements were found to be in conformance with generally accepted accounting principles.

As part of its financial restructuring plan, EHC has evaluated its real estate holdings. EHC must sell some of its properties in order to reduce debt and allow it to focus on its core service – providing temporary shelter and services to the homeless. During the past several months, the Housing Department has been working with EHC to develop an asset sale and loan repayment plan that will address a large portion of its outstanding debt.

This process has resulted in the creation of a draft Forbearance and Release Agreement between EHC and its creditors. This document is the creditors' binding agreement that it will not foreclose on its loans with EHC, provided that certain obligations are met by EHC and its partners. Should the City not approve the agreement, several possible negative outcomes could occur. A senior lender could foreclose on the properties, wiping out the City's loans. EHC could declare bankruptcy, which could have a similar result, and which could also result in the loss of affordable units. In either case, the homeless population would lose access to vital shelter and services that are now provided by EHC. It might then be necessary for the City to step in to provide shelter and services, if another provider could not be found. By taking this action the City will retain its financial interests and negate the prospect of having to provide direct services, or provide additional funds for homeless services.

This memorandum summarizes the provisions of the asset sale plan and presents recommended actions required by City Council to facilitate the sale of EHC real estate holdings and ensure successful implementation of the Forbearance and Release Agreement.

ANALYSIS

EHC has a number of financial obligations that need to be addressed through the sale of real estate assets. These are listed below.

- A \$3,600,000 loan with the City of San Jose on EHC's Markham Terrace property.
- \$1,175,387 in unsecured interest owed to the City of San Jose on three collateral properties
- A \$294,000 CDBG rehabilitation loan that the City owes to HUD.
- \$176,755 in unsecured debt with Santa Clara County on two collateral properties.
- A \$125,000 loan with the Santa Clara County on Markham Terrace.
- A HUD grant to EHC in a remaining amount of \$75,825.
- A \$53,800 obligation to the Veterans Administration on Markham Terrace.
- A Bank of the West Loan with an approximate balance of \$582,000 on Markham Terrace.
- A \$3,400,000 term loan with Comerica Bank (Comerica).
- A \$1,100,000 line of credit and \$600,000 bridge loan with Comerica.

Eight Collateral Properties for Comerica Term Loan

A number of EHC's outstanding obligations are tied to eight properties that serve as collateral for the \$3,400,000 Comerica Term Loan. The City has \$1,175,387 in unsecured interest on these properties in the form of conditional loans that would be jeopardized if Comerica were to

foreclose on the Term Loan. In addition, the City would be responsible for repaying the CDBG loan in the amount of \$294,000 to HUD.

The City has affordability restrictions on six of the eight properties. Additionally, the terms of the City's conditional loans require that they be repaid if the units are not maintained for affordable housing use prior to the end of the affordability term. If Comerica were to foreclose on the loan, the City would likely lose the funds invested in the properties, though it could enforce the affordability restrictions and require Comerica to maintain the units as affordable for the entire term. As part of the forbearance plan, it is recommended that EHC sell the eight collateral properties ("the collateral properties") listed below.

1. 1077 N. Fifth Street - six unit apartment building with 2-1bd/1ba and 4-2bd/1ba units.
2. 1081 N. Fifth Street - four unit apartment building with 2-1 bd/1ba and 2-2bd/1ba units.
3. 1085 N. Fifth Street - six unit apartment building 2-1bd/1ba and 4-2bd/1ba units.
4. 1089 N. Fifth Street - seven unit apartment building with 7-1bd/1ba units.
5. 282 East Younger - six unit apartment building with 2-1bd/1ba and 2-2bd/1ba units.
6. 323-325 Gifford Avenue - single-family residence and a duplex with 2 studio/1ba units.
7. 327 Gifford Avenue - single-family residence with 1-3bd/1ba unit.
8. 329 Gifford Avenue - single-family residence and 1 bedroom studio apartment.

The City and EHC attempted to market the collateral properties to other affordable housing developers. However, due to the expense associated with managing small properties that are scattered throughout the City, no offers were made to purchase the assets. In order to make the property more attractive to potential buyers, the existing restrictions and obligations on the properties need to be removed. Initial interest has been expressed by investors for all eight of the identified properties.

In addition to the City's affordability restrictions, obligations on these properties include: a \$294,000 CDBG loan; a \$75,825 HUD grant; the City's \$ 1,175,387 in unsecured debt; and, \$176,755 in unsecured debt and interest with the County. Besides addressing the Comerica Term Loan debt, sale of these properties satisfies the CDBG loan and the HUD grant. The proceeds will also repay the City \$1,175,387 in unsecured debt that will be used to fund the transfer of affordability restrictions to another site. The sales proceeds will also pay for the relocation of existing tenants as required by existing law. The \$176,755 in unsecured County interests will be repaid from the sale proceeds.

Transfer of Affordability Restrictions to Country Hills Apartments

Mid-Peninsula Housing Corporation (Mid-Pen) has agreed to accept the transfer and placement of the affordability restrictions from the collateral properties to its Country Hills apartment complex, located at 124 Rancho Drive. This existing 152-unit apartment building, owned and operated by Mid-Pen, currently has 60 restricted and 92 unrestricted units. The restricted units were previously funded by a Housing Department loan.

In exchange for accepting the affordability restrictions, Mid-Pen will receive a \$1,398,300 conditional grant from the Housing Department. Terms of the conditional grant require that the length of affordability on the transferred restrictions be extended from 22 to 50 years and that the units are affordable to households earning 50% of area median income or less. The Housing Department is requesting that the City Council authorize the Director of Housing to negotiate and execute an agreement with Mid-Pen subject to these terms. This transaction will be funded through the sale of the eight collateral properties.

Relocation of Tenants at the Comerica Term Loan Collateral Properties

In addition to moving the affordability restrictions, sale of the collateral properties at market rate prices entails relocation of the existing tenants. Five of the eight properties are currently occupied by 15 tenants. In accordance with relocation law, a draft Relocation Plan was developed by Associated Right of Way Services, Inc. (ARWS). ARWS has calculated the estimated cost to relocate the tenants from the EHC properties to comparable housing to be between \$170,000 and \$205,000. In order to facilitate the property sales, the City may need to front the relocation costs. These costs will be repaid from the proceeds of the property sales.

The Draft Relocation Plan for the eight properties was made available for public comment for the required 30-day public review period. The Plan, which is available at www.sjhousing.org/public.html, may now be adopted by the City Council. Adoption by the City Council is necessary in order for the tenant relocation and disbursement of relocation benefits to occur.

Sale of Markham Terrace Property

EHC also has a line of credit for \$1,100,000 and a bridge loan of \$600,000 with the bank. These two loans are corporate obligations of EHC that are not tied to a specific property. However, EHC has determined that it must sell its Markham Terrace property at 2112 Monterey Road in order to satisfy the two Comerica loans and other debts tied to the site. The Markham Terrace property contains a 95-unit development and a commercial restaurant. The 95 unit development was built as a motel in 1970 and converted to a Single Room Occupancy (SRO) affordable to Extremely Low- Income tenants in 1995. The restaurant is leased to a private business entity with the basement used as a meeting room for the Markham Terrace tenants.

Besides the unsecured Comerica loans, EHC has a number of secured loans on Markham Terrace. These are listed below.

- A \$3,600,000 loan from the City on Markham Terrace
- A loan from Bank of the West with a current outstanding balance of approximately \$534,844
- A \$125,000 obligation to the County
- A \$53,682 obligation to the Veterans Administration

EHC has entered into a purchase and sales agreement with Charities Housing Development Corp. (Charities Housing) for the sale of the Markham Terrace site in the amount of \$6.3 million.

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The debts owed Comerica, Bank of the West, and the Veterans Administration will be repaid from the sale of the property to Charities Housing. Both the City and County's Office of Affordable Housing have tentatively agreed to allow Charities Housing to assume their respective loans that remain on Markham Terrace. The real estate appraisal recently completed on this site substantiates that there is enough value in the Markham Terrace site to justify the sales price, repay the outstanding debts on the site, and support the ability of Charities Housing to assume both the \$3,600,000 City loan and the \$125,000 County debt. The City supports the sale of Markham Terrace for several reasons including the fact that the sale will protect the City's financial interest in the property. In order to facilitate the sale of the property, the City will be paying for the tenant relocation costs. Any remaining sales proceeds will be applied toward the relocation of Markham Terrace tenants and potential redevelopment costs.

Markham Terrace Redevelopment

In determining an appropriate price for the sale of the Markham Terrace property to Charities Housing, staff facilitated completion of a detailed structural assessment. Through this process, it was determined that the residential component had significant building issues that make it impractical to renovate the existing building. Therefore, the Housing Department and Charities Housing concluded it would be a much better long-term investment to pursue a complete demolition, redesign, and reconstruction of the structure. The City and Charities Housing are currently reviewing possible alternatives for the redevelopment of the site. Housing Department staff will return to City Council with two separate recommendations. The first will be a recommendation to provide acquisition financing to Charities Housing for the purchase of the Markham Terrace site. Subsequent to that action, Staff will bring forward a recommendation that Low and Moderate Income Housing Fund (20% funds) be committed to help finance the redevelopment of a new affordable housing project on the Markham Terrace site. The amount of the request will not be determined until Charities Housing and Housing Department staff have determined the best project and financing scenarios for this location.

Predevelopment Loan for Charities Housing

Charities Housing has requested predevelopment funding to initiate project design and permitting approval. The Housing Department is recommending that City Council approve a predevelopment loan to Charities of up to \$500,000 in order to expedite the exploration of potential redevelopment of this site. The Department typically does not request funding for preliminary planning activities prior to the applicant's attainment of land use entitlements and the City Council's approval of site acquisition funding because the land use decision has not been fully vetted through the public hearing/approval process. However, in this case the site already has recorded affordability restrictions that dictate that it be used as an affordable housing site through the year 2050 – whether through rehabilitation of the existing structure or potential development of another project.

Relocation of Markham Terrace Tenants

The existing Markham Terrace tenants will need to be relocated. As mentioned, the City will be fronting the tenant relocation costs to facilitate the sale of the property. As a requirement of the sales agreement, all tenants need be relocated prior to the close of the real estate transaction. For this reason, the relocation needs to begin as soon as possible.

In accordance with relocation law, a draft Relocation Plan for the property was prepared by ARWS. The Plan was made available to the Markham Terrace occupants, the commercial tenant, and the public on October 18. The Plan is posted on the Housing Department website (www.sjhousing.org/public). The estimated cost for tenant relocation benefits is between \$1.4 and \$2.1 million. The Housing Department is requesting that City Council adopt the draft Relocation Plan at this time and authorize the Director of Housing to spend up to \$2.1 million for the relocation of Markham Terrace tenants.

Short-term Operational Assistance for Markham Terrace

The project currently has Project-Based Section 8 assistance from HUD's Moderate Rehabilitation Program. The contract with HUD expires at the end of January 2009. Housing staff has worked with HUD and the Santa Clara County Housing Authority to secure Tenant-Based Section 8 Housing Vouchers for all current Markham Terrace residents that opt to take the housing voucher instead of monetary relocation assistance. The Tenant-Based vouchers may not be available until June 2009. The rent subsidy is needed to operate the facility. In order to allow the relocation to start immediately and provide continued funds to operate the project, the Housing Department is recommending that it be authorized to commit up to \$400,000 to temporarily substitute for the Project-Based revenue that is going away at the end of January. As mentioned, once the new Tenant-Based vouchers are provided, the City will be reimbursed.

Payment of Relocation Consulting Costs

In addition to the tenant relocation costs, the Plan must be implemented by the City's relocation consultant. Specific services that will be provided by ARWS to implement the Plan include: helping tenants find appropriate replacement housing; determining tenant relocation benefit amounts and payment schedules; delivering benefits checks to tenants, tracking payments; and, ensuring relocation occurs in accordance to relocation law. Therefore, Staff is requesting that the City Council authorize the Director of Housing to negotiate and execute an amendment to the existing agreement between the City and ARWS to modify the scope of work and increase the compensation by \$450,000, from \$129,000 to \$579,000. This figure will also cover the implementation of the Relocation Plan for the eight collateral properties previously mentioned.

Terms of the Draft Forbearance and Release Agreement

As part of the Housing Department's collaborative effort with EHC, Comerica Bank, and the County to resolve EHC's financial obligations, a draft Forbearance and Release Agreement has been prepared. The Agreement details a repayment sequence, establishes property sale price

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targets, and addresses how proceeds get distributed if actual property sales prices come in lower or higher than estimated. The Agreement also establishes a timeframe for performance that requires Comerica's cooperation and forestalls any actions to foreclose upon those properties secured by Comerica loans. It is anticipated that the sale of the eight Comerica Term Loan collateral properties and Markham Terrace will fully satisfy EHC's debt obligations to Comerica and will pay for the following items.

- Real estate sales commissions, escrow fees, loan closing costs and transfer taxes
- \$294,000 CDBG rehabilitation loan that the City owes to HUD
- HUD grant to EHC in a remaining amount of \$75,825
- Tenant Relocation for the eight properties
- Transfer of all the affordability restrictions on the Comerica loan collateral properties
- The \$534,844 Bank of the West Loan
- The City's \$1,175,387 in unsecured interest on three collateral properties
- The \$53,682 obligation to the Veterans Administration
- The County's unsecured loan of \$176,555 for two collateral properties

As mentioned, the City's \$3.6 million loan and the County Office of Affordable Housing's \$125,000 in secured debt for Markham Terrace will be assumed by Charities Housing.

Staff from the County's Office of Affordable Housing have been involved in negotiating terms of the draft Forbearance and Release Agreement in order to protect their financial position in two of the eight collateral properties. The County staff is recommending that the Board of Supervisors approve adoption of the draft Forbearance and Release Agreement on December 9. Staff recommends that the City Council authorize the Director of Housing to negotiate and execute a Forbearance and Release Agreement that incorporates the terms presented in this memorandum. The City Council approval should not be subject to the action taken by the Board of Supervisors since the County's interests are minimal and unsecured. Should the Board of Supervisors fail to approve the Forbearance and Release Agreement, the City would continue to work with EHC and Comerica to implement the document.

EVALUATION AND FOLLOW-UP

At the end of six months, the Director of Housing will provide the City Council with a status report on the recommendations approved by City Council via this memorandum. The report will include an update on the implementation of the Forbearance and Release agreement, progress on the sale of the Comerica Term Loan collateral properties, and the progress in relocating the tenants for both the collateral properties and Markham Terrace development.

POLICY ALTERNATIVES

The Housing Department considered the following alternative before recommending that the Director be given authority to execute the agreement with EHC and its creditors.

Alternative #1: *The City does not approve the Forbearance agreement which results in EHC's inability to resolve its financial obligation with Comerica Bank and its other creditors.*

Pros: None identified.

Cons: EHC would not be able to pay its debts to Comerica which could lead the bank to take further actions that could lead EHC into Bankruptcy. If EHC was forced to file for bankruptcy protection, the bank could pursue EHC corporate assets including funds that EHC has received from foundations and public entities to operate the cold weather shelters. The City and County would likely assume additional funding obligations for providing homeless services. By approving the Forbearance Agreement, the City has much greater likelihood of recovering its investment. The City may potentially have to pursue protracted actions to enforce its affordability restrictions on six of the eight collateral properties.

Reason for not recommending: The proposed plan satisfies the financial concerns of all parties involved, allows EHC to avoid bankruptcy, and aligns EHC's real estate portfolio with its core mission and objectives.

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 item meets Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This Council report will be posted to the City's website for the November 18, 2008, City Council Agenda.

COORDINATION

Preparation of this report has been coordinated with the Redevelopment Agency and the City Attorney's Office.

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FISCAL/POLICY ALIGNMENT

This proposed plan is consistent with the City's Ten-Year Plan to End Chronic Homelessness, Destination Home, and the Housing Department's *Five-Year Investment Plan, Fiscal Years 2007/08-2011/12*, as adopted by City Council in June 2007.

COST SUMMARY/IMPLICATIONS

1. COST OF PROJECT:

Transfer of affordability restrictions to Mid-Peninsula Housing	\$1,400,000
Payoff of CDBG Loan to HUD	294,000
Relocation of tenants at the Eight Collateral Properties	205,000
Relocation of Markham Terrace tenants	2,100,000
Short-term Operational Assistance for Markham Terrace	400,000
Relocation oversight for both relocation plans	450,000
Predevelopment Loan to Charities Housing	<u>\$500,000</u>
TOTAL	\$5,349,000

2. SOURCE OF FUNDING: Fund 443—Low- and Moderate-Income Housing Fund.

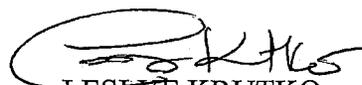
3. FISCAL IMPACT: No ongoing fiscal impact.

BUDGET REFERENCE

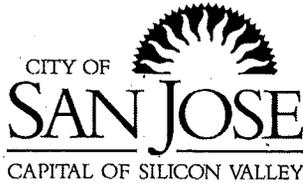
Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract.	2007-2008 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
443	0070	Housing Loans, Grants & Site Acquisitions	\$90,000,000	\$5,349,000	XI - 53	6/24/08 28349

CEQA

EXEMPT File No. PP08-270


LESLYE KRUTKO
 Director of Housing

For questions, please contact Leslye Krutko at (408) 535-3851.



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: November 24, 2008

12-2-08

COUNCIL DISTRICT: 7
SNI AREA: NA

**SUBJECT: APPROVAL OF A FUNDING COMMITMENT FOR SITE ACQUISITION
OF THE ORVIETO FAMILY APARTMENTS PROJECT**

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving a funding commitment of up to \$3,680,000 of Low and Moderate Income Housing Funds (20% Funds) to the ROEM Development Corporation ("ROEM"), or its legal affiliate, for a land acquisition loan for future development of the 92-unit Orvieto Family Apartments, an affordable multifamily rental project located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive, to be made available to extremely low-income (ELI) and very low-income (VLI) households.

OUTCOME

Approval of the recommended action will enable ROEM to acquire the site for the development of 91 affordable rental units to be made available to extremely low-income (ELI) at or below 30% of Area Median Income ("AMI") and very low-income (VLI) at or below 50% of AMI and one unrestricted managers unit. Approval of this recommendation is critical in order for the developer to meet the deadline for submittal of an application to the California Debt Limit Allocation Committee for an allocation to use tax-exempt bond financing for the project.

BACKGROUND

On June 26, 2008, ROEM submitted a Notice of Funding Availability (NOFA) application for an acquisition/construction/permanent loan in the amount of up to \$10,575,400 for the development of the project, including \$3,680,000 for land acquisition. Due to the current market conditions,

the Housing Department is carefully managing its cash position. As a result, the Department is only requesting authorization for acquisition funding at this time. As liquidity returns to the credit markets, and the cost to obtain additional financing decreases, the Housing Department will return to the City Council to seek approval of a construction/permanent funding commitment for the project.

The subject 1.72 acre site is located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive. The project is within the second phase of the 22-acre Montecito Vista Urban Village development. This is a master planned community that will include eight distinct phases comprised of condominiums, affordable and market rate apartments, and attached townhouses. The community will include a two-acre park and 18,000 square feet of retail.

ANALYSIS

Project Description

The proposed Orvieto Family Apartments will consist of a four-story structure with three stories containing 92 residential units above a one-level podium garage with 145 parking spaces. The project will have 23 units that will be affordable to extremely low-income families, 68 units affordable to very low-income families, and one unrestricted manager's unit. The projected rental unit mix is provided in the table below.

# of Bedrooms	# of Units	AMI Income Limit
1Br	7	30%
1Br	5	45%
1Br	15	50%
2Br	10	30%
2Br	6	45%
2Br	21	50%
3Br	6	30%
3Br	3	45%
3Br	18	50%
3Br	1	unrestricted

The total estimated project cost is \$29,695,063. In addition to the proposed City Loan, the Sponsor intends to seek funding sources for the project from the California Debt Limit Allocation Committee (CDLAC), an allocation of 4% Low-Income Housing Tax Credits from the California Tax Credit Allocation Committee (CTCAC); a construction and permanent loan

from a commercial lender; and, an Affordable Housing Program permanent loan (AHP) from the Federal Home Loan Bank. The Sponsor is also proposing to defer a portion of the developer fee.

After the priority payment of the deferred developer fee, the City will share at least 70% of net cash flow in repayment of its loan. The City acquisition loan of \$3,680,000 will be repaid by a City construction/permanent loan of \$10,575,400 subsequent to approval from the City Council at a future date.

Specific business terms for the acquisition loan will be approved by the Director of Housing pursuant to the Director's Delegation of Authority ordinance, located in Chapter 5.06 of Title 5 of the San Jose Municipal Code.

Strengths of the Proposed Project

The proposed project has several strengths making it appropriate for a City loan commitment. The project is located on a major transit corridor and is near existing and new commercial development. A relatively high percentage of the units (71%) will be two- and three-bedroom units, which is atypical of most affordable rental developments. In addition, the project will offer deep affordability to families who are expected to be employed in low-wage employment positions that are vital to the economy. The fact that these units are in relatively close proximity to transit is particularly attractive. The project will contain Green building features in accordance with the City's emphasis on supporting environmentally-sensitive development. It will also be a non-smoking building.

Project Feasibility

Staff reviewed the proposed Project pursuant to the criteria in the Project Selection System for the City's affordable housing development program as published in the current Notice of Funding Availability (NOFA) on the Department's website. Although the project did not meet the 70-point threshold score for the City's NOFA, Housing Department staff is currently updating the NOFA criteria to better fit with current market conditions and availability of other subsidy funding.

Considering all factors, staff has determined the project to be financially feasible. Given that it is feasible and it meets many of the policy objectives of the Housing Department as stated above, staff recommends the project for funding. Closing of the City's loan will be subject to the receipt of a City-commissioned third-party appraisal which supports the required Loan-to-Value ratios for the requested loan amounts.

Accordingly, the Housing Department recommends that this Project be given an acquisition funding commitment by the City Council of up to \$3,680,000. Specific business terms will be approved by the Director of Housing through the City's Delegation of Authority ordinance in Chapter 5.06 of the San José Municipal Code.

EVALUATION AND FOLLOW-UP

The Housing Department will return to City Council with a recommendation for construction/permanent financing once the Department's cash position has improved. The Department posts quarterly reports on the status of its subsidized construction projects to its website, www.sjhousing.org. If construction financing is approved, the Orvieto Family Apartments project would be included in these reports.

POLICY ALTERNATIVES

To arrive at this proposal, staff considered the following options:

Alternative #1: Deny the requested funding commitment.

Pros: The funds being requested could be used for other affordable housing projects and programs.

Cons: The proposed funding commitment complies with the Department's funding priorities and has been judged financially feasible. Additionally, there is continued strong demand for large family housing close to transit that is affordable to ELI and VLI working households.

Reason for not recommending: The proposed project will help to meet the demand for family housing that is affordable to ELI and VLI households and will help the City to fulfill its affordable housing goals.

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 item meets Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This Memorandum will be posted to the City's website for the December 16, 2008, Council Agenda.

Notices for the Planning Commission and City Council public hearings were distributed to the owners and occupants of all properties located within 1,000 feet of the project site. An on-site sign was placed on the site to provide information on the proposed development. The Planning Department website contains information regarding development applications, staff reports, and hearing schedules. The website contains current information regarding the status of rezoning and development permit applications. Staff has also been available to discuss the project with members of the public.

COORDINATION

This report has been coordinated with the Office of the City Attorney and the Department of Planning, Building and Code Enforcement.

FISCAL/POLICY ALIGNMENT

This expenditure is consistent with the Housing Department's *Five-Year Investment Plan for Fiscal Years 2003/04-2008/09* in increasing the supply of affordable housing, and with the City's *Consolidated Plan, 2008-09* in providing units for very low- and extremely low-income households.

COST SUMMARY/IMPLICATIONS

1. **COST OF PROJECT:**

<u>CONSTRUCTION USES</u>	<u>AMOUNT</u>
Site Acquisition	\$3,680,000
Hard (Construction) Costs	\$18,567,874
Soft (Financing & Other) Costs & Reserves	\$7,447,189
TOTAL	\$29,695,063

2. **COST ELEMENTS OF CITY LOAN AMOUNT:**

<u>USES</u>	<u>AMOUNT</u>
Site Acquisition	\$3,680,000
TOTAL	\$3,680,000

3. **SOURCE OF FUNDING:** Fund 443—Low- and Moderate-Income Housing Fund.

4. **FISCAL IMPACT:** No ongoing fiscal impact.

HONORABLE MAYOR AND CITY COUNCIL

November 24, 2008

Subject: Approval of a Funding Commitment for Site Acquisition for the Orvieto Family Apartments

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BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract	2008-2009 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
443	0070	Loans, Grants & Site Acquisitions	\$90,000,000	\$3,680,000	XI-53	6/24/08, 28349

CEQA

CEQA: EIR resolution 72768 adopted June 21, 2005, file number PDC07-101.


LESLYE KRUTKO
Director of Housing

For questions, please contact Leslye Krutko at 408-535-3851.

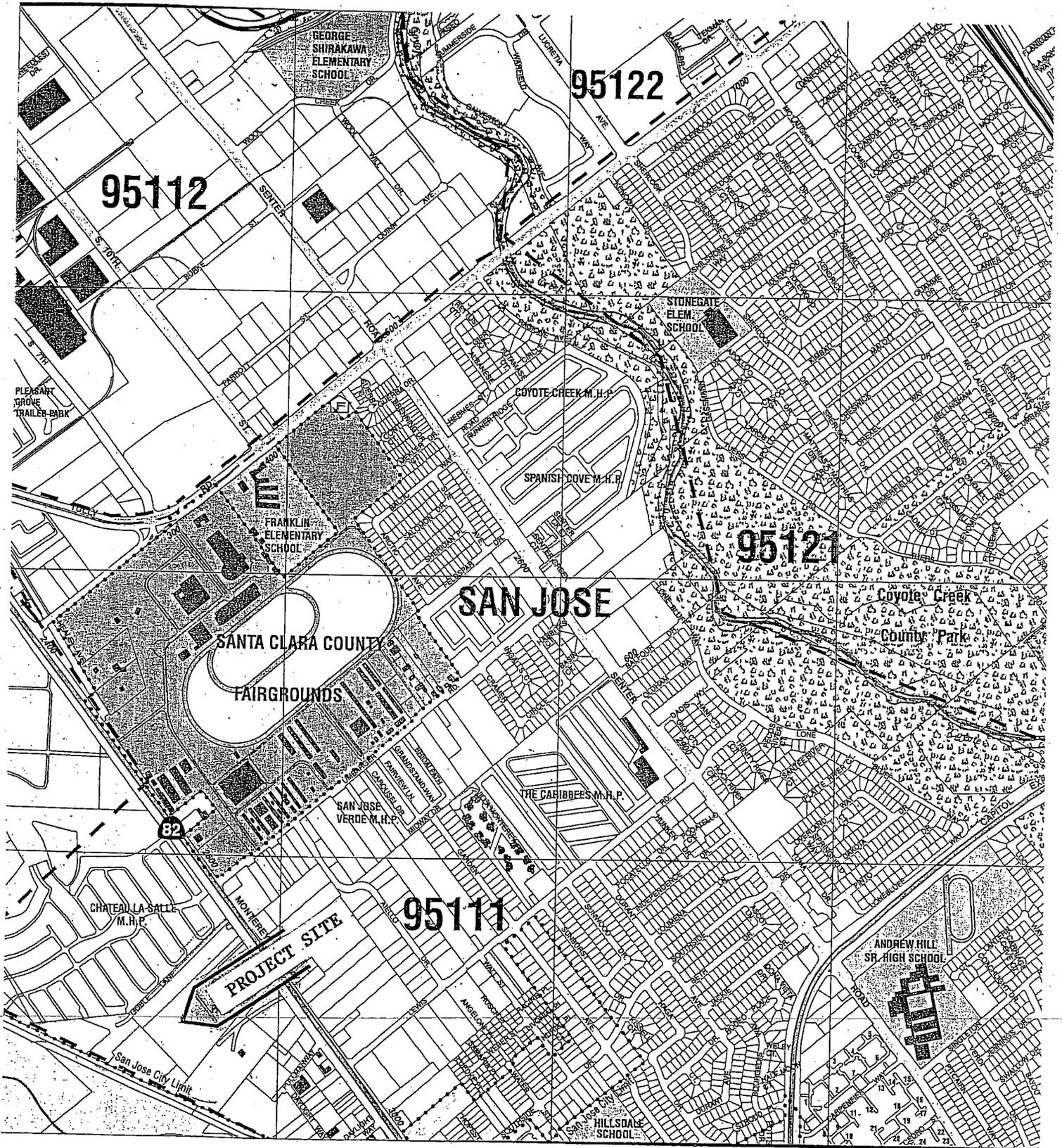
Attachments



ATTACHMENT 1
Anticipated Project Timeline

Application submitted to the Federal Home Loan Bank's AHP Program	October 2008
Anticipated award of FHLB AHP Funding	December 2009
Submitted to California Debt Limit Allocation Committee	March or May 2009
Notification of Award from CDLAC	May or July 2009
Estimated City Council approval of Construction/Permanent Funding	Late Spring 2009
Estimated Date of Construction Loan Closing	Early Fall 2009
Estimated Start of Construction	Early Fall 2009
Estimated Date of Construction Completion	Spring 2011
Estimated Conversion to Permanent Period	Spring or Summer 2011

ATTACHMENT 2
Site Map





Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: November 25, 2008

Approved

Date

12-2-08

COUNCIL DISTRICT: 3

SNI AREA: None

SUBJECT: APPROVAL OF A FUNDING COMMITMENT FOR SITE ACQUISITION FOR THE FIRST AND ROSEMARY SENIOR APARTMENTS PROJECT LOCATED AT THE SOUTHEAST CORNER OF ROSEMARY AND NORTH FIRST STREETS

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving a funding commitment for site acquisition of up to \$3,700,000 from the 20-percent Low and Moderate Income Housing Fund to the ROEM Corporation ("ROEM"), or its legal affiliate, for a land acquisition loan for the development of the 106-unit First and Rosemary Senior Apartments, an affordable multifamily rental project ("Project") on a 1.06-gross acre site located at the southeast corner of Rosemary and North First Streets, to be made available to extremely low-income ("ELI") and very low-income ("VLI") households.

OUTCOME

The outcome of the recommended action would enable ROEM to begin the development process by acquiring a 1.06-gross acre site in order to develop 106 rental units, with 105 units affordable to households with incomes between 30% and 50% of Area Median Income ("AMI") and one unrestricted manager's unit.

BACKGROUND

On June 26, 2008, ROEM submitted a Notice of Funding Availability (NOFA) application for an acquisition, construction, and permanent loan in the amount of \$29,841,711 for development of an affordable senior housing development containing 106 units on a 1.06 gross-acre site located at the Southeast corner of N. First Street and Rosemary Street.

HONORABLE MAYOR AND CITY COUNCIL

Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Senior Apartments Project

November 25, 2008

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On August 26, 2008, the City Council approved and passed for publication Ordinance No. 28391 rezoning the subject site from CN Commercial Neighborhood, CG Commercial General, and LI Light Industrial Zoning Districts to A (PD) Planned Development Zoning District to allow up to 290 multi-family residential units, including 106 affordable senior and 184 affordable multi-family units, on a 4.045-gross acre site.

The Department has submitted a separate funding request to the City Council for ROEM's First and Rosemary Family Project. The Family project is located directly East of the proposed Senior project.

Because of current financial market conditions, the Housing Department is carefully managing its cash position. At this time, the Department is maximizing the use of its limited funds and is seeking permission only for acquisition funding. As liquidity returns to the credit markets, the Housing Department will return to the City Council to seek approval of a construction/permanent funding commitment for the project in 2009.

Project Description

The senior housing development consists of a U-shaped podium cluster building located at the southeast corner of N. First Street and Rosemary Street. The building contains a total of 106 one-bedroom units, including a one-bedroom manager's unit, located on four levels with interior corridors. The project will offer: 27 apartments that will be affordable to extremely low-income (ELI) families at or below 30% Area Median Income (AMI); 57 units affordable to very low-income (VLI) families at or below 45%; 21 units affordable to VLI families at or below 50% AMI; and, one unrestricted managers' unit. All units will offer one bedroom and one bathroom and 581 square feet of living space.

A total of 75 parking spaces would be located within a partially-depressed parking podium beneath the building. The development takes pedestrian and vehicular access from Rosemary Street. South-facing common open space would be located within the "U" formed by the building. The common open space engages a landscaped paseo adjacent to the southern boundary of the site. Amenities include a community room with kitchen and library; computer room; open courtyard with landscaping, seating, and fountains; open lobby with seating, and a leasing office.

Summary of Proposed Transaction

The total estimated project cost is \$29,309,538. In addition to the proposed City acquisition loan of \$3,700,000, ROEM intends to apply for a bond allocation from the California Debt Limit Allocation Committee (CDLAC) as well as 4% Low-Income Tax Credits from the California Tax Credit Allocation Committee (TCAC). The permanent financing for the development as proposed would consist of: (1) a loan from the City of San Jose for \$12,165,000, which includes the City acquisition loan amount; (2) tax-exempt bond financing of \$8,199,683 allocated by CDLAC; (3) limited partner equity of \$6,714,963 million from the sale of low-income housing tax credits allocated by TCAC; (4) a Federal Home Loan Bank Affordable Housing Program (AHP) grant of \$520,000; and, (5) lease-up income of \$443,510.

HONORABLE MAYOR AND CITY COUNCIL

Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Senior Apartments Project

November 25, 2008

Page 3

ROEM will contribute \$1,266,383 to the project by deferring its developer fee for approximately six years. ROEM will also seek additional financing from the State Infill Infrastructure Grant Program, authorized under Proposition 1C, to further subsidize the project and increase the City's leveraging of other funds.

After the priority payment of the deferred developer fee, the City will share 70% of net cash flow in repayment of its loan. The City acquisition loan of \$3,700,000 will be repaid by a City construction/permanent loan of \$12,165,000, upon approval from the City Council at a future date.

As agreed to during Council approval of the PD Zoning, the project will contribute approximately \$132,000 from soft costs permits and fees to purchase the park site located at the Northeast corner of Rosemary Street and Kerley Drive.

ANALYSIS

Strengths of the Proposed Project

The project possesses several attributes that are in alignment with the City's goals.

Most importantly, this project is located approximately 800 feet south from the Gish light rail stop along North First Street, and its transit orientation supports sustainable development patterns in the City. Its location also offers pedestrian access to neighborhood convenience shopping, and easy auto access to Highways 880, 101, and 87.

As it is located in North San José, an area that is likely to experience significant residential growth in the coming years, the project will help to promote economic integration. It will also help the City to meet its legal obligation, required under State Redevelopment Law, to ensure that 1,600 affordable units will be created in North San José as part of its First Phase of 8,000 residential units that are authorized under the area's development plan.

In addition, consistent with the project's planning approvals, the project will contribute to the purchase of a 0.90-acre park that is located Northeast of the adjacent family project at the corner of Rosemary Street and Kerley Drive. The Redevelopment Agency and the Parks, Recreation and Neighborhood Services Department will also contribute towards the park purchase, which is expected to occur in 2009.

Furthermore, the proposed development would facilitate the reuse of a valuable underutilized site that is located on the Guadalupe Corridor light rail line. The project design includes the placement of stoops and stairs oriented to the street, which will help to manifest the pedestrian-friendly development envisioned for this area.

The project will also contain Green building features in accordance with the City's emphasis on supporting environmentally-sensitive development. This project will be one of ROEM's first

HONORABLE MAYOR AND CITY COUNCIL

Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Senior Apartments Project

November 25, 2008

Page 4

100% non-smoking project. ROEM will also provide Eco-passes from the Valley Transportation Authority to its residents.

Project Feasibility

Staff reviewed the proposed Project pursuant to the criteria in the Project Selection System for the City's affordable housing development program, as published in the current Notice of Funding Availability (NOFA) on the Department's website. Although the project did not meet the 70-point threshold score for the City's NOFA, Housing Department staff is currently updating the NOFA criteria to better fit with current market conditions and availability of other subsidy funding.

Demand for units is expected to be strong given the Project's affordability and its proximity to public transportation. Feasibility will be further enhanced if ROEM is successful in its Proposition 1C application to the State Department of Housing and Community Development.

Considering all factors, staff has determined the project to be financially feasible. Given that it is feasible, it is responsive to the City's and future neighbors' desires, and it meets many of the policy objectives of the Housing Department as stated above, staff recommends the project for funding.

Accordingly, the Housing Department recommends that this Project be given an acquisition funding commitment by the City Council of up to \$3,700,000. Specific business terms will be approved by the Director of Housing through the City's Delegation of Authority ordinance in Chapter 5.06 of the San José Municipal Code.

EVALUATION AND FOLLOW-UP

If this request is approved, Housing Department staff will return to the City Council with a construction/permanent funding request in 2009, once financial resources allow, to enable the project to proceed with construction. The Housing Department posts quarterly reports on the status of its subsidized construction projects to its website, www.sjhousing.org. If approved, the First and Rosemary Senior Apartments would be included in these reports.

POLICY ALTERNATIVES

To arrive at this proposal, staff considered the following option:

Alternative #1: *Deny the requested funding commitment for a land acquisition loan to develop a senior apartment complex containing 106 affordable units.*

Pros: The requested funds could be used for other affordable housing projects and programs.

Cons: The proposed funding commitment meets many of the Department's funding priorities and has been judged financially feasible. Additionally, there is continued strong demand for senior housing close to transit that is affordable to ELI and VLI households.

Reason for not recommending: The proposed project will help to meet the demand for transit-oriented housing that is affordable to ELI and VLI working individuals and will help the City to fulfill its affordable housing goals. The project's location in North San José will also help to meet the need for 1,600 affordable housing units that will be required in the First Phase of 8,000 residential housing units to be built under area's development policy.

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 item meets Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This Memorandum will be posted to the City's website for the December 16, 2008, Council Agenda.

On April 14, 2008, the applicant held a community meeting that was noticed to all owners and occupants within 1,000 feet of the subject site. Five community members, Planning staff, and the District 3 Council office attended the meeting. Notices for the Planning Commission and City Council public hearings were distributed to the owners and occupants of all properties located within 1,000 feet of the project site. An on-site sign was placed on the site to provide information about the proposed development. The Planning Department website contains information regarding the North San Jose Area, including the Policy, development applications, staff reports, and hearing schedules. The website contains current information regarding the status of rezoning applications. Staff has also been available to discuss the project with members of the public.

COORDINATION

Preparation of this memorandum was coordinated with the Office of the City Attorney.

FISCAL/POLICY ALIGNMENT

This expenditure is consistent with the Housing Department's *Five-Year Investment Plan for Fiscal Years 2003/04-2008/09* in increasing the supply of affordable housing, and with the City's *Consolidated Plan, 2008-09* in providing units for very low- and extremely low-income households.

COST SUMMARY/IMPLICATIONS

1. **COST OF PROJECT:**

<u>CONSTRUCTION USES</u>	<u>AMOUNT</u>
Site Acquisition	\$5,194,000
Hard (Construction) Costs	\$16,171,521
Soft (Financing & Other) Costs & Reserves	\$7,944,017
TOTAL	\$29,309,538

2. **COST ELEMENTS OF CITY LOAN AMOUNT:**

<u>USES</u>	<u>AMOUNT</u>
Site Acquisition	\$3,700,000
TOTAL	\$3,700,000

3. **SOURCE OF FUNDING:** Fund 443—Low- and Moderate-Income Housing Fund.

4. **FISCAL IMPACT:** No ongoing fiscal impact.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract	2008-2009 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
443	0070	Loans, Grants & Site Acquisitions	\$90,000,000	\$3,700,000	XI-53	6/24/08, 28349

HONORABLE MAYOR AND CITY COUNCIL

Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Senior Apartments Project

November 25, 2008

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CEQA

EIR Resolution No. 72768 and Addendum thereto, PDC07-101.


LESLEYE KRUTKO
Director of Housing

For questions please contact Leslye Krutko, Director, at 408-535-3851

Attachments



HONORABLE MAYOR AND CITY COUNCIL

Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Senior
Apartments Project

November 25, 2008

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ATTACHMENT 1
Anticipated Project Timeline

Application submitted the Federal Home Loan Bank's AHP Program	October 2008
Anticipated Award of FHLB AHP Funding	December 2008
Estimated City Council approval of Construction/Permanent Funding	March 2009
Apply to California Debt Limit Allocation Committee (CDLAC)	March 2009
Notification of Award from CDLAC	May 2009
Estimated Date of Construction Loan Closing	August 2009
Estimated Start of Construction	August 2009
Estimated Date of Construction Completion	February 2010
Estimated Conversion to Permanent Period	January 2011



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: November 25, 2008

Approved

Date

12-2-08

COUNCIL DISTRICT: 3
SNI AREA: Rincon De Los Esteros

SUBJECT: APPROVAL OF A FUNDING COMMITMENT FOR SITE ACQUISITION FOR THE FIRST AND ROSEMARY FAMILY APARTMENTS PROJECT LOCATED AT THE SOUTHEAST CORNER OF ROSEMARY AND NORTH FIRST STREETS

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving a funding commitment for site acquisition of up to \$6,300,000 of 20% Housing Funds to the ROEM Development Corporation ("ROEM"), or its legal affiliate, for a land acquisition loan for the development of the 184-unit First and Rosemary Family Apartments, an affordable multifamily rental project ("Project") located at the Southeast corner of Rosemary and North First Streets, to be made available to extremely low-income (ELI), very low-income (VLI), and low-income (LI) households.

OUTCOME

Approval of the recommended action will initiate the development process by enabling ROEM to acquire the site in order to develop 184 affordable rental units, with 182 units affordable to households with incomes with incomes between 30% and 60% of Area Median Income ("AMI") and two unrestricted managers' units.

BACKGROUND

On June 26, 2008, ROEM submitted a Notice of Funding Availability (NOFA) application for an acquisition/construction/permanent loan in the amount of up to \$23,470,000 for the development of the project.

HONORABLE MAYOR AND CITY COUNCIL

November 25, 2008

Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Family Apartments Project

Page 2

On August 26, 2008, the City Council approved and passed for publication Ordinance No. 28391 rezoning the subject site from CN Commercial Neighborhood, CG Commercial General, and LI Light Industrial Zoning Districts to A (PD) Planned Development Zoning District to allow up to 290 multi-family residential units, including 106 affordable senior and 184 affordable multi-family units, on a 4.045 gross acre site.

The Department has submitted a separate funding request to the City Council for ROEM's First and Rosemary Senior Project. The Senior project is located directly West of the proposed Family project.

Because of current financial market conditions, the Housing Department is carefully managing its cash position. At this time, the Department is maximizing the use of its limited funds and is seeking permission only for acquisition funding. As liquidity returns to the credit markets, the Housing Department will return to the City Council to seek approval of a construction/permanent funding commitment for the project in 2009.

Project Description

ROEM proposes to develop a 184-unit family rental project on Rosemary Street just East of North First Street. The five-story structure will have one level of parking below four stories of residential. The project will offer 46 apartments that will be affordable to extremely low-income (ELI) families at or below 30% AMI, 102 units affordable to very low-income (VLI) families at or below 45% and 50% (Area Median Income) AMI, 34 units affordable to lower-income (LI) families at or below 60% AMI, and two unrestricted managers' units. The unit mix will include 38 one-bedroom/one-bathroom units, 110 two-bedroom/two-bathroom units (including 2 two-bedroom manager's unit), and 36 three-bedroom/two-bathroom units. Amenities will include a community room/lounge, laundry facilities, an exercise room, and a swimming pool. Each unit will be wired for Internet access.

Summary of Proposed Transaction

The total estimated Project cost is \$60,188,682. In addition to the proposed City acquisition loan of up to a total of \$6,300,000, and the seller carry-back loan of at least \$2,090,621, ROEM intends to seek a bond allocation from the California Debt Limit Allocation Committee ("CDLAC") as well as 4% Low-Income Tax Credits from the California Tax Credit Allocation Committee ("TCAC"). If approved by the City Council in a separate action in the future, the permanent financing of the project is expected to include a total loan from City of San José of up to \$23,470,000. (This figure includes the requested site acquisition funding recommended in this memorandum). External funding sources include tax-exempt bond financing of \$19,999,352, a Federal Home Loan Bank Affordable Housing Program ("AHP") loan of \$910,000, lease-up income of \$992,006, and limited partner equity of \$14,306,961 from the sale of the low-income housing tax credits.

In order to fill a funding gap, rather than asking the City for additional funds, ROEM will defer \$510,363 of its developer fee. ROEM will seek additional financing from the State Infill

HONORABLE MAYOR AND CITY COUNCIL

November 25, 2008

Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Family Apartments Project

Page 3

Infrastructure Grant Program, authorized under Proposition 1C, to further subsidize the project and increase the City's leveraging of other funds.

After the priority payment of the deferred developer fee, the City will share 70% of net cash flow in repayment of its loan. The City acquisition loan of \$6,300,000 will be repaid by a City construction/permanent loan of \$23,470,000, upon approval from the City Council at a future date.

As agreed to during Council approval of the PD Zoning, the project will contribute approximately \$224,000 from soft costs permits and fees to purchase the park site located at the Northeast corner of Rosemary Street and Kerley Drive.

ANALYSIS

Strengths of the Proposed Project

The project possesses several attributes that are in alignment with the City's goals.

Most importantly, this project is located approximately 800 feet south from the Gish light rail stop along North First Street, and its transit orientation supports sustainable development patterns in the City. Its location also offers pedestrian access to neighborhood convenience shopping, and easy auto access to Highways 880, 101, and 87.

As it is located in North San José, an area that is likely to experience significant residential growth in the coming years, the project will help to promote economic integration. It will also help the City to meet its legal obligation, required under State Redevelopment Law, to ensure that 1,600 affordable units will be created in North San José as part of its First Phase of 8,000 residential units that are authorized under the area's development plan.

In addition, consistent with the project's planning approvals, the project will contribute to the purchase of a 0.90-acre park that is located Northeast of the adjacent family project at the corner of Rosemary Street and Kerley Drive. The Redevelopment Agency and the Parks, Recreation and Neighborhood Services Department will also contribute towards the park purchase, which is expected to occur in 2009.

Furthermore, the proposed development would facilitate the reuse of a valuable underutilized site that is located on the Guadalupe Corridor light rail line. In conjunction with the adjacent First and Rosemary Seniors Project, this project is expected help revitalize the immediate area and help to manifest the pedestrian-friendly development envisioned for this area.

Seventy-nine percent of the units in the project will be two- and three-bedroom units—an unusual feature for affordable rental housing. The project will offer affordability to families with household incomes between 30% AMI and 60% AMI—incomes of \$25,470 to \$68,760 per year, depending on family size—who are expected to be employed in entry-level employment. The

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Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Family Apartments Project

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project site is located in close proximity to the airport and the major employment center of North San José.

The project will also contain Green building features in accordance with the City's emphasis on supporting environmentally-sensitive development. This project will be one of ROEM's first 100% non-smoking projects. ROEM will also provide Eco-passes from the Valley Transportation Authority to its residents.

Project Feasibility

Staff reviewed the proposed Project pursuant to the criteria in the Project Selection System for the City's affordable housing development program, as published in the current Notice of Funding Availability (NOFA) on the Department's website. Although the project did not meet the 70-point threshold score for the City's NOFA, Housing Department staff is currently updating the NOFA criteria to better fit with current market conditions and availability of other subsidy funding.

The site is well-situated to provide access to services and public transportation for its residents. Demand for units is expected to be strong given the Project's affordability and its proximity to public transportation and to an elementary and a junior high school. Feasibility will be further enhanced if ROEM is successful in its Proposition 1C application to the State Department of Housing and Community Development.

Considering all factors, staff has determined the project to be financially feasible. Given that it is feasible, it is responsive to the City's and future neighbors' desires, and it meets many of the policy objectives of the Housing Department as stated above, staff recommends the project for funding.

Accordingly, the Housing Department recommends that this Project be given an acquisition funding commitment by the City Council of up to \$6,300,000. Specific business terms will be approved by the Director of Housing through the City's Delegation of Authority ordinance in Chapter 5.06 of the San José Municipal Code.

EVALUATION AND FOLLOW-UP

If this request is approved, Housing Department staff will return to the City Council with a construction/permanent funding request in 2009, once financial resources allow, enabling the project to proceed with construction. The Department posts quarterly reports on the status of its subsidized construction projects to its website, www.sjhousing.org. If approved, the First and Rosemary Family Apartment's project would be included in these reports.

POLICY ALTERNATIVES

To arrive at this proposal, staff considered the following options:

November 25, 2008

Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Family Apartments Project

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Alternative #1: *Deny the requested funding commitment.*

Pros: The funds being requested could be used for other affordable housing projects and programs.

Cons: The proposed funding commitment meets many of the Department's funding priorities and has been judged financially feasible. Additionally, there is continued strong demand for large family housing close to transit that is affordable to ELI, VLI and LI working households.

Reason for not recommending: The proposed project will help to meet the demand for transit-oriented housing that is affordable to ELI, VLI, and LI working individuals and will help the City to fulfill its affordable housing goals. The project's location in North San José will also help to meet the need for 1,600 affordable housing units that will be required in the First Phase of 8,000 residential housing units to be built under area's development policy.

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 item meets Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This Memorandum will be posted to the City's website for the December 9, 2008, Council Agenda.

Notices for the Planning Commission and City Council public hearings were distributed to the owners and occupants of all properties located within 1,000 feet of the project site. An on-site sign was placed on the site to provide information on the proposed development. The Planning Department website contains information regarding development applications, staff reports, and hearing schedules. The website contains current information regarding the status of rezoning and development permit applications. Staff has also been available to discuss the project with members of the public.

COORDINATION

This report has been coordinated with the Office of the City Attorney.

FISCAL/POLICY ALIGNMENT

This expenditure is consistent with the Housing Department's *Five-Year Investment Plan for Fiscal Years 2003/04-2008/09* in increasing the supply of affordable housing, and with the City's *Consolidated Plan, 2008-09* in providing units for very low- and extremely low-income households.

COST SUMMARY/IMPLICATIONS

1. **COST OF PROJECT:**

<u>CONSTRUCTION USES</u>	<u>AMOUNT</u>
Site Acquisition	\$8,435,448
Hard (Construction) Costs	\$38,543,401
Soft (Financing & Other) Costs & Reserves	\$13,209,833
TOTAL	\$60,188,682

2. **COST ELEMENTS OF CITY LOAN AMOUNT:**

<u>USES</u>	<u>AMOUNT</u>
Site Acquisition	\$6,300,000
TOTAL	\$6,300,000

3. **SOURCE OF FUNDING:** Fund 443—Low- and Moderate-Income Housing Fund.

4. **FISCAL IMPACT:** No ongoing fiscal impact.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract	2008-2009 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
443	0070	Loans, Grants & Site Acquisitions	\$90,000,000	\$6,300,000	XI-53	6/24/08, 28349

HONORABLE MAYOR AND CITY COUNCIL

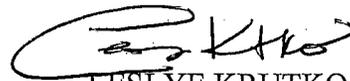
November 25, 2008

**Subject: Approval of a Funding Commitment for Site Acquisition for the First and Rosemary Family
Apartments Project**

Page 7

CEQA

CEQA: EIR resolution 72768 adopted June 21, 2005, file number PDC07-101.



LESLYE KRUTKO
Director of Housing

For questions, please contact Leslye Krutko at 408-535-3851.

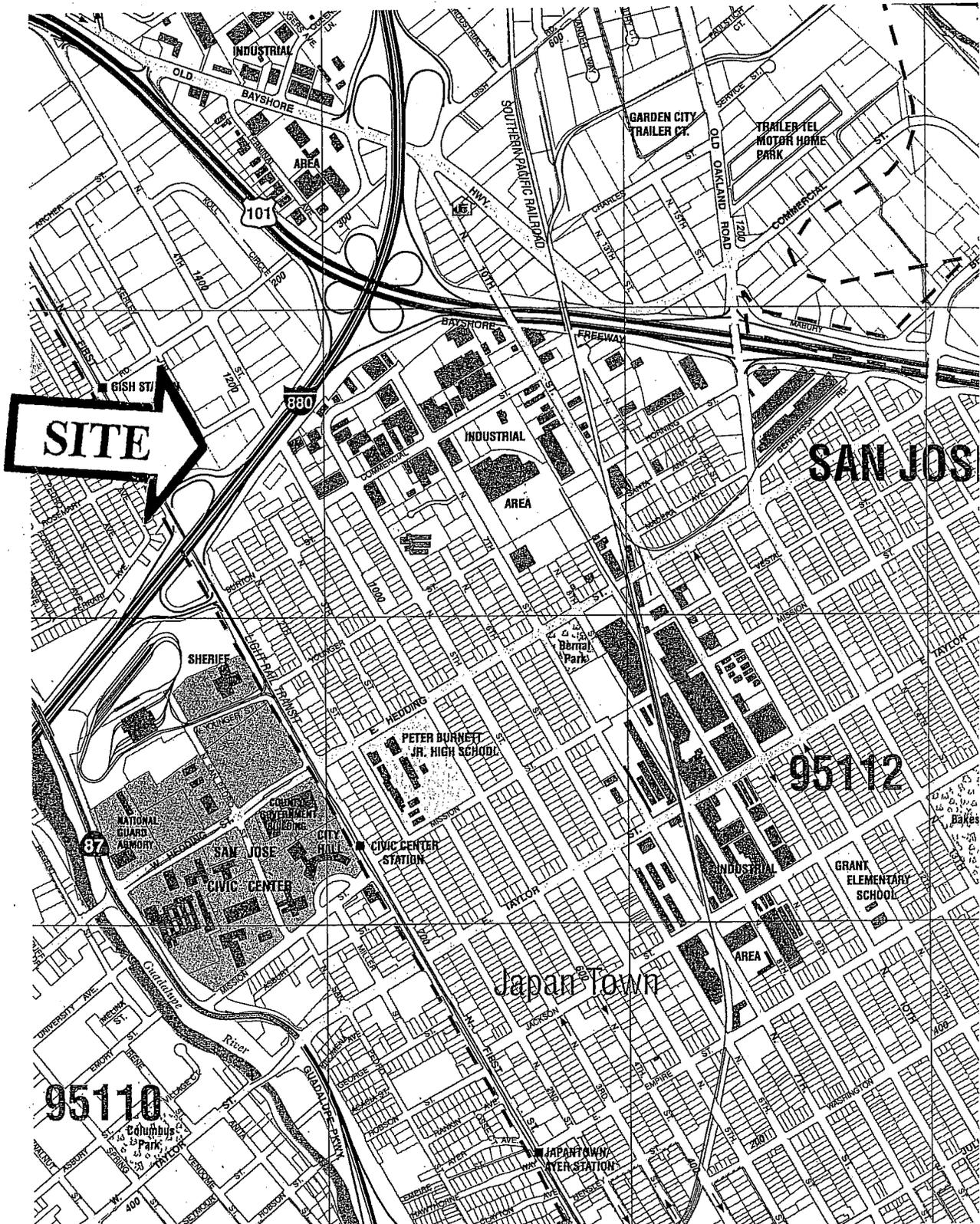
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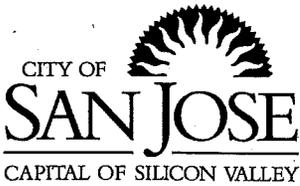


ATTACHMENT 1
Anticipated Project Timeline

Application submitted the Federal Home Loan Bank's AHP Program	October 2008
Anticipated Award of FHLB AHP Funding	December 2008
Estimated City Council approval of Construction/Permanent Funding	March 2009
Apply to California Debt Limit Allocation Committee (CDLAC)	March 2009
Notification of Award from CDLAC	May 2009
Estimated Date of Construction Loan Closing	August 2009
Estimated Start of Construction	August 2009
Estimated Date of Construction Completion	February 2010
Estimated Conversion to Permanent Period	January 2011

ATTACHMENT 2
Subject Site Map
First and Rosemary Family Apartments





COUNCIL AGENDA: 12/16/08
ITEM:

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Krutko
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: November 25, 2008

Approved

Leslye Krutko

Date

12/1/08

COUNCIL DISTRICT: 3
SNI Area: N/A

SUBJECT: ADOPTION OF A RESOLUTION AUTHORIZING THE DIRECTOR OF HOUSING TO ACCEPT AN INFILL INFRASTRUCTURE PROGRAM GRANT FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AND ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE MULTI-SOURCE HOUSING FUND

RECOMMENDATION

It is recommended that the City Council

A. Adopt a resolution:

1. Authorizing the Director of Housing to accept a \$4,495,840 Infill Infrastructure Grant Program award from the California Department of Housing and Community Development to fund infrastructure improvements necessary for the Kings Crossing affordable housing family rental project.
2. Authorizing the Director of Housing to negotiate and execute all necessary documents.

B. Adopt the following amendments to the 2008-2009 Appropriation Ordinance and Funding Sources Resolution in the Multi-Source Housing Fund (Fund 448):

1. Establish the Infill Infrastructure Grant Program appropriation in the amount of \$4,495,840.
2. Increase the estimate for Grant Revenue in the amount of \$4,495,840.

HONORABLE MAYOR AND CITY COUNCIL

Subject: IIG Program Grant Award for Kings Crossing Affordable Housing Family Rental Development

DATE: November 25, 2008

Page 2

OUTCOME

The City of San José will accept and pass through or advance \$4.49 million in funding from the State to a legal affiliate of Charities Housing Development Corporation to assist in financing its family rental development located near King Street and Dobbin Drive. Accepting these funds will leverage the City's funding of \$10,565,700 and help to provide 94 units of housing affordable to very low-income (VLI) and extremely low-income (ELI) families.

BACKGROUND

The Infill Infrastructure Grant Program ("IIG") is administered by the California Department of Housing and Community Development ("HCD"). It is funded by Proposition 1C, the Housing and Emergency Shelter Trust Act of 2006. The primary objective of the IIG Program is to promote infill development. As stated in the IIG program guidelines, the program seeks to accomplish this objective by providing financial assistance for infrastructure improvements necessary to facilitate new infill housing development. Approximately \$240 million was available for allocation during the 2007-08 State Fiscal Year. HCD published a Notice of Funding Availability (NOFA) for the IIG program on February 28, 2008.

On March 18, 2008, the City Council approved a funding commitment of \$10,565,700 to Charities Housing Development Corporation (CHDC), for the development of the 94-unit affordable housing project, affordable to very low-income (VLI) and extremely low-income (ELI) families located on the Northeast corner of North King Road and Dobbin Drive. In order to leverage the City's funding commitment, the City and CHDC submitted an application to HCD's NOFA for the IIG program. The application was approved for funding by HCD. These funds will be used as gap financing and will provide funding for infrastructure improvements at Kings Crossing. HCD requires approval by City Council to accept these new funds. Upon City Council approval, the Director of Housing will be authorized to execute the IIG program award agreement with HCD.

ANALYSIS

Upon the City's acceptance and receipt of the funds, the Housing Department will disburse the IIG program award to Kings Crossing as additional gap financing for the project. The IIG program award is in the form of grant funding; however, program guidelines allow cities to administer funds on behalf of the State in a 0% loan structure with a term of at least 30 years.

There is a financial benefit of passing through the funds as a 0% loan according to IRS regulations pertaining to the Low Income Housing Tax Credit Program. By involving the City in this way, Charities will further leverage the City's and State's public funds by maximizing the amount of tax credit equity that can be generated by eligible project costs.

HONORABLE MAYOR AND CITY COUNCIL

Subject: IIG Program Grant Award for Kings Crossing Affordable Housing Family Rental Development

DATE: November 25, 2008

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The City will administer the IIG program award consistent with State regulations, the State's approval conditions, and the City's underwriting policies. The IIG program is a new program and the City is working with the State and Charities Housing to determine exact funding mechanisms. The IIG award is conditional on compliance with all applicable statutes and guidelines of the IIG program. HCD will disburse funds to the City when all required agreements between and among the developer, the State, and the City are fully executed.

Specific business terms of the City's pass-through financing will be approved by the Director of Housing through the City's Delegation of Authority ordinance in Chapter 5.06 of the San José Municipal Code.

EVALUATION AND FOLLOW UP

As this project starts construction in 2009, its information will be posted in the quarterly Construction report posted to the Department's website, www.sjhousing.org.

PUBLIC OUTREACH

- 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 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 item does not meet any of the above criteria requiring additional notification; however, this memorandum will be posted on the City's Council Agenda Website for the December 16, 2008 Council Meeting. Uses of all new grant funds are also included in the City's Consolidated Plan annual updates, which follows City policy on public outreach, input, and feedback.

COORDINATION

This memorandum was coordinated with the Office of the City Attorney.

HONORABLE MAYOR AND CITY COUNCIL

Subject: IIG Program Grant Award for Kings Crossing Affordable Housing Family Rental Development

DATE: November 25, 2008

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FISCAL/POLICY ALIGNMENT

These actions are consistent with the City's Council-approved *Five -Year Housing Investment Plan, FY 2007/08-2011/12*, which describes the City's plan to continue to aggressively pursue funding under Proposition 1C to support San José's affordable housing efforts.

COST IMPLICATIONS

1. **AMOUNT OF RECOMMENDATION/PROGAM GRANT:** **\$4,495,840**

2. **COST ELEMENTS:**

<u>USES:</u>	<u>AMOUNT</u>
Infrastructure hard costs – Kings Crossing	<u>\$4,495,840</u>
TOTAL	\$4,495,840

3. **SOURCE OF FUNDING:** State of California/Fund 448-the Multi-Source Housing Fund

4. **FISCAL IMPACT:** No ongoing fiscal impact

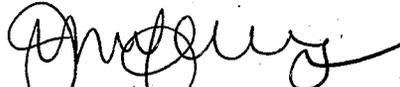
CEQA

CEQA: EIR Resolution No. 74196, File No. PDC07-015.


LESLYE KRUTKO
Director of Housing

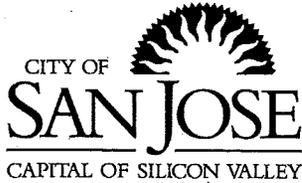

JENNIFER A. MAGUIRE
Budget Director

I hereby certify that there will be available for appropriation in the Multi-Source Housing Fund in the Fiscal Year 2008-2009 monies in excess of those heretofore appropriated there from, said excess being at least \$4,495,840.


JENNIFER A. MAGUIRE
Budget Director

For questions, please contact Leslye Krutko at 408-535-3851.





COUNCIL AGENDA: 12-16-08

ITEM:

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: WILLOW GLEN COMMUNITY
BENEFIT DISTRICT HEARING
AND ELECTION

DATE: 11-24-08

Approved

Katy Allen

Date

11/25/08

COUNCIL DISTRICT: 6

RECOMMENDATION

- a. Conduct a public hearing for the formation of proposed Willow Glen Community Benefit District and authorize the City Clerk to tabulate ballots;
- b. Adoption of a resolution by casting a ballot in favor of the establishment of the Willow Glen Community Benefit District as the property owner of two parcels within the proposed district, APN 429-17-036 and APN 429-17-107, and the imposition of an assessment on City-owned property;
- c. Direct the City Clerk to report the results of the tabulation of ballots;
- d. If the proposed District is approved by property owners, adoption of a resolution by Council:
 1. Approving the Willow Glen Community Benefit District Management Plan and Engineer's Report; and,
 2. Approving and imposing the respective assessments.

OUTCOME

If approved by voters, the Willow Glen Community Benefit District (Willow Glen CBD) would result in the assessment of properties in Willow Glen, including City owned properties, to pay for enhanced services for cleaner sidewalks, litter pickup, more attractive streetscapes, better parking management, and increased promotions and events.

BACKGROUND

At the October 28, 2008 City Council meeting, property owners representing 32.16% of the proposed assessment submitted petitions to initiate district formation, satisfying the required 30% minimum as specified in Chapter 14.31 of the Municipal Code.

In response to the petitions submitted, Council adopted Resolution No. 74645:

- a. Stating its intention to form a Community Benefit and Improvement District in Willow Glen;
- b. Preliminarily approving the Willow Glen Community Benefit District Management Plan and Engineer's Report;
- c. Setting a public hearing to be held on December 16, 2008; and
- d. Calling for an election for tabulation of the ballots on December 16, 2008.

The mailing of the ballots and notice of hearing was completed on October 31, 2008, meeting the legal requirement of 45 days before the December 16, 2008 hearing. As a result, property owners in the proposed district have contacted staff with inquiries about the assessment and have been submitting ballots to the City Clerk. The notice of public hearing is scheduled to be published in the *San Jose Post Record* by December 9, 2008.

The assessments to be collected by the proposed Willow Glen CBD are anticipated to provide enhanced services for cleaner sidewalks, litter pickup, more attractive streetscapes, better parking management, and increased promotions and events. Two benefit zones, as depicted on Attachment A, are proposed with varying costs based upon frequency of the special services. The annual assessments are based on several property-related factors:

Property Variable	Zone 1	Zone 2
Building Square Foot Cost	\$0.114	\$0.07
Linear Feet Cost	\$8.50	\$5.30
Lot Size Cost	\$0.06	\$0.06
For Sale Residential Unit Parcels Cost (building square footage only)	\$0.30	\$0.30

501c3 nonprofit organizations are assessed for linear frontage and lot/parcel size only; and not for building mass which funds marketing programs, related administrative personnel, and contingency services.

The proposed first year budget for the Willow Glen CBD is \$196,738 assessing 103 parcels. Zone 1 includes 74 parcels with an average assessment of approximately \$2,134, and Zone 2 includes 29 parcels with an average assessment of approximately \$1,338. As a property owner of two parcels within the proposed district, the City would be subject to an initial assessment of approximately \$4,700, as specified in the Management Plan.

The Proposed Boundary Map, the Willow Glen CBD Management Plan, and the Willow Glen CBD Engineer's Report are on file in the City Clerk's office for public review. The Management Plan functions as an operational guide, whereas specific details of the assessment methodology and benefit are defined in the Engineer's Report.

ANALYSIS

At the December 16, 2008 meeting, Council will conduct a Public Hearing to receive and record public testimony. Council must consider all objections or protests to the proposed assessment. The hearing may be continued if necessary to allow staff to respond to Council's inquiries or to implement changes proposed by Council. Modifications to the district are limited to removing territory, reducing services and reducing the rate of assessment for the district.

After Council's requests for information or changes are satisfied, and Council chooses to move forward with district proceedings, a final call for any ballots to be submitted in person is required. As a property owner of two parcels within the boundaries of the proposed district, Council must consider whether to vote favorably, negatively or to abstain from casting a ballot. The City will be subject to the assessment and must set aside funds annually from generally available funds for the next 15 years. The City's ballot is weighted at \$4,669.12, which is the assessment specified in the Management Plan as calculated based on last year's equalized tax roll. However, the property data obtained from the County does not yet reflect new construction. Therefore, if the district is approved by voters, the assessment for the property housing the new Willow Glen Library will be adjusted in fiscal year 2009-2010, increasing the City's total obligation to approximately \$9,000.

Staff recommends that Council, as a property owner, vote in favor of forming the Willow Glen CBD. Similar to the Downtown Public Benefit Improvement District (PBID), it is proposed that the funding for the City assessment come from an Environmental Services general fund allocation that has been identified for litter containers and abatement. This will show Council's support of the community in its desire to self tax and empowering the local neighborhood to administer programs on its behalf. The City's annual assessment is a small investment that leverages other property owner's investment in the district to provide for enhanced services in a very critical area for economic success.

Similar to the situation noted above, it was identified when the assessments were calculated that there were some discrepancies in the County record data with regard to the existence of buildings. As presented, the district is in compliance with state law, which specifies that the data utilized in a district formation need only be as confirmed in the last equalized County tax roll. Discrepancies were found on at least 20 properties and, as an additional step, letters were sent to the owners asking for clarification of the property information. Only 20% of the letters were returned. In future years as verifiable property data becomes available, assessments could be increased on parcels with incorrect County data. Since no other confirmed source of data has been found or is available for these parcels, it is staff's recommendation for Council to continue these proceedings as scheduled.

At the close of the Public Hearing, Council will conduct a form of an election called a protest procedure whereby property owners within the district cast ballots in favor of or opposed to the new assessment, with votes weighted by the amount of the proposed assessment on each parcel. The assessment can only be implemented if affected property owner protests do not outweigh the

ballots cast in favor of the new assessment (simple majority). If approved, the proposed assessment will commence immediately for fiscal year 2008-2009 and will be increased annually by the Consumer Price Index (CPI) starting in 2009-2010, not to exceed 5%. The Willow Glen CBD will have a term of 15 years, after which it would sunset and need to be reestablished in order to continue. Due to the timing of the district formation, staff will invoice all properties for the 2008-2009 assessment. Future year assessments will be collected through the County property tax bills, and only public agencies will be invoiced directly.

EVALUATION AND FOLLOW-UP

If approved by the voters, as a property owner, the City will be assessed approximately \$4,700 for fiscal year 2008-2009. For subsequent years, the assessment amount will be updated to approximately \$9,000 and subject to annual CPI increases. The district has a term of 15 years, after which it would sunset and need to be reestablished in order to continue. In addition, services will commence as soon as assessments are collected and an agreement with the City is established with an owners' association to implement the activities and improvements specified in the management plan. This agreement will be created and executed by the City Manager's Office. Each year, the owners' association must provide an annual report for Council's approval of the budget for the upcoming year. The Willow Glen Business Association spearheaded this proposal and is in position to transition and expand services from the existing Business Improvement District to the services identified in the Management Plan for the proposed Willow Glen CBD if approved by Council. For fiscal year 2008-2009, staff will invoice all properties directly. Future year assessments will be placed on the County property tax bills for collection. Staff will bring forward appropriation and funding sources recommendations for Council approval at a later date as appropriate.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH

- 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)**

While this action does not meet the \$1 million threshold under Criterion 1, this memorandum will be posted on the City's website for the December 16, 2008 Council agenda. A Notice of Public Hearing was mailed along with ballots on October 31, 2008 and will be published by December 9, 2008. The Proposed Boundary Map, Management Plan, and Engineers Report are filed in the City Clerk's Office for public review and will also be made available to the property owners within the district upon request.

The consultant, New City America, has attended seven meetings with the Willow Glen Steering Committee at regularly scheduled meetings open to all property owners and businesses. Additionally, a newsletter has been published and distributed within the area to help disseminate information. Staff remains available to respond to any public inquiries.

COORDINATION

This memorandum and related documents and resolutions were prepared in cooperation with the City Attorney's Office, the Departments of Transportation, Environmental Services, Library, and Planning, Building and Code Enforcement, the City Manager's Budget Office, the City Clerk's Office.

FISCAL/POLICY ALIGNMENT

This action is consistent with the Council-approved Budget Strategy to continue to move in the general direction of seeking alternative ways to deliver services through appropriate community partnerships and public-private partnerships.

COST IMPLICATIONS

If the Willow Glen CBD is approved on December 16, 2008, the City would be required to pay annual assessments of approximately \$4,700 for the first year and approximately \$9,000 for the following years increasing up to 5% by the CPI per year. In addition, the City will collect annual assessments from property owners through the County tax bills or by City invoices.

In compliance with the Council-approved Budget Strategy and in conformance with all other City special assessment districts, staff costs will be covered by the assessment collection through this district. Future revenues associated with this recommendation will be programmed in a new fund to be established for this purpose. Recommended actions to establish this fund will be brought forward to Council at a later date.

BUDGET REFERENCE

The table below identifies the fund and appropriation that will fund the City's annual assessment.

HONORABLE MAYOR AND CITY COUNCIL

11-24-08

Subject: Willow Glen Community Benefit District Hearing and Election

Page 6

Fund #	Appn #	Appn. Name	RC #	Total Appn	Amt. for Contract for ½ year)	2008-2009 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
001	0762	Non-Personal/ Equipment	500550	\$510,966	\$4,700	N/A	9/23/08 No. 28404

CEQA

CEQA: Exempt, File PP08-097

Planning has found the minor alterations to land (beautification projects) as a result of the formation of the Willow Glen CBD to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.



KATY ALLEN

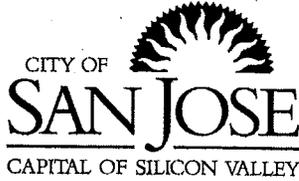
Director, Public Works Department

For questions please contact TIMM BORDEN, DEPUTY DIRECTOR, at 408-535-8300.

Attachments

PD:TMB:dcs

WGmemoHearing.doc



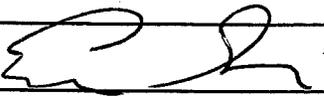
Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen
Darryl Von Raesfeld
Jennifer A. Maguire

SUBJECT: FIRE STATION NO. 2
REBUILD PROJECT

DATE: 11-24-08

Approved  Date 12/1/08

COUNCIL DISTRICT: Citywide

RECOMMENDATION

It is recommended that the City Council:

- a. Report on bids and award of contract for the Fire Station No. 2 Rebuild Project to the low bidder, Santa Clara Valley Corporation dba Swenson Development and Construction, to include the base bid, the revocable item and Add Alternates No. 1 and No. 3, in the amount of \$5,193,253, and approval of a contingency in the amount of \$625,000.
- b. Approve the schedule reset to extend the projected Beneficial Use Date of Fire Station No. 2 to August 1, 2010 from November 2009.
- c. Adopt the following 2008-2009 Appropriation Ordinance amendments in the Neighborhood Security Bond Fund (Fund 475):
 1. Increase the Contingency Reserve by \$590,000;
 2. Decrease the Fire Station No. 2 – Rebuild appropriation by \$590,000.
- d. Adopt the following 2008-2009 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax: Fire Protection Services Fund (Fund 392):
 1. Increase the Ending Fund Balance by \$124,000;
 2. Decrease the Fire Station No. 2 - Rebuild appropriation by \$124,000.

OUTCOME

Approval of this construction contract will allow for the demolition and rebuilding of Fire Station No. 2 on the existing site for use by the Fire Department. Approval of a 12 percent contingency will provide funding for any unanticipated work necessary for the proper

completion or construction of the project. Approval of the schedule reset will align the approved baseline schedule for the project with the projected completion date. Approval of the appropriation actions will allow project savings due to favorable bids to be utilized for other capital project needs.

EXECUTIVE SUMMARY

City staff recommends the award of contract to the low bidder, Swenson Development and Construction. The award will include the base bid and Add Alternate Nos. 1 and 3 for a total construction contract of \$5,193,253. Due to the favorable bids received, staff is recommending (1) that the 10 percent construction contingency that is the Council policy for new building projects be increased to 12 percent to allow for unanticipated conditions that might be associated with the demolition of the existing station; a portion of which is almost 60 years old, (2) that the savings of \$1,000,000 be redistributed to the Neighborhood Security Bond Fund (Fund 475) Contingency Reserve and to the Construction and Conveyance (C&C) Tax Fund (Fund 392) Ending Balance for distribution to future capital projects, and (3) that a portion of the savings associated with the San José Redevelopment Agency (SJRA) would be refunded to the SJRA upon completion of the construction project.

Start of construction is dependent on the local redeployment of the Fire Station No. 2 crews and equipment to three separate locations to maintain fire and medical services in the area during demolition of the existing station and construction of the new Fire Station No. 2. A recent analysis of construction schedules for completed projects indicated that latter stations required much more time to design and build than originally anticipated. Having reviewed the project specifics and evaluated the project schedule, staff recommends that the baseline schedule be adjusted so that the baseline beneficial occupancy date is set for August 1, 2010.

BACKGROUND

In March 2002, the voters in San José passed Measure O, the “9-1-1, Fire, Police, Paramedic and Neighborhood Security Act” (Neighborhood Security Act Bond Measure). This bond measure authorized the City to issue General Obligation Bonds in an amount not to exceed \$159 million to fund capital improvements in the Public Safety Capital Program.

The Fire Station No. 2 Rebuild Project will demolish the existing Fire Station No. 2 located at 2933 Alum Rock Avenue, and construct a new two-company fire station in its place. This project is the seventh new fire station building construction contract to be executed under the Public Safety Bond Program.

The new 12,456 square foot fire station facility will be a two-story, two company fire station designed as an Essential Services Facility. It will have three apparatus bays and will provide for gender privacy, Americans with Disabilities (ADA) access on the first floor and state-of-the-art fire alerting and communications systems. The station includes 10 bunkrooms, an exercise

room, a combined kitchen/dining room and day room. The site will be developed to include an emergency generator, a diesel fuel storage tank and 21 on-site parking spaces.

In addition to the base bid scope of work there is one revocable contract item and two Add Alternates.

<u>Revocable Contract Item</u>	<u>Engineer's Estimate</u>
1. Concrete slab for Public Art <i>(Included in the Base Bid)</i>	\$10,000

<u>Add Alternate Description</u>	<u>Engineer's Estimate</u>
1. Provide 300 LF of 2" PVC water line to hose drying rack area.	\$10,000
2. Storm Drain line <i>(Deleted via Addendum and made part of Base Bid)</i>	N/A
3. Install metal siding panels in lieu of exterior stucco finish.	\$16,800

Construction is scheduled to begin in late January 2009 with completion in Spring 2010.

During the construction of the new facility, the Fire Department is locally redeploying the Fire Station No. 2 crews and equipment to three separate locations to maintain fire and medical services in the area served by the existing station. As of this report, temporary fire station facilities are being constructed at the existing Fire Station No. 21 site located at 1749 Mt. Pleasant Road and on land leased from the Logos Christian Fellowship Church located at 4809 Alum Rock Avenue. The Fire Station No. 2 Battalion Chief will be relocated to the Fire Station No. 21 site, and the No. 2 engine and crew will be housed at the Alum Rock Avenue site. Ladder truck No. 2, its crew and salvaged equipment will be temporarily relocated to the recently completed Fire Station No. 34 on Las Plumas Avenue for the duration of construction.

ANALYSIS

Bids were opened on November 4, 2008 with the following results:

<u>Contractor</u>	<u>Base Bid</u>	<u>Add Alt. No. 1</u>	<u>Add Alt. No. 3</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/(Under) Percent</u>
California Plus Engineering (Campbell)	\$7,418,000	\$7,000	\$43,000	\$7,468,000	\$1,068,000	16
Engineer's Estimate	6,400,000	10,000	16,800	\$6,426,800	---	---
Bogard Construction (Santa Cruz)	6,371,944	5,509	39,710	\$6,417,163	(9,637)	(15)
Ralph Larsen & Son (San Mateo)	6,145,000	7,000	60,000	\$6,212,000	(214,800)	(3)

HONORABLE MAYOR AND CITY COUNCIL

11-24-08

Subject: Fire Station No. 2 – Rebuild Project

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Pencon (Livermore)	5,957,000	2,000	43,100	\$6,002,100	(424,700)	(7)
Kent Construction (Gilroy)	5,937,035	7,357	42,453	\$5,986,845	(439,955)	(7)
Farotte Construction (Gilroy)	5,825,000	7,424	40,000	\$5,872,424	(554,376)	(9)
Kuehne Construction (Sunnyvale)	5,687,369	9,900	42,790	\$5,740,059	(686,741)	(11)
John Plane Construction (Brisbane)	5,541,696	6,420	103,872	\$5,651,988	(774,812)	(12)
BOBO Construction (Elk Grove)	5,517,000	6,000	36,000	\$5,559,000	(867,800)	(14)
DL Falk Construction (Hayward)	5,454,000	7,900	20,600	\$5,482,500	(944,300)	(15)
Applegate Johnston (Modesto)	5,360,000	12,500	92,000	\$5,464,500	(962,300)	(15)
McCrary Construction (Belmont)	5,399,000	8,000	30,000	\$5,437,000	(989,800)	(15)
Sausal Corporation (San Leandro)	5,377,414	8,370	51,712	\$5,437,496	(997,674)	(16)
ZCON (Oakland)	5,400,000	13,500	15,000	\$5,428,500	(998,300)	(16)
Gonsalves & Stronck (San Carlos)	5,368,956	2,000	20,000	\$5,390,956	(1,035,844)	(16)
Zolman Construction (San Carlos)	5,299,000	10,000	75,000	\$5,384,000	(1,042,800)	(16)
Swenson Development & Construction (San Jose)	5,161,253	2,000	30,000	\$5,193,253	(1,233,547)	(19)

All but one of the 17 bids received is below the Engineer's Estimate. The low bid submitted by Swenson Development & Construction is more than 19 percent below the Engineer's Estimate. The unusually large number of bidders and the fact that the lowest 11 bids received ranged from 11 to 19 percent below the Engineer's Estimate strongly suggests that the regional construction market has become highly competitive. While the Engineer's Estimate was based on trends of construction costs experienced over the last several years, it did allow for a relative softening in the construction market. With the recent upheavals in the national financial markets, the construction industry has been adversely affected, driving more companies to bid on municipal projects which appears to have created a spike in competition. The high number of bidders and the good bid results are therefore attributed to the increasingly favorable bidding climate that staff has recently experienced on several other projects. Staff believes that these bids are reasonable and acceptable for the work involved in the project.

With the favorable bids received, the adopted budget for the project can now support a 10 percent construction contingency that is the Council policy for new building projects. Because part of the contract includes the demolition of the existing station; a portion of which is almost 60 years old, staff is recommending that the contingency be increased to 12 percent to allow for any unanticipated work.

Schedule analysis:

The proposed schedule reset is necessary to allow sufficient time to complete the construction of the station. Having recently completed five new fire station projects (Nos. 12, 17, 25, 34 & 35), staff has had the opportunity to evaluate their respective schedules and re-assess the appropriate timelines for design and construction of these public safety facilities. Due to the relatively concurrent schedules for the design time frames for these earlier projects, the latter stations required additional four to six months to allow staff and consultants to assess and incorporate appropriate lessons learned from the preceding projects. This has required consultants to perform additional re-design services to ensure that the latter stations incorporated changes to the building design and operational systems. A similar analysis of the construction schedules for prior fire station projects has informed staff that an additional four months should be added to accommodate allowances for unanticipated conditions, outside agency issues, utility company coordination, variable contractor performance and fire department outfitting and testing of communication and alerting systems. Having reviewed the project specifics and evaluated the project schedule, staff recommends that the baseline schedule be adjusted so that the baseline beneficial occupancy date is set for August 1, 2010.

Budget analysis:

As noted in the Cost Summary portion of this memo, the construction cost element of the overall budget includes owner provided/executed items that are not part of the contractor's scope of work but are necessary to complete the project. They are comprised of utility fees, hazardous material abatement (*asbestos*) of existing Fire Station No. 2 and the temporary construction of facilities to house the crews during construction of the new station. These items are estimated to add approximately \$423,000 in costs to the construction phase of the project.

In light of the favorable bids and after accounting for the temporary facilities costs and the recommended construction contingency increase, staff has determined that the total project funding can safely be reduced by \$1,000,000. The recommended budget actions return to the various funding sources in direct proportion to their total contributions over the life of the project. If approved, the savings would therefore be distributed per the following table:

Funding Source:	Total Budget Contribution	% of Total	Returned to Ending Fund/Contingency Reserve
Fund 475 – Public Safety Bond	\$5,572,000	59.0%	\$590,000
Fund 450 – Redevelopment Agency PSM #541	\$2,700,000	28.6%	\$286,000
Fund 392 – Construction and Conveyance	<u>\$1,175,000</u>	12.4%	<u>\$124,000</u>
Totals	\$9,447,000		\$1,000,000

In the Neighborhood Security Bond Fund (Fund 475), \$590,000 would be shifted from the Fire Station 2-Rebuild appropriation to the bond fund’s Contingency Reserve to be redistributed for other capital project needs. In the Construction and Conveyance (C&C) Tax Fund (Fund 392), \$124,000 would be shifted from the Fire Station 2-Rebuild appropriation to the fund’s Ending Fund Balance. The portion of the savings (\$286,000) associated with the SJRA would be refunded to the SJRA upon completion of the construction project.

EVALUATION AND FOLLOW-UP

This project is currently within budget. A schedule reset of the Beneficial Use Date will allow sufficient time to complete the project. Staff will return to Council to request approval of an amendment to increase compensation to the consultant, WLC Architects, Inc., and to extend the current consultant agreement to align with the extended project schedule.

POLICY ALTERNATIVES

Not applicable.

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 meets the first criteria above. This memorandum will be posted on the City's website for the December 16, 2008 Council agenda.

COORDINATION

The project and memorandum have been coordinated with the Departments of Planning, Building and Code Enforcement, General Services, Environmental Services, Finance, and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

1.	AMOUNT OF RECOMMENDATION/COST OF PROJECT:	\$5,193,253 *
	Project Delivery	\$2,200,000
	Construction	5,622,962 *
	Contingency	625,000
	TOTAL PROJECT COSTS	\$8,447,962
	Prior Year Expenditures	1,182,962 **
	REMAINING PROJECT COSTS	\$7,265,000

* The construction contract does not include costs for utility fees, temporary fire facility costs and owner provided equipment that won't be part of the awarded contract. Those costs are, however, estimated at approximately \$423,000 and captured in the overall construction cost line item above.

** A total of \$1,182,962 was expended and encumbered thru fiscal year 2007-2008 for project delivery costs for Fire Station No. 2.

2. COST ELEMENTS OF AGREEMENT/CONTRACT: \$5,193,253
This is a Lump Sum Contract.

3. SOURCE OF FUNDING: 475 - Neighborhood Security Bond Act
392 - Fire Station No. 2 Alum Rock-Construction Tax &
Property Conveyance Tax
450 - Redevelopment Agency PSM #541

4. OPERATING COST: Due to the increased square footage of the new fire station facility; additional maintenance and operations costs, as well as additional utility costs totaling \$2,000 in 2009-2010 and annualized to \$28,000 in 2010-2011, have been assumed in the 2010-2014 Preliminary General Fund Forecast.

BUDGET REFERENCE

The table below identifies the fund and appropriations proposed to fund the contract(s) recommended as part of this memo and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2008-09 Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
<u>Remaining Project Costs</u>				\$7,265,000			
<u>Remaining Funding Available</u>							
475	4997	Fire Station No. 2 - Rebuild	135585	4,173,000	1,993,253	V-886	10/21/08 Ord. No. 28422
392	4997	Fire Station No. 2 - Rebuild	135585	964,000	800,000	V-886	6/24/08 Ord. No. 28349
450	4997	Fire Station No. 2 – Rebuild	135585	2,700,000	2,400,000	N/A	8/12/08 Ord. No. 28364)
<u>Total Current Funding Available</u>				\$7,837,000			
<u>Funding in Future Years of CIP</u>							
475	4997	Fire Station No. 2 - Rebuild	135585	428,000		V-886	
<u>Total Project Funding Existing</u>				\$8,265,000	\$ 5,193,253		
<u>Recommended Budget Actions</u>							
475	8633	Contingency Reserve*		(590,000)		V-878	
392	8999	Ending Fund Balance*		(124,000)		N/A	
450		Refund to SJRA*		(286,000)		N/A	
		Total		(1,000,000)			
<u>Total Project Funding</u>				\$7,265,000			

* Approval of the appropriation actions will allow project savings due to favorable bids to be utilized for other capital project needs. Savings will be returned in direct proportion to the funding contribution to the project. SJRA savings will be refunded following the completion of construction.

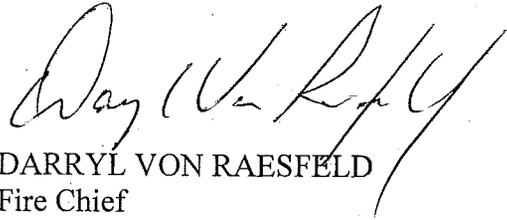
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CEQA

CEQA: Exempt, PPO5-220



KATY ALLEN
Director, Public Works Department



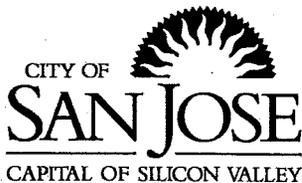
DARRYL VON RAESFELD
Fire Chief



JENNIFER A. MAGUIRE
Budget Director

For questions please contact DAVID SYKES, ASSISTANT DIRECTOR, PUBLIC WORKS DEPARTMENT at (408) 535-8300.

KJ:dp:ra
Attachments



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Albert Balagso

SUBJECT: SEE BELOW

DATE: 11-24-08

Approved

Date

12/1/08

COUNCIL DISTRICT: 3
SNI AREA: N/A

SUBJECT: GRANT APPLICATION IN THE AMOUNT NOT TO EXCEED \$2,500,000 FOR THE GUADALUPE RIVER PARK & GARDENS CIRCUIT PATHWAYS, NATIVE PLANT INSTALLATION AND INTERPRETIVE SIGNAGE PROJECT

RECOMMENDATION

Adoption of a resolution authorizing the City Manager, or designee, to:

1. Submit a grant application in an amount not to exceed \$2,500,000 under the River Parkways Grant program administered by the State Resources Agency (Resources Agency) for the Guadalupe River Park & Gardens Circuit Pathways, Native Plants Installation and Interpretive Signage project ("Project").
2. Accept any grant funds and to negotiate and execute all necessary documents related to the grant award.

CEQA: Negative Declaration PP08-253

OUTCOME

City Council approval of the recommended action will authorize the City Manager, or designee, to apply for grant funding for the Project, accept the grant, and negotiate and execute any necessary documents with the Resources Agency for acceptance and use of the grant funds for the Project. Grant funds will be used for the Project as follows: (1) to re-establish native plants in the area north of Taylor Street within the Guadalupe Gardens; (2) build approximately two (2) miles of circuit pathways; (3) install garden paths and entryways connecting existing amenities to the circuit pathways; (4) install up to two (2) strategically placed pedestrian entrances along

pathway in the Guadalupe River Park and (5) install interpretive signage educating visitors on the native plants. The grant application is an excellent opportunity to secure funds without any required matching contribution from the City. If the proposed project is selected for grant funding, a recommendation will be brought forward for City Council consideration to front the money from another City funding source. The City would then be reimbursed for eligible expenditures as they occur, and the borrowed funds would be replenished accordingly.

BACKGROUND

California voters passed the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 – Proposition 84. It added to the Public Resources Code, Section 75050, authorizing the Legislature to appropriate the following:

- **River Parkways:** The sum of \$62 million to the Resources Agency for the acquisition, restoration, protection and development of river parkways in accordance with the California River Parkways Act of 2004.

The fiscal year 2008-2009 will be the first round of funding under this program in which \$30.9 million is set aside for the River Parkways program.

ANALYSIS

The River Parkways grant program is available through the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 - Proposition 84. This grant program is available to any local public agency or non-profit organization with projects that meets the guidelines under the program. The grants are awarded on a competitive basis.

To be eligible, a project must support two (2) of the following five (5) statutory requirements:

- **Recreation:** Provide compatible recreational opportunities, including trails for strolling, hiking, bicycling and equestrian uses along rivers and streams.
- **Flood Management:** Maintain or restore the open space character of lands along rivers and streams so that they are compatible with periodic flooding as part of a flood management plan or project.
- **Habitat:** Protect, improve or restore riverine or riparian habitat, including benefits to wildlife habitat and water quality.
- **Conversion to River Parkways:** Convert existing riverfront land into uses consistent with river parkways.
- **Conservation and Interpretive Enhancement:** Provide facilities to support or interpret river or stream restoration or other conservation activities.

The Parks, Recreation and Neighborhood Services Department is seeking City Council authorization to submit a grant application in an amount not to exceed \$2,500,000 for the Project. The Project will satisfy the recreation enhancement and conservation and interpretive enhancement statutory requirements.

The April 2008 Draft Design Guidelines and Implementation Strategy for the Guadalupe Gardens is a refinement of the approved 2002 Master Plan. The guidelines spell out the vision and strategy for the next phases of development of the Guadalupe Gardens. The guidelines include analysis and specific proposals to improve the Guadalupe Gardens experience. The implementation strategy addresses an approach for activation and unification of the Guadalupe Gardens.

This plan includes the construction of approximately two (2) miles of circuit pathways in the area north of Taylor Street, installation of garden paths and entrances, reestablishing native plants, and installation of interpretive signage and two (2) strategically-placed pedestrian entrances along trails in the park.

The preliminary cost of this project is in the range of \$2,500,000. Staff anticipates seeking City Council approval for the award of a construction contract in February 2010.

When the project is completed, the City of San José will have built circuit pathways between Taylor and Hedding Streets allowing users to encounter, interact, and enjoy an unstructured landscape in the center of the urban environment and connect to the Guadalupe Trail System. The City will have reintroduced native plant species and enhanced interpretive signage throughout the Gardens. The area of Guadalupe Gardens between Hedding and Asbury streets will now provide access to informal passive recreation in a naturalistic environment. The trails will connect the Gardens as a whole as well as strengthen links to the Guadalupe River Park and adjacent neighborhoods. The pedestrian entrances will encourage users of the river park to flow to the Guadalupe Gardens to use the new circuit pathways and enjoy other garden elements.

City Council approval to submit an application for and receipt of grant funds for the Guadalupe Gardens Project from the California River Parkways Grant Program commits the City to the following:

Commitment	Approach for Addressing
Maintain and operate the property for which the grant is received pursuant to the grant for a period of at least 25 years (for grants over \$1 million).	It is the City's intent to maintain the Guadalupe River Park with the proposed improvements in accordance with the requirements of the grant.
Have sufficient funds to operate and maintain the project.	The operations and maintenance costs are incremental to the existing costs and are estimated to be \$65,000/year.

Commitment	Approach for Addressing
Seek written approval from the State of California, through the Resources Agency, prior to entering into an agreement with another party to maintain and operate the property in accordance with the grant program.	It is the intent of the City to operate and maintain the property and to comply with this grant requirement should the need to contract with another party arise.
Seek written approval from the State of California, through the Resources Agency, prior to the sale or transfer of the property for which the grant is received.	Approval shall not be unreasonably withheld as long as the purposes for which the grant was awarded are maintained.
Seek written approval from the State of California, through the Resources Agency, prior to allowing the use of any portion of the property for mitigation (i.e. to compensate for adverse changes to the environment elsewhere).	It is the intent of the City to comply with this grant requirement should the need arise.
City shall not allow the use of any portion of the property as security for any debt.	The City shall comply with this requirement.
River Parkways funding will be fixed at the award amount and, therefore, any cost increase will be incurred by the City.	Consistent with other grant programs, the City will address funding shortfall, if any, through local and other grant sources.
Comply with any laws and regulations that apply to development projects, including but not limited to the California Environmental Quality Act (CEQA), legal requirements for prevailing wages, building codes, health and safety codes, and disabled access laws.	This requirement is consistent with City policies and practices.
Obtain all applicable permits prior to commencement of construction.	This requirement is consistent with City policies and practices.
Comply with all provisions of Section 1771.5 of California Labor Code.	This requirement is consistent with City policies and practices.
Complete the project as described in the application.	Consistent with other grant programs.

Commitment	Approach for Addressing
City will advance its own funds to complete the project.	This is consistent with City practice when receiving grant funds that are on a reimbursement schedule. Funds to advance the cost of the project will be appropriated through the normal budgetary process. The City will request reimbursements for expenses incurred on a quarterly basis, or sooner if necessary, to replenish the City fund that advances the money.
Compliance with the funding deadlines.	Project must be completed by the deadline in order to receive full funds awarded.

As part of the grant application process, the City is required to adopt a resolution in substantially the same form as the sample resolution provided in the grant guidelines and to make certain commitments, assurances, and certifications described above.

POLICY ALTERNATIVES

Alternative #1: Do Nothing

Pros: Does not require staff time in the preparation of an application package.

Cons: Inconsistent with City Council's approach of seeking grant funds to develop projects when feasible. The City loses an opportunity to secure grant funds of up to \$2.5 million to build the circuit pathways, install native plants and interpretive signage in the Guadalupe Gardens with funding almost entirely from grant funds.

Reason for not recommending:

The project is well suited for this funding source and not pursuing funds would be inconsistent with the Council's preferred approach.

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)**

11-24-08

Subject: River Parkways Grant Application for Guadalupe River Park & Gardens Circuit Pathways, Native Plants Installation and Interpretive Signage Project

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- 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 meets criterion 1. This memorandum will be posted on the City's website for the December 16, 2008 Council agenda.

The Friends of Guadalupe River Park and Gardens continue to do outreach efforts in support of the Design Guidelines and Strategy Implementation for the Guadalupe Gardens. Extensive outreach was done as part of the process for the approval of the 2002 Master Plan.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, Department of Public Works, Finance Department, and Department of Building, Planning and Code Enforcement.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

COST IMPLICATIONS

While matching funds are not required for the River Parkways grant application, the City of San José will be in a better competitive position if there are matching funds of at least 5% of the project amount. Therefore, matching funds will come from an existing appropriation for staff performing project management functions.

1. TOTAL PROJECT COST	\$2,704,570
Pre-Construction	\$228,100
Project Delivery	\$433,220
Construction	\$1,903,250
Contingency	\$ 140,000
TOTAL PROJECT COST	<u>\$2,704,570</u>

HONORABLE MAYOR AND CITY COUNCIL

11-24-08

Subject: River Parkways Grant Application for Guadalupe River Park & Gardens Circuit Pathways, Native Plants Installation and Interpretive Signage Project

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The project cost includes \$204,570 of non-reimbursable costs such as overhead costs and a portion of the management costs.

2. SOURCE OF FUNDING: River Parkways Grant (\$2,500,000)
City Contribution (\$204,570) (funding source will be identified as part of the 2009-2010 budget process).

3. OPERATING COSTS: The operating and maintenance impact related to this project has been reviewed and determined to be \$65,000/year beginning in fiscal year 2011-2012. Staff will continue to work with the Friends of the Guadalupe Park and Gardens to minimize the General Fund impact of this expense, including seeking Public Private Partnerships.

CEQA

Negative Declaration, PP08-253



ALBERT BALAGSO
Director of Parks, Recreation,
and Neighborhood Services

For questions, please contact Simeon Mercado, Project Manager, at (408) 793-5526.

Attachment: Resolution



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: James R. Helmer

SUBJECT: SEE BELOW

DATE: 11-24-2008

Approved

Date

11/30/08

COUNCIL DISTRICT: Citywide

SUBJECT: ADOPTION OF AMENDMENTS TO ORDINANCE 27933 TO ENABLE INVOICING FOR EMERGENCY TREE SERVICES

RECOMMENDATION

Adopt amendments to Title 13, Chapter 13.28 of the San José Municipal Code to enable the City to invoice the property owner for emergency tree services performed on behalf of the adjacent property owner.

OUTCOME

The recommended ordinance changes align the billing process for emergency tree services with the billing process used by the City when providing other comparable services, and enable the recovery of costs associated with tree services provided by the City on behalf of the adjacent property owner in an expedient manner prior to proceeding with the assessment procedure under the Code.

BACKGROUND

The Department of Transportation (DOT) is responsible for preserving and improving the City's transportation assets within the public right-of-way, including overseeing, caring for, and performing maintenance on an estimated 250,000 street trees. A budget balancing strategy was adopted in the 2007-2008 Adopted Budget to eliminate street tree corrective maintenance services provided by the City's Tree Crew to the public at no cost. As a result of the elimination of funding for these services, DOT implemented a new street tree corrective maintenance service model beginning July 1, 2008. The new street tree maintenance service delivery model is intended to be full cost recovery for all work completed by the City on behalf of the property owners.

The San José Municipal Code assigns all maintenance responsibility for street trees to the adjacent property owner. There are times, however, when a tree poses an imminent hazard such as, but not limited to, falling into the street or sidewalk, cracked or hanging limbs, or interference with the visibility of a traffic control device. In these cases under the new model, the City utilizes a tree contractor to remove the tree or take whatever immediate corrective action is necessary on behalf of the property owner, and the property owner is responsible for reimbursing the City for the costs of the work that is done.

ANALYSIS

The following ordinance changes are necessary in order to codify the most expedient process that enables the City to recover costs associated with providing emergency tree services on behalf of the adjacent property owner:

1. Delete 13.28.240 (B) and add a new section 13.28.245 (Emergency tree services performed by the City) that states that:
 - o The owner or person in possession of a property abutting a street tree, shrub or hedge or a property containing a tree, shrub or hedge that overhangs into a street shall pay the costs billed by the City for emergency tree services;
 - o The Director shall send a Notice of Cost to the owner for the cost of the work performed
 - o If any owner does not pay by the date specified in the Notice of Cost, the payment shall be deemed delinquent and subject to the City's established assessment and lien process.
2. Amend 13.28.250 (Dangerous trees – Cost of removal by City) and 13.28.260 (Conference with Director of Streets and Traffic) to change the reference to Dangerous trees and Notice of Cost to align language with the City's existing collections and lien process.
3. Amend 13.28.010 to provide a definition for the distinction between emergency (referred to in the Municipal Code as *manifest public danger*) and non-emergency (referred to in the Municipal Code as *dangerous*) situations.

The proposed ordinance changes streamline the cost recovery process by enabling the City to invoice for emergency tree services provided, which is consistent with the manner in which comparable services such as sidewalk repair and trash collection are handled. It allows for more efficient use of City resources in the administration of the process, and eliminates ambiguity in the Municipal Code regarding how the process is to be executed.

EVALUATION AND FOLLOW-UP

Future amendments to the ordinance will be necessary to address similar issues related to non-emergency (*dangerous*) situations.

POLICY ALTERNATIVES

Not applicable.

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)**

The public was informed of the changes to the tree services delivery model through the 2008-2009 Budget process. Additional outreach, including a press release and communication with all Council Offices, was conducted prior to the implementation of the new model. The City continues to inform the public of these changes, most recently through an insert that is included in the November/December 2008 garbage bills.

This memorandum will be posted on the City's website for the December 16 Council meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The ordinance changes provide for the implementation of the new tree services delivery model as specified in the 2008-2009 Adopted Budget.

HONORABLE MAYOR AND CITY COUNCIL

November 24, 2008

Subject: Tree Services Ordinance Changes

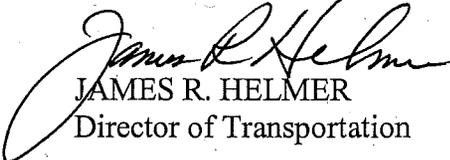
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COST SUMMARY/IMPLICATIONS

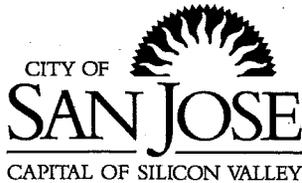
Not applicable.

CEQA

Not a project.


JAMES R. HELMER
Director of Transportation

For questions please contact Kevin O'Connor, Deputy Director, at 277-3028.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen
John Stufflebean

SUBJECT: SEE BELOW

DATE: 11-24-08

Approved

Date

11/30/08

COUNCIL DISTRICT: Citywide

SUBJECT: REPORT ON BIDS AND AWARD OF A CONTRACT FOR THE ENVIRONMENTAL SERVICES BUILDING (ESB) REPAIR PROJECT AND SECOND AMENDMENT TO THE AGREEMENT WITH ALLANA BUICK & BERS, INC. FOR PROFESSIONAL SERVICES FOR THE ESB REPAIR PROJECT

RECOMMENDATION

- a. Report on bids and award of contract for the construction of the Environmental Services Building Repair Project to the lowest responsible bidder, Zolman Construction & Development, Inc., in the amount of \$3,600,000, and approval of a contingency in the amount of \$540,000.
- b. Adoption of a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement with Allana Buick & Bers, Inc. for professional services related to the repair and modifications of the San José/Santa Clara Water Pollution Control Plant's Environmental Services Building, modifying the scope of services and increasing the compensation by an amount not to exceed \$200,000 for a total maximum amount not to exceed \$787,495; and extending the term of the agreement by five months to December 31, 2010.

OUTCOME

Approval of the construction contract to Zolman Construction & Development, Inc. will allow the Environmental Services Building Repair Project to move forward into the construction phase. Approval of the contingency will provide funding for any unanticipated work necessary for the completion of the project.

Approval of the proposed second amendment to the agreement with Allana Buick & Bers, Inc. (ABB) will allow for the augmentation of construction support services necessary to complete

the project, including professional services associated with obtaining Green Building (LEED) Silver certification.

BACKGROUND

The Environmental Services Building (ESB) is a 38,000 square-foot, two-story office building with an attached single story laboratory located at 4245 Zanker Road within the San José/Santa Clara Water Pollution Control Plant (Plant). The ESB's original construction was completed and the building occupied in 1994. In 2001, water intrusion and the possibility of mold growth resulted in the office portion of the building being vacated. Several attempts were made to clean and seal the building interior and the City pursued legal claims against the original contractor and architect. Those legal actions were settled in 2007.

ABB, an architectural and engineering firm, was retained by the City in early 2007 to investigate sources of water infiltration through the building envelope and identify the extent of microbial activity within the existing building. Environmental Services (ESD) had provided management of the programming and investigative phases of the project through October of 2007 at which time Public Works took over the project management to complete the design and construction.

On December 18, 2007, Council approved an amendment to ABB's agreement which added to the scope of services to provide a clean and watertight restored building with a LEED Silver certification. Construction documents were completed and issued for bid on September 10, 2008.

ANALYSIS

Bids were opened on October 7, 2008 with the following results:

<u>Contractors</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/(Under) Percent</u>
Applegate Johnson, Inc. (Modesto)	\$5,016,000	\$1,054,000	27
Southwest Construction, Inc. (San Francisco)	4,984,600	1,022,600	26
ESR Construction (San José)	4,972,000	1,010,000	26
California Plus Engineering (San José)	4,700,000	738,000	19

HONORABLE MAYOR AND CITY COUNCIL

11-24-08

Subject: Environmental Services Building Repair Project

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Kent Construction (Gilroy)	4,236,329	274,329	7
BoBo Construction, Inc. (Elk Grove)	4,230,000	268,000	7
Robert L. Brown Construction (Martinez)	4,160,000	198,000	5
Gonsalves & Stronck Construction (San Carlos)	4,123,777	161,777	4
Swenson & Associates (Campbell)	4,096,000	134,000	3
John Plane Construction, Inc. (Brisbane)	4,069,000	107,000	3
BCCI Construction (San Francisco)	3,998,097	36,097	0.9
W.E. Lions Construction Co. (Oakland)	3,980,000	18,000	0.5
Engineer's Estimate	3,962,000	--	--
Beals Martin Inc. (Redwood City)	3,949,439	(12,561)	(0.3)
Zolman Construction & Development Inc. (San Carlos)	3,600,000	(362,000)	(9)
D.L. Falk Construction, Inc. (Hayward)	\$2,699,000	(1,263,000)	(32)

Fifteen bids were received for the project of which three were below the Engineer's Estimate. The low bid was submitted by D.L. Falk Construction, Inc. and is 32% below the Engineer's Estimate.

Within the prescribed five working day period following receipt of bids, D.L. Falk notified the City in writing that it had made a clerical error in its bid. D.L. Falk explained that its bid included \$70,000 for certain HVAC controls and that the number should have been \$700,000. This error resulted in a material difference in the bid. Accordingly, staff recommends that D.L. Falk be released from its bid.

The second low bid was submitted by Zolman Construction and Development Inc. and is 9% below the Engineer's Estimate. Consequently, staff recommends award of the contract to the second low bidder, Zolman Construction and Development Inc.

Council policy provides for a standard contingency of 15 percent on public works renovation projects. The standard contingency is appropriate for this project.

Additional professional services are required for extensive heating/ventilation/air conditioning (HVAC) construction phase coordination, additional LEED coordination, to provide phasing plans that accommodate on-going lab operations in the Environmental Services Building during construction, and to accommodate an expanded work scope for LEED certification resulting in a longer project schedule than previously planned. An amendment to ABB's agreement to provide these services is required and staff recommends authorization to the City Manager to negotiate and execute an amendment to incorporate these services into the agreement, increase compensation by an amount not to exceed \$200,000 to pay for these services, and to extend the term of the agreement by five months to December 31, 2010.

EVALUATION AND FOLLOW-UP

Approval of these recommendations will enable the project to move forward into the construction phase. Construction of the project is anticipated to begin in January 2009 and to be completed in October 2009. No further Council follow-up is anticipated.

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 project meets Criteria 1, and this memorandum will be posted on the City's website for the December 16, 2008 Council agenda.

To solicit contractors this project was listed on the City's Internet Bid Line and advertised in the *San José Post Record*. Bid notifications for all Department of Public Works construction projects are provided to a list of various contractor organizations and builder's exchanges.

COORDINATION

This project and memorandum have been coordinated with the Finance Department, the City Manager's Budget Office, and the City Attorney's Office. This item is scheduled to be heard at the November 13, 2008, Treatment Plant Advisory Committee (TPAC) meeting.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:	\$ 3,800,000
Construction	\$3,600,000
Project Delivery*	1,044,000
Contingency (15%)	540,000
TOTAL PROJECT COSTS	\$5,184,000
Prior Year Expenditures	414,179
REMAINING PROJECT COSTS	\$4,769,821

* Project Delivery includes the \$200,000 amendment to the agreement with Allana Buick & Bers, Inc.

2. COST ELEMENTS OF AGREEMENT/CONTRACT:

This is a lump-sum contract.

3. SOURCE OF FUNDING: 512 – San José / Santa Clara Treatment Plant Capital Fund

4. OPERATING COSTS: The proposed operating and maintenance costs of this project have been reviewed and will have no significant adverse impact on the General Fund operating budget. In fact, operating and maintenance costs borne by the San José / Santa Clara Treatment Plant Operating Fund should decrease as a result of this project. Estimated energy calculations indicate a 36% overall energy cost savings, including electrical and gas consumption as a result of the renovation work. Based on a total existing building energy cost of \$425,000 a year and an electric rate of \$0.22 per KWH and a natural gas rate of \$0.79 per therm, the proposed renovation would save \$153,000 a year. Also, trailers currently leased at an annual rate of \$62,000 will no longer be required to accommodate City staff that will be moving into the renovated building.

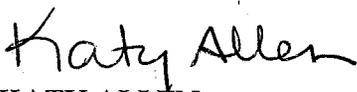
BUDGET REFERENCE

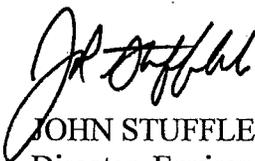
The table below identifies the funds and appropriations proposed to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2008-2009 Adopted Capital Budget (Page)	Last Budget Action (Date, Ord. No.)
Remaining Project Costs				\$4,769,821			
Current Funding Available							
512	6507	Environmental Services Bldg. Repair	153545	\$6,000,000	\$3,800,000	V-153	6/24/08, Ord. No. 28349
Total Current Funding Available				\$6,000,000			
Total Funding for Remaining Project Costs				\$4,769,821			

CEQA

CEQA: Exempt, PP08-157.


 KATY ALLEN
 Director, Public Works Department


 JOHN STUFFLEBEAN
 Director, Environmental Services

For questions please contact David Sykes, Assistant Director, at 408-535-8300.