



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Angel Rios, Jr.
Jacky Morales-Ferrand
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: August 17, 2017

Approved

Date

8/18/17

COUNCIL DISTRICT: 7

**SUBJECT: AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES (AHSC)
ROUND 2 GRANT**

RECOMMENDATION

- (a) Adopt a resolution authorizing the City Manager or his designee to enter, execute, and deliver a State of California Standard Grant Agreement (Grant Agreement) with any commitments necessary to deliver the agreed upon Grant Scope previously authorized by Council and as consistent with the proposed appropriation actions and future funding plan and all other documents required or deemed necessary or appropriate to secure the AHSC Program funds.
- (b) Adopt the following 2017-2018 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
 - (1) Establish the Coyote Creek Trail (Story Road to Phelan Avenue) appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$193,000; and
 - (2) Decrease the Future PDO/PIO Projects Reserve by \$193,000.

OUTCOME

Adoption of the appropriation ordinance amendments, together with future funding sources will allow for design and construction of approximately 2.25 miles of the Coyote Creek Trail from Story Road to Tully Road.

EXECUTIVE SUMMARY

The recommendations within this memorandum address the financial resources necessary and provide authority for the City Manager to enter into agreements with the State of California's Housing and Community Development's (HCD) for acceptance of the Affordable Housing and Sustainable Communities (AHSC) grant awarded to the 2450 Senter Road Project (formerly referred to as 2500 Senter Road). In order, for the City Manager to execute the Grant Agreement for award of the AHSC grant, Council must appropriate funds for initial stages of the project to stay on schedule and approve of the proposed future financing plan for the scope of work contained in the Grant Agreement. In addition, the Grant Agreement, already approved with a financial limit of the total award amount, \$14,979,486, must be expanded to accommodate the updated cost estimate for the trail project anywhere from \$8,800,000 to \$10,700,000. This cost estimate is significantly higher than the initial \$5,312,000 prepared for the awarded grant application. This increase in anticipated costs of approximately \$3,500,000 to \$5,400,000 is not reimbursable. The City must cover the additional costs to complete the trail project as outlined in the awarded Grant Agreement. The proposed future funding plan outlines how the trail project will be completed by the June 2021 project deadline.

In total, AHSC grant funding will provide the City with reimbursement funding for approximately 2.25 miles of the Coyote Creek Trail, streetscape improvements, traffic signal improvements at Baltic Way and additional trail ranger services. In addition, the grant and companion low-interest permanent loan will provide the City's joint applicant, Charities Housing, with resources to complete a 162-unit permanent supportive housing project for the chronically homeless. Execution of the Grant Agreement and other necessary documents must be completed so that the housing project can close financing and proceed. The Coyote Creek Trail project must also begin on schedule in order to complete the trail by the grant period deadline.

BACKGROUND

The Affordable Housing and Sustainable Communities (AHSC) or "Cap and Trade" program was established with a passage of Senate Bill 182 to implement Assembly Bill 32; the California Global Warming Solutions Act 2006. The purpose of the AHSC Program is to reduce Greenhouse Gas (GHG) emissions through coordinated projects that implement land-use, housing, transportation, and urban greening or land preservation practices supporting infill and compact development near transit. Projects awarded funding through this highly competitive grant program, are only the most viable and impactful statewide and must support a broad array of coordinated public policy objectives.

On April 28, 2016, the departments of Parks, Recreation and Neighborhood Services (PRNS), Department of Transportation (DOT), and the Housing Department jointly submitted a Concept Application for Coyote Creek Trail development and related Park Ranger services, Streetscape and Traffic Improvements, and an Affordable Housing project at 2450 Senter Road. The concept application was selected for a Formal Grant Application. City staff worked with Charities Housing and Enterprise Community Partners (an AHSC technical assistance provider) to submit

the final application in June 2016. At that time, City Council approved authority for the City Manager to submit the grant application, as well as enter into any agreements necessary to formalize responsibilities between the joint applicants (City and Charities Housing) and for acceptance of grant funds; not to exceed the requested award amount of \$14,979,486.

The State of California committed on October 11, 2016, to award \$14,979,486 in grant funding for a suite of project components, including the trail, park ranger services, streetscape, traffic, and the affordable housing project. Staff was notified by the State of California's Housing and Community Development's (HCD) of the grant award and HCD's intent to enter into a grant agreement and related agreements on November 21, 2016. On June 5, 2017, staff was provided the template grant agreements and direction on their processing by representatives of the State of California HCD.

ANALYSIS

The Parks, Recreation and Neighborhood Services Department (PRNS), Department of Transportation (DOT), and the Housing Department jointly worked to identify well-aligned projects for a concept grant application. The proximity of the housing project to the Coyote Creek corridor, and the substantial potential grant award was viewed as an opportunity to significantly advance trail development that had not proceeded in the dozen years since the Master Plan. Staff made use of available planning and design work to define the trail component of the grant award. The Coyote Creek Trail project, from Story Road to Tully Road, will result in 2.25 of new paved miles and will close a critical gap and connect a total of 17 contiguous miles of trail from Morgan Hill to Downtown San José.

The AHSC grant award will provide \$14,979,486 for the combined project components. The AHSC revenues are awarded as grant funds for public infrastructure and low interest permanent loans for the affordable housing development. The funds awarded are summarized in Table 1 below. The grant program reimburses eligible expenses at 100%. Costs beyond the grant allocation are not eligible for reimbursement. The City would be responsible to fund shortfalls for the trail and streetscape improvements. Charities Housing would be responsible for shortfalls in the housing project and traffic improvements at Baltic Way. HCD considers both parties as 'jointly and severally bound' to deliver the projects, in other words both parties are required by HCD to fund and complete each other's project components, should one party be unable to deliver its work product. A separate Indemnity Agreement between Charities Housing and the City clarifies these responsibilities and establishes recourse, outside of HCD, should such a default occur. The Council already authorized the City Manager to enter into such an agreement at the June 14, 2016 Council hearing.

Table 1. Summary of AHSC Awarded Funds

<u>Dept.</u>	<u>Capital Project</u>	<u>AHSC Funds</u>	<u>TYPE</u>
Developer	2450 Senter Road Apartments	\$ 7,766,134	Loan
Developer	Traffic Signal and Crossing @ Baltic	\$ 1,411,449	Grant
Developer	Good Karma Bikes maintenance classes and services	\$ 28,000	Grant
Developer	VTA Ecopasses	\$ 17,496	Grant
PRNS	Ranger Ride Along	\$ 308,790	Grant
PRNS	Coyote Creek Trail construction	\$ 5,312,633	Grant
DOT	Street Trees	\$ 134,984	Grant
	Grand Total	\$ 14,979,486	

PRNS is responsible for the following project outcomes:

- Coyote Creek Trail (Story Road to Phelan Avenue): Complete design documents from 90% to 100%, secure permits, and bid/award a construction contract.
- Coyote Creek Trail (Phelan Avenue to Tully Road): Prepare design documents to 100%, secure permits and bid/award a construction contract.
- Enhance Park Ranger services along citywide trails to encourage ridership (“Ranger Ride-Along”) program.
- Improve monitoring and Ranger responsiveness through improved communications and IT services, potentially through mobile applications like the ‘My San Jose’ app.

At the time the concept and final applications were submitted, the trail project was estimated to cost \$5,312,633. The cost estimate was based on 1) a review of an Engineer’s Estimate to complete design, secure permits, and construction of the trail from Story Road to Phelan Avenue, and 2) on the 2005 Master Plan for full design and construction from Phelan Avenue to Tully Road Master Plans, and 3) modest inflation of the proceeding costs with contingency. The Master Plan-based estimate did not account for the more complex site issues encountered over the past decade, a more stringent regulatory environment, the higher cost of existing and new permits, and continued construction cost inflation. Recent flooding in the project area has also added uncertainty to project costs and may have implications during trail development.

HCD grant contracts require more detailed listing of tasks, schedules, and costs, than were necessary in the grant application. PRNS worked with Public Works to revisit the 2005 Master Plan alignment, referenced recent bids on trail projects, and the adjacent design work completed for the Story Road to Phelan Avenue reach. The cost to design the trail from Story Road to Phelan Avenue was substantially more than the comparable corridor noted in the 2005 Master Plan due to additional considerations of the site such as the need to coordinate with recent underground utility projects nearby, and surcharge fill for better soil consolidation near the land fill, which were not considered in the original grant cost estimate. Furthermore, knowledge gained about site challenges within the channel and the more stringent regulatory environment

was assumed to impact design work from Phelan Avenue to Tully Road. The cost of permit fees like the Habitat Conservation Plan have also increased the cost of trail development.

The project is now estimated to cost anywhere from \$8.8 to \$10.7 million. Greater clarity on the cost will be reported to Council in the future as follows:

- Staff expects to seek authorization to award a construction contract for trail construction from Story Road to Phelan Avenue. This council action will include competitive bids and a recommendation to hire a qualified contractor.
- Staff expects to seek authorization to hire a consultant to design the project from Phelan Avenue to Tully Road. This council action will include a recommendation for the most qualified consultant firm.
- Staff expects to seek authorization to award a construction contract for trail construction from Phelan Avenue to Tully Road. This council action will include competitive bids and a recommendation to hire a qualified contractor.

PRNS is now working on a funding plan to close the estimated \$3.5 to \$5.4 million funding gap for the project. This gap will be adjusted upward or downward with refinement of the engineer's estimate for completed design documents and competitive bids for construction. Project costs exceeding the grant award of \$5.3 million are not reimbursable and the City must secure those resources. Supplemental funding may be sourced from other grant-reimbursable sources available from local or state agencies.

The following current and future funding sources totaling \$4,328,000 will support 1) completion of design documents for Story Road to Phelan Avenue, and 2) preparation of design documents for Phelan Avenue to Tully Road.

- (1) \$193,000 - Parks Trust Fund: Future PDO/PIO Reserve (CD 7 Uncommitted)
- (2) \$600,000 - Parks Trust Fund: Future PDO/PIO Reserve (pending fees fall 2017)
- (3) \$635,000 - Citywide Infrastructure Backlog Reserve (FY 18-19)
- (4) \$1,400,000 - Citywide Infrastructure Backlog Reserve (FY 19-20)
- (5) \$1,500,000 - SAFETEA-LU Grant (Caltrans) (pending reimbursement in fall 2019)

PRNS is investigating the use of other potential grant funding sources that can be used on the trail project that the City can apply for in the future. If the City applies for and is granted any funding from these sources or any others it will be used to offset the citywide construction and conveyance tax funds being recommended to be used above.

- Community Development Block Grant (CDBG) (pending analysis of whether federal funding can be used on this project due to additional environmental clearances needed)
- Santa Clara Valley Transportation Agency -Measure B
- Open Space Authority

Trail work will occur within the regulated riparian channel and that work may only occur from June to October. Therefore, the trail project must proceed quickly as major construction must be completed by October 2020 prior to the June 2021 grant deadline. Additionally, for the

affordable housing project to close financing and begin construction in September as planned, the City must execute the necessary agreements with HCD for acceptance of the award.

Council's prior authorization for the City Manager to execute the necessary AHSC agreements only anticipated commitments up to the grant award amount. Given this limitation and the additional cost anticipated to complete the trail improvements, staff is recommending that City Council further authorize the City Manager to execute the Grant and Indemnity Agreements at this time, consistent with the proposed appropriations and future funding plan, as well as any other documents necessary to complete the scope of work previously authorized by Council in the application package.

HCD requires that the City and Charities Housing be jointly and severally liable for the improvements identified in the grant application. The City and Charities Housing are planning to enter into an Indemnity Agreement to mitigate risk to each party. This agreement is independent of the grant funding, but establishes each party's intent to indemnify the other of responsibility for completing its work should that party fail to complete its project and default on its obligations to HCD. Should one of the partners be unable to proceed, the Indemnity Agreement sets forth recourse by the other party for damages potentially sought by HCD for failure to complete the AHSC funded projects.

EVALUATION AND FOLLOW-UP

Once the project cost is refined and a funding strategy is finalized, budget actions will be brought forward in 2017-2018 and in future years to fully fund the trail project. Development of the trail project will occur over several years and in phases. PRNS Staff will report on progress in completing design and construction work through several reports. An annual report is presented to the NSE Committee and a Trail Annual Report is published on July 1 of each year. The City Council will also provide recommendations related to consultant contracts for design services and for award of construction contracts.

Project development milestones will be posted via Twitter@SanJoseTrails and site photos during construction via Instagram@SanJoseTrails.

POLICY ALTERNATIVES

Alternative #: *Do not fund the Coyote Creek Trail project.*

Pros: Does not require the appropriation of significant resources to complete the trail project.

Cons: The City would not be able to execute the Grant Agreement necessary to accept the award funds. The City would lose the entire \$14,979,486 award and the associated projects including 2.25 miles of the Coyote Creek Trail, traffic signal improvements at Baltic Way, street trees, and additional trail ranger services.

Reason for not recommending: Not only would the City lose the opportunity to complete all the identified projects tied to the AHSC Grant but a significant financial gap would be created in the development budget for the affordable housing project. Charities Housing is prepared to finalize its loan agreement that is tied to this grant funding source, to close on the property and to begin construction on the project. Lastly, this could jeopardize the ability of the City to secure future AHSC funding.

PUBLIC OUTREACH

This memorandum will be posted on the City Council's Agenda website prior to the August 29, 2017 City Council meeting.

COORDINATION

This memorandum has been coordinated with the Public Works Department and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

This item does not have input from any board or commission.

FISCAL/POLICY ALIGNMENT

The recommendations in this memorandum are consistent with the Envision San Jose 2040 General Plan and Greenprint 2009 Update. Most particularly, the public-private and interdepartmental partnerships developed and successful award of State AHSC funds, represent best practices in fiscal sustainability, creative financing, and prioritization of highly impactful projects.

COST SUMMARY/IMPLICATIONS

When the City applied for the AHSC grant, it was assumed that the trail project would be fully funded by the grant, at an estimated cost of \$5.3 million. However, the Public Works Department has developed a revised cost ranging from a low of \$8.8 million to a high of \$10.7 million to complete the project, resulting in an estimated funding gap of \$3.5 million to \$5.4 million. Assuming a mid-range cost of \$9.6 million, there would be a gap of \$4.3 million. The amount will be finalized once the Public Works Department receives competitive bids for the design and construction work on the project. To address a projected funding gap of \$4.3 million, a combination of sources is proposed, including: funding of \$793,000 from the Park Trust Fund (\$193,000 from unallocated funds and \$600,000 from projected project fees); \$2,035,000 from the Parks City-Wide Construction and Conveyance Tax Fund that will be reallocated from the

Infrastructure Backlog Reserve (\$635,000 in 2018-2019 and \$1.4 million in 2019-2020), and reimbursement of \$1.5 million from the SAFETEA-LU grant that is anticipated in 2019-2020. As described in the Analysis section, other funding sources will also be pursued, including funding from CDBG, the Santa Clara Valley Transportation Agency – Measure B, and the Open Space Authority.

1. ESTIMATED COST OF PROJECT

Scoping Phase	\$20,000
Design Phase	\$2,105,000
Bid Phase	\$121,000
Construction Phase	\$7,371,000
Close out staffing	\$24,000
TOTAL PROJECT COST	\$9,641,000

2. ESTIMATED EXPENDITURE SCHEDULE

FISCAL YEAR	ESTIMATED AMOUNT
2017-2018	\$2,246,000
2018-2019	\$4,495,000
2019-2020	\$2,900,000
TOTAL PROJECT COST	\$9,641,000

3. SOURCE OF FUNDING:

- Grant Funding - \$5,312,000 (reimbursement grant)
- Fund 375 - Park Trust Fund: Future PDO/PIO Reserve (\$793,000 2017-2018)
- Fund 391 - Citywide Infrastructure Backlog Reserve (\$635,000 in 2018-2019 & \$1.4 million in 2019-2020)
- SAFETEA-LU Grant Reimbursement for Coyote Creek Trail (Story Road to Selma Olinder). The reimbursement funds can go toward funding the Story Road to Phelan Avenue phase of Coyote Creek Trail. (\$1.5 million 2019-2020)

Budget actions are recommended to allocate \$193,000 from the Park Trust Fund for initial project costs. Additional budget actions will be brought forward in 2017-2018 and in future years to complete the trail project.

4. FISCAL IMPACT:

Staff estimates that the operations and maintenance impact of the 2.25 mile of trail will be approximately \$41,850 annually. This amount is based on the cost of trail maintenance at the rate of \$15,000/mile, and \$3,600/mile for park rangers as a base line level of service. There will be no operational costs until completion of construction which is expected to occur as phased construction is completed. The 5-Year General Fund Forecast assumes delivery of 3 miles of trails per year, so this project is accounted for as part of that projection.

BUDGET REFERENCE

The table below identifies the fund and appropriations proposed to fund a portion of the 2.25 miles of the Coyote Creek (Story Road to Phelan Avenue) project.

Fund #	Appn #	Appn. Name	Total Appn.	Rec. Budget Action	2017-2018 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
375	New	Coyote Creek Trail (Story to Phelan Ave.)	N/A	\$193,000	N/A	N/A
375	8845	Future PDO/PIO Reserve	\$8,524,459	(\$193,000)	644	6/20/2017, 29962

*The 2017-2018 Proposed Capital Budget was adopted June 20, 2017.

CEQA

- Addendum to the 2450 Senter Road Residential Project Mitigated Negative Declaration and Addenda thereto, the Coyote Creek Trail Story Road to Phelan Avenue Mitigated Negative Declaration, and the Coyote Creek Trail Master Plan Los Lagos Golf Course to Tully Road Mitigated Negative Declaration, File No. P16-065, and
- Addenda thereto, the Coyote Creek Trail Story Road to Phelan Avenue Mitigated Negative Declaration, PP04-02-057, and
- Coyote Creek Trail Master Plan (Story-Phelan), Negative Declaration, PP09-218.

/s/
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 Director of Parks,
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/s/
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For questions, please contact Matt Cano, Assistant Director, Parks, Recreation, and Neighborhood Services at (408) 793-5553 or Ray Bramson, Deputy Director, Housing Department at (408) 535-8234.