

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Gloria Schmanek

**SUBJECT:** EARLY COUNCIL PACKET

**DATE:** August 12, 2014

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Approved

/s/ Edward K. Shikada

Date

8/12/14

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**EARLY DISTRIBUTION COUNCIL PACKET FOR**  
**AUGUST 26, 2014**

Please find attached the Early Distribution Council Packet for the August 26, 2014 Council Meeting.

**3.x Appropriation Ordinance and Funding Sources Resolution Amendments in Various Funds to Rebudget Funds to 2014-2015 for Completion of Projects.**

**Recommendation:**

- (a) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
  - (1) Increase the Beginning Fund Balance by \$596,000; and
  - (2) Increase the Police Administration Building Security Upgrades appropriation to the Public Works Department by \$596,000.
- (b) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund:
  - (1) Increase the Beginning Fund Balance by \$429,000; and
  - (2) Increase the The Alameda – A Plan for the Beautiful Way appropriation to the Department of Transportation by \$429,000.
- (c) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Water Utility Capital Fund:
  - (1) Increase the Beginning Fund Balance by \$98,000; and
  - (2) Increase the Nortech and Trimble Reservoir Rehabilitation appropriation to the Environmental Services Department by \$98,000.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager)

**3.x Report on Request for Proposals for a Development Fee Program Electronic Content Management System.**

**Recommendation:**

- (a) Consider the appeal by RS Computer Associates, LLC (“RSCA”) regarding the Report on Request for Proposals for a Development Fee Program Electronic

Content Management System and adopt a resolution setting forth the decision of the City Council.

- (b) Accept the report on Request for Proposals (“RFP”) for a Development Fee Program Electronic Content Management System and adoption of a resolution authorizing the City Manager to:
  - (1) Negotiate and execute an Agreement with M Squared Enterprises Inc., doing business as Tribloom Inc. (Palmer Lake, CO) for the purchase of an Electronic Content Management System to include software, installation, implementation, data migration, training and related professional services, six years software maintenance and support and one year of cloud hosting services, for an initial six-year term ending in the year 2021, with a maximum compensation not-to-exceed \$1,264,909;
  - (2) On an annual basis, either negotiate and execute five one-year options with Tribloom Inc, or contract with another provider, for cloud hosting services, with annual compensation not to exceed \$78,340 or \$391,700 for up to five years through the year 2021, subject to the appropriation of funds;
  - (3) Execute change orders to cover any unanticipated changes or requirements in the system design and implementation not to exceed \$123,459 (15% of first year compensation) as may be required, subject to the appropriation of funds; and
  - (4) After the initial six-year term, execute one-year options to extend services to provide ongoing software maintenance and technical support with Tribloom Inc., and with the cloud hosting services provider, subject to the annual appropriation of funds.
- (c) Adopt the following 2014-2015 Appropriation Ordinance amendments in the General Fund:
  - (1) Establish a City-Wide appropriation to the Planning, Building and Code Enforcement Department for the Development Fee Program Electronic Content Management System project in the amount of \$950,000; and
  - (2) Decrease the Development Fee Program Technology Reserve by \$950,000.

CEQA: Not a Project, File No. PP10-066 (a) Agreements and Contracts.  
(Finance/Planning, Building and Code Enforcement/City Manager)

**4.x Actions Related to the Construction Contract for the 5283 - Martin Park Expansion Project.**

**Recommendation:**

- (a) Report on bids and award of a construction contract for 5283 - Martin Park Expansion to the low bidder, Granite Rock Company, in the total amount of \$2,869,295 and approval of a fifteen percent contingency in the amount of \$430,395.
- (b) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund:

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- (1) Increase the Beginning Fund Balance by \$49,000;
- (2) Decrease the Future PDO/PIO Projects Reserve appropriation by \$790,000; and
- (3) Increase the Martin Park Expansion Project appropriation to the Parks, Recreation and Neighborhood Services Department by \$839,000.

CEQA: Pursuant to Section 15070 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the Initial Study/Mitigated Negative Declaration, for which findings were adopted by Site Development Permit file no. H06-017 on January 9, 2007 that adequately describes the activity and the project for the purposes of CEQA. Council District 3. (Public Works/Planning, Building and Code Enforcement/City Manager)

**7.x Emergency Drought Declaration.**

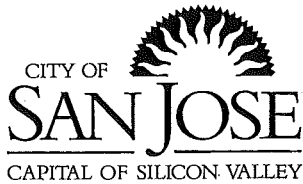
**Recommendation:** Adopt a resolution declaring a water shortage of 20% citywide and direct staff of the City's Municipal Water System to implement Stage 1 of its Water Shortage Contingency Plan, which describes the City's Municipal Water System's actions in the event of a water shortage, to be in effect through April 25, 2015. CEQA: Exempt, File No. PP14-065. (Environmental Services)

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

/s/

GLORIA SCHMANEK  
Agenda Services Manager





# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** August 4, 2014

Approved

Date

8/12/14

**SUBJECT: ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN VARIOUS FUNDS TO REBUDGET FUNDS TO 2014-2015 FOR COMPLETION OF PROJECTS**

## RECOMMENDATION

- (1) Adoption of the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
  - (a) Increase the Beginning Fund Balance by \$596,000; and
  - (b) Increase the Police Administration Building Security Upgrades appropriation to the Public Works Department by \$596,000.
- (2) Adoption of the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund:
  - (a) Increase the Beginning Fund Balance by \$429,000; and
  - (b) Increase the The Alameda – A Plan for the Beautiful Way appropriation to the Department of Transportation by \$429,000.
- (3) Adoption of the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Water Utility Capital Fund:
  - (a) Increase the Beginning Fund Balance by \$98,000; and
  - (b) Increase the Nortech and Trimble Reservoir Rehabilitation appropriation to the Environmental Services Department by \$98,000.

## OUTCOME

Approval of this memorandum will allow the timely completion of projects identified in this memorandum.

## **BACKGROUND**

At the end of each fiscal year, all appropriations lapse and any unspent funds become part of the following year's beginning fund balance. In order to complete projects not completed at the end of the 2013-2014 fiscal year, remaining funds must be re-appropriated, or rebudgeted, to 2014-2015. Usually, such funds are rebudgeted through the Annual Report scheduled for City Council consideration in October 2014. However, due to the urgency to complete projects, the Administration is recommending to rebudget certain funds at this time.

## **ANALYSIS**

Due to delays in projects identified in this memorandum, a number of rebudget adjustments will be necessary to complete projects described below during late summer and early fall.

### **Police Administration Building Security Upgrades**

The rebudgeting of funds in the amount of \$596,000 is necessary to ensure sufficient funding is available to award the project, which is estimated to occur in September 2014. Police Administration Building Security Card Access System project will design and install a Federal Information Processing Standards (FIPS) 140-2 compliant security card access system for all of the exterior/exit doors of the Police Administration Building, Special Operation Building and their perimeter fences. There may be an add alternate to upgrade the existing card reader system at the San José Police South Substation to the FIPS 140-2 compliant system.

### **The Alameda – A Plan for the Beautiful Way**

The rebudgeting of funds in the amount of \$429,000 is necessary to complete payments to the contractor, complete record drawings, finish the close-out process, and complete the final report and invoice to the California Department of Transportation in order to seek final reimbursement for grant funding. This work is anticipated to be substantially (if not completely) finished by October 2014.

### **Nortech and Trimble Reservoir Rehabilitation**

The rebudgeting of funds in the amount of \$98,000 is necessary to complete the rehabilitation of two 3.0 million gallon steel reservoirs that provide fire protection and emergency supply for the North San José and Alviso services areas. The rebudget of unexpended 2013-2014 funds is necessary to ensure sufficient funding is available to complete the rehabilitation by December 2014, thereby preventing premature replacement of the reservoirs.

### EVALUATION AND FOLLOW-UP

No additional follow up actions with the City Council are expected at this time.

### 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 memorandum meets Criterion 1. Therefore, this memorandum will be posted on the City's website for the August 26, 2014, City Council agenda.

### COORDINATION

This memorandum has been coordinated with the Public Works Department, Department of Transportation and the Environmental Services Department.

### FISCAL/POLICY ALIGNMENT

This memorandum is consistent with the City Council-approved Budget Strategy to continue with capital investments that spur construction spending in our local economy.

### COST SUMMARY/IMPLICATIONS

A year-end reconciliation was completed for each of the projects recommended in this memorandum to ensure that unexpended funds are available to rebudget with no net increase in total project costs.

HONORABLE MAYOR AND CITY COUNCIL

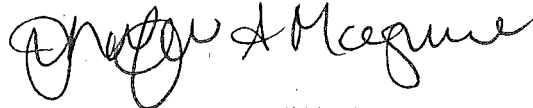
August 4, 2014

Subject: **Rebudgeting of Funds to 2014-2015 to Complete Projects**

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**CEQA**

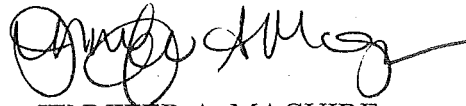
Not a Project, File No. PP10-067(b), Appropriation Ordinance.



JENNIFER A. MAGUIRE  
Deputy City Manager/Budget Director

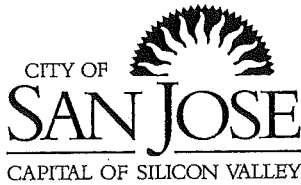
I hereby certify that there will be available for appropriation in the designated fund and in the amounts listed below in Fiscal Year 2014-2015 moneys in excess of those heretofore appropriated therefrom:

General Fund	\$596,000
Building and Structure Construction Tax Fund	\$429,000
Water Utility Capital Fund	\$98,000



JENNIFER A. MAGUIRE  
Deputy City Manager/Budget Director

For questions please contact Bonny Riccobono, Capital Budget Coordinator, at 408-535-8129.



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Julia H. Cooper  
Harry Freitas  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** August 4, 2014

Approved

Date

8/12/14

**SUBJECT: REPORT ON REQUEST FOR PROPOSALS FOR ELECTRONIC  
CONTENT MANAGEMENT SYSTEM**

## RECOMMENDATIONS

- (1) Consider the appeal by RS Computer Associates, LLC ("RSCA") regarding the Report on Request for Proposals for an Electronic Content Management System and adopt a resolution setting forth the decision of the City Council.
- (2) Accept the report on Request for Proposals ("RFP") for an Electronic Content Management System and adoption of a resolution authorizing the City Manager to:
  - (a) Negotiate and execute an Agreement with M Squared Enterprises Inc., doing business as Tribloom Inc. (Palmer Lake, CO) for the purchase of an Electronic Content Management System to include software, installation, implementation, data migration, training and related professional services, six years software maintenance and support and one year of cloud hosting services, for an initial six-year term ending in the year 2021, with a maximum compensation not-to-exceed \$1,264,909;
  - (b) On an annual basis, either negotiate and execute five one-year options with Tribloom Inc, or contract with another provider, for cloud hosting services, with annual compensation not to exceed \$78,340 or \$391,700 for up to five years through the year 2021, subject to the appropriation of funds;
  - (c) Execute change orders to cover any unanticipated changes or requirements in the system design and implementation not to exceed \$123,459 (15% of first year compensation) as may be required, subject to the appropriation of funds; and



- (d) After the initial six-year term, execute one-year options to extend services to provide ongoing software maintenance and technical support with Tribloom Inc., and with the cloud hosting services provider, subject to the annual appropriation of funds.
- (3) Adopt the following 2014-2015 Appropriation Ordinance amendments in the General Fund.
- (a) Establish the a City-Wide appropriation to the Planning, Building, and Code Enforcement Department for the Development Fee Program Electronic Content Management System project in the amount of \$950,000; and
  - (b) Decrease the Development Fee Program Technology Reserve by \$950,000.

### **OUTCOME**

The recommended actions provide a new integrated state-of-the-art Electronic Content Management System (“ECMS” or “System”) to replace the City’s current aging system in support of the Planning, Building and Code Enforcement (“PBCE”) Department’s Development Services Unit and Code Enforcement operational requirements. The system will be managed by PBCE but supports all the development services fee partners (Building, Fire, Planning, and Public Works) and Code Enforcement. The System is used as a repository for public records generated during the review, permitting and inspection of public and private sector building construction, remodeling and code enforcement. The new System will automate and streamline the records content storage and preservation of documents to improve workflow efficiencies and electronically track and report data.

### **EXECUTIVE SUMMARY**

This memorandum provides the City Council with a report on the RFP process. After a thorough and complete evaluation of proposals from ten different companies, staff recommends award of contract for the purchase and installation of an ECMS to Tribloom, Inc. (“Tribloom”), which submitted the most advantageous proposal to the City, for a maximum compensation not-to-exceed \$1,264,909. The proposed solution from Tribloom will replace the current system which has not been upgraded since its implementation in the 1990’s.

### **BACKGROUND**

The current ECMS system is used as a repository for public records generated during the review, permitting and inspection of public and private sector building construction, remodeling, and code enforcement. This system holds approximately 3.2 million imaged files and 86,000 Word documents stored on three antiquated mechanical storage and retrieval devices that operate in an optical array in a manner very similar to a “juke box” record player.

The current system consists of outdated IBM FileNet Content Manager Software (Image Services and Document Services), which has not been upgraded since its implementation in

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1990. Staff attempted to upgrade to the system in 2008, however the project was not completed due to lack of funding.

Due to the age of the system, customers and City staff are unable to retrieve critical information from the system, necessitating that staff spend numerous hours researching documents and working with the hardware and software support contractors on an emergency basis to keep the system operable. New issues continue to surface with the system; many measures taken to keep the system running are on an emergency basis, thereby disrupting staff effectiveness and efficiency.

The ECMS is considered a mission critical system to the PBCE's Development Services Unit operations. The system was designed and configured to PBCE's unique requirements including interfaces with the City's permits database (AMANDA System) and City Hall Records Imaging System (CHRIS) databases.

In April 2013, staff issued a Request for Proposal that was subsequently cancelled at the end of the process because the City concluded that there was ambiguity in the City's specifications.

In December 2013, a new RFP was issued, that addressed the issues with the initial process as described in the "Analysis" section of this memorandum. Participation in the first RFP process was not a prerequisite to participate in the second RFP, and no aspect of the first RFP process carried over to the second RFP. Out of ten proposals that were received in the second RFP process, six were from companies that did not participate in the first RFP process.

## ANALYSIS

In December 2013, the Finance Department released a RFP for an Electronic Content Management System through the City's e-procurement system. The RFP allowed proposals for on-site, hosted, or hybrid solutions. A total of 146 companies viewed the RFP, and proposals were received from ten companies by the January 31, 2014 deadline as summarized in Table 1 below.

Table 1

<u>Name of Company</u>	<u>Solution</u> <u>On-site, Hosted, or Hybrid</u>
1. Carahsoft Technology Corp. (Reston, VA)	Hosted
2. Cima Software Corp. (Pittsburgh, PA)	Hybrid
3. ECS Imaging, Inc. (Riverside, CA)	Hosted
4. NEKO Industries (Roseville, CA)	Hosted
5. Ray Morgan Company, LLC (Pleasanton, CA)	Hosted
6. RS Computer Associates (Newark, CA)	Hybrid
7. SoftSol Technologies (Fremont, CA)	Hybrid
8. Stellar Services, Inc. (New York, NY)	Hosted
9. Tribloom, Inc. (Palmer Lake, CO)	Hosted
10. Wave Technology (Irvine, CA)	Hosted

The RFP evaluation process consisted of four phases with only the highest scoring proposals advancing to the next phase. After each phase the scores from the previous phase would be converted to the new weight for each subsequent phase. The evaluation criteria and respective weights for each phase are summarized in Table 2 below:

**Table 2**

<b><u>Criteria</u></b>	<b>Weight by Phase</b>			
	<b><u>Phase 1</u></b>	<b><u>Phase 2</u></b>	<b><u>Phase 3</u></b>	<b><u>Phase 4</u></b>
Minimum Qualifications	Pass/Fail			
Experience		90%	50%	30%
Technical Approach			40%	35%
Cost				25%
Local Business Preference		5%	5%	5%
Small Business Preference		5%	5%	5%
<b>TOTAL</b>		<b>100%</b>	<b>100%</b>	<b>100%</b>

A team of five evaluators was formed to evaluate each proposal described above. Proposals were independently evaluated and scored by each team member and then the proposals and scores were discussed only in a group setting.

**Phase 1: Minimum Qualifications (Pass/Fail):** Two proposals (Carahsoft Technology Corp. and NEKO Industries, Inc.) were eliminated from further consideration at the conclusion of this Phase because their proposals did not include three references as the RFP required.

**Phase 2: Experience:** Each proposer’s experience including number of years implementing ECMS solutions in an environment similar to the City of San José’s were considered. At the conclusion of this Phase, six of the remaining eight proposers (Cima Software, ECS Imaging, Ray Morgan, SoftSol Technologies, Stellar Services and Wave Technology) were eliminated from further consideration.

**Phase 3: Experience and Technical Approach:** In this phase, Phase 2 scores for “experience” were carried forward and adjusted to reflect a total weight of 50%, and each of the remaining two firms (Tribloom and RSCA) were evaluated for their technical approach. Technical approach evaluation criteria included demonstrating how well they understood the City’s requirements, and their proposed solution for meeting those requirements, including: project approach, customer service, implementation plan and methodology, data conversion/migration plan, training, testing and final acceptance procedures, project deliverables, technical support and maintenance. During this phase, staff requested clarifications from both Proposers.

At the conclusion of Phase 3, RSCA was eliminated from further consideration because their technical proposal scored only 55% of the total available points for this criteria. Notwithstanding the City’s attempts to seek clarification regarding technical ambiguities during the two rounds of clarifications, the evaluation team did not receive a proposal from RSCA that would clearly demonstrate their ability to meet the technical requirements.

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**Phase 4: Cost:** Tribloom was required to submit a comprehensive cost proposal that included all required software and related professional services for data migration, system acquisition, configuration, interfaces, implementation, testing, training, initial warranty, five years of maintenance and support, and one year of cloud hosting. Pricing for all services from Tribloom totaled \$1,264,909. The City requested the first year's cost for cloud hosting services because the annual cost for such technology services is expected to decrease over time, and the City did not want a fixed price for this service at current rates. Therefore, staff is recommending obtaining price quotes for cloud storage services from potential providers on an annual basis.

At the conclusion of Phase 4, the City issued the Notice of Intended Award to Tribloom on June 26, 2014.

**Local and Small Business Preference:** In accordance with City policy, ten percent of the total evaluation points were reserved for local and small business preference. None of the Proposers requested consideration for the preference; therefore, the preference was not a factor in the final outcome.

**Protest Period:** The RFP process included a ten-day protest period that commenced when Proposers received the City's Notice of Intended Award.

On July 1, 2014, representatives from the Finance and PBCE Departments debriefed RSCA staff to explain the evaluation process and discuss issues and concerns that the team had with their proposed technical solution, resulting in the low score.

On July 6, 2014, RSCA submitted a protest (Attachment 1) contending that:

1. The City did not follow its own defined RFP process.
2. The decision not to include RSCA in Phase 4 of the Evaluation Process was arbitrary.
3. The City is increasing its risk by selecting Tribloom.
4. The two issues that caused RSCA to be disqualified in a previous RFP for this solution were "taken off the table" in the current RFP.

The Chief Purchasing Officer reviewed and denied the protest on July 9, 2014 and upheld Staff's recommendation to award the contract to Tribloom (Attachment 2). Specifically, the Purchasing Officer's findings are as follows:

1. The City did follow its defined process and is not obligated to invite multiple proposers to any phase of the process.
2. The City's decision not to invite RSCA to Phase 4 and obtain a cost proposal was not arbitrary. Instead the decision was based on RSCA's low technical score which was only 55% of the total available points versus Tribloom's score at 92%. Due to the low technical score, the City did not seek a cost proposal since the proposal did not appear to meet the technical requirements.
3. The current procurement was independently evaluated based on proposals from a new pool of potential providers, and RSCA's allegations regarding Tribloom's proposal

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increased risk is based on their interpretation of information from a prior procurement that was not and should not be considered in the current process.

4. RSCA makes comparisons to the first RFP and, as stated previously in this memorandum, the second RFP was zero based with no process carry-over from the first RFP.

**Appeal:** On July 18, 2014, RSCA filed an appeal of the Chief Purchasing Officer's decision (Attachment 3). The appeal did not present any new information for the Purchasing Officer to consider with the exception that RSCA contends that they were not allowed to clarify their technical proposal. In fact, RSCA was allowed to clarify information that they had originally submitted. They were not allowed to submit new information that should have been addressed, but was not included in their original proposal. RSCA and Tribloom will be notified when this item is placed on the Council Agenda. The protest and appeal, as well as the City's response to the protest are attached to this memorandum

**Award Recommendation:** Staff recommends award of contract to Tribloom. The evaluation team unanimously agreed that their proposed solution met or exceeded all of the RFP specifications, and demonstrated understanding of the contract requirements. Tribloom's proposal was highly rated in the following key areas:

- Impressive track record of successful ECMS implementations, reliability of installed systems and superior customer service as validated through reference checks.
- A highly configurable solution that will automate and streamline records content storage and preservation of documents to improve workflow efficiencies and electronically track and report data.
- A robust project management approach. It included an extensive work plan and a comprehensive schedule of deliverables.

References were checked with the Monterey Bay Aquarium Research Institute (California), Pearson Digital Learning (Arizona), and University of California, Berkeley (California). The references provided positive feedback about Tribloom's ability to perform.

**Summary of Agreement:** Staff is requesting authority to negotiate and execute an Agreement with Tribloom for software licenses, and professional services including implementation, data migration, training, hosting and maintenance. The Agreement will also include a detailed statement of work defining all deliverables, a compensation schedule with payments tied to the successful completion of key project milestones, including withholding 15% of the services contract amount to be paid upon the City's final acceptance. In addition, the annual cloud storage hosting services by the third party "Amazon Web Services" is expected to decrease after the initial year, and Tribloom agrees to pass any price decreases to the City.

## **EVALUATION AND FOLLOW-UP**

This memorandum will not require any follow-up from staff.

## POLICY ALTERNATIVES

### ***Alternative #1: Continue with the current Electronic Content Management System***

**Pros:** Staff is familiar with supporting the current system.

**Cons:** The current electronic content management system is antiquated and may fail to operate at any time.

**Reason for Not Recommending:** The current system is antiquated and may soon fail to operate. Further, replacing the current system would be keeping with the City's technology strategy of taking advantage of technology changes in the marketplace, moving from large, costly and inflexible systems to sustainable cloud solutions.

## 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 and this memorandum will be posted on the City's website for the August 26, 2014, City Council agenda.

## COORDINATION

This memorandum has been coordinated with the Information Technology Department and the City Attorney's Office.

## FISCAL/POLICY ALIGNMENT

This action is consistent with the following General Budget Principles "We must focus on protecting our vital core city services for both the short- and long-term" and "We must continue to streamline, innovate, and simplify our operations so that we can deliver services at a higher quality level, with better flexibility, at a lower cost" and the Strategic Initiative "Make San José a Tech-Savvy City; lead the way in using technology to improve daily life."

**COST SUMMARY/IMPLICATIONS**

The following outlines the elements of the contract.

<b>1. AMOUNT OF RECOMMENDATION (6-year term):</b>	<b>\$1,264,909</b>
<b>2. COST ELEMENTS:</b>	
<b>Year 1 (12 months) Implementation</b>	
- Software	\$ 104,800
- Professional Services	577,277
- Training	53,905
- Miscellaneous Expenses (i.e., travel)	8,740
- Cloud Hosting Subscription and Services (year 1 only)	<u>78,340</u>
<b>Year 1 total</b>	<b>\$823,062</b>
<b>Annual Maintenance and Support</b>	
- Year 2	\$ 83,224
- Year 3	85,721
- Year 4	88,292
- Year 5	90,941
- Year 6	<u>93,669</u>
<b>Maintenance and Support Total (Years 2-6)</b>	<b>\$441,847</b>
<b>Subtotal</b>	<b>\$1,264,909</b>
<b>Contingency (@ 15% of implementation total)</b>	<b><u>\$123,459</u></b>
<b>GRAND TOTAL</b>	<b>\$1,388,368</b>

**3. SOURCE OF FUNDING:** The recommended appropriation actions in this memorandum will fund the total costs in Year 1 (includes implementation, first year of cloud hosting subscription, and contingency). The actions in the General Fund will decrease the Development Fee Program Technology Reserve and establish a Development Fee Program Electronic Content Management System appropriation by \$950,000.

**4. FISCAL IMPACT:** After the initial six-year term, ongoing maintenance and support may be adjusted annually, pursuant to the Consumer Price Index (CPI) if applicable. After the initial year, the annual cost for cloud storage hosting services by third party "Amazon Web Services" currently at \$78,340 per year is expected to decrease. The City may obtain competitive quotes for this service annually. The annual funding for the maintenance and support and cloud storage, after implementation, will be considered as part of the development of the annual budget.

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**BUDGET REFERENCE**

The table below identifies the fund and appropriations proposed to fund the total costs in Year 1, which includes implementation, first year of cloud hosting subscription, and contingency recommended as part of this memorandum.

Fund #	Appn #	Appn. Name	Total Appn.	Recommended Budget Action	Amount of Costs for Contract	2014-2015 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
001	NEW	Development Fee Program Electronic Content Management System	\$0	\$950,000	\$946,521	N/A	N/A
001	8400	Development Fee Program Technology Reserve	\$5,445,000	(\$950,000)	\$0	N/A	06/17/2014, Ord. No. 29431
<b>Total</b>			<b>\$5,445,000</b>	<b>\$0</b>	<b>\$946,521</b>		

\* The 2014-2015 Adopted Operating Budget was approved by City Council on June 17, 2014.

**CEQA**

Not a Project, File No. PP10-066 (a) Agreements and Contracts.



JULIA H. COOPER  
Director of Finance

/s/

HARRY FREITAS  
Director of Planning, Building and Code Enforcement



JENNIFER A. MAGUIRE  
Deputy City Manager / Budget Director

For questions, please contact Mark Giovannetti, Deputy Director, at (408) 535-7052:

Attachment 1 – Protest Letter from RSCA, dated July 6, 2014

Attachment 2 – City’s response delivered on July 9, 2014

Attachment 3 – RSCA’s Appeal Letter dated July 18, 2014



## ATTACHMENT 1



37800 Central Court, Suite 210, Newark, CA 94560

July 6, 2014

City of San Jose  
Attention: Purchasing Officer  
200 E Santa Clara Street, 14<sup>th</sup> Floor  
San Jose, CA 95113

Purchasing Officer,

RS Computer Associates, LLC (RSCA) is submitting this letter in protest regarding ECMS RFP 13-14-08 and the City of San Jose's (the City's) decision to award the contract to Tribloom, Inc. (Tribloom)

Historical Context – This RFP process has gone through two rounds: 1) RFP 12-13-05, issued in April, 2013, and; 2) RFP 13-14-08 issued in December 2013. RSCA originally won the first round but was ultimately disqualified for failing to include DOD 5015.2 compliance and Application Management in our proposal. The City chose to reissue the RFP and has just completed the second round awarding the contract to Tribloom.

We believe this decision is wrong based on the following points:

1. The City did not follow its own defined process.
2. The decision not to include RSCA in Phase 4 of the evaluation process was arbitrary.
3. The City is increasing its risk by selecting Tribloom.
4. Both issues, which caused RSCA to be disqualified in the first round, were taken off the table in the second round.

Each of these points is described in more detail below.

1. The City did not follow its own defined process

The RFP plainly states, "At the conclusion of the Phase 3 evaluation process, the highest scoring proposers from Phase 3 will be invited to participate in Phase 4..." (Section 13.4.1, Page 7) The plural form of the word "proposer" clearly infers multiple bidders.

The City allowed only Tribloom to participate in Phase 4 of the evaluation process, although RSCA had scored the second highest number of points at the end of Phase 3.

# ATTACHMENT 1

## 2. The decision not to include RSCA in Phase 4 of the evaluation process was arbitrary

As described during our debrief meeting on July 1<sup>st</sup>, the decision not to move RSCA forward into Phase 4 was based on the "spread" – the difference in points between RSCA (2<sup>nd</sup> place) and Tribloom (1<sup>st</sup> place). The problem is that there are no instructions or guidelines on what spread is reasonable or when, specifically, to move the 2<sup>nd</sup> place bidder forward or not.

The arbitrary nature of the decision can be easily demonstrated. If we apply the Phase 3 scoring in this latest round and then apply the costs from the first round, RSCA would receive the highest points in Phase 4 (72 points to Tribloom's 67). We realize the costs in the first round have no bearing on the second round, but it's the only comparable pricing available. There was no way to know, at the end of Phase 3, how the cost scoring would impact the final ratings without moving both finalists forward.

## 3. The City is increasing its risk by selecting Tribloom

Tribloom reduced its price, from the first round to the second, by \$1.6M or 56%. The choices are clear, either Tribloom padded their initial pricing by a factor of 3X or they removed critical services from their current proposal. Our analysis shows that Tribloom has removed critical services from their current proposal.

To bring their price down by such a dramatic amount, Tribloom has eliminated 982 technical hours, for a savings of \$176K, as follows:

Resource	Hours Reduced	Price Reduced
Technical Lead	35	\$5,250
Engineer	570	\$85,500
Senior Engineer	377	\$84,825
Total	982	\$175,575

In the case of the Senior Engineer, Tribloom removed this role completely. In addition, Tribloom has removed *all Application Management* from their current proposal resulting in \$413K of savings and higher risk for the City.

Either these hours and costs were unnecessary to begin with, or their omission represents an increased risk to the City.

## 4. Both issues, which caused RSCA to be disqualified in the first round, were taken off the table in the second round

After winning initially in the first round, RSCA was subsequently disqualified due to two issues: A) we failed to include DOD 5015.2 compliance in our proposal, and; B) we failed to include Application Management in our proposal. Both these issues were removed from consideration in the second round.

In the case of DOD 5015.2 compliance, the City reversed its decision and clearly stated in the RFP that such compliance was NOT a requirement.

In the case of Application Management, the City did not change its position. However, Tribloom removed all Application Management from its proposal (as mentioned above) and yet was awarded the contract.

## ATTACHMENT 1

### Summary

From the very beginning of the first round of the selection process, RSCA has offered the City:

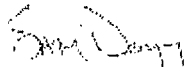
- Proven, verifiable services
- Superior experience and approach
- The market leading ECM product

Overall, RSCA has offered the most cost-effective, high quality solution.

The only way to drive a different conclusion has been through process manipulation, artificial protest, and disingenuous cost proposals.

The people of San Jose and the City Council deserve to receive the highest quality solution from the highest rated vendor, RSCA. Thank you again for your time and consideration in this matter.

Most Sincerely,



Sam Doying  
Vice President

ATTACHMENT 2



Finance Department

Purchasing Division

July 9, 2014

Mr. Sam Doying  
RS Computer Associates, LLC  
37600 Central Court, Suite 210  
Newark, CA 94560

Dear Mr. Doying,

**Subject:** Protest letter from Mr. Sam Doying (RS Computer Associates) dated July 6, 2014  
**Reference:** City of San Jose Request for Proposal (RFP) 13-14-08; Electronic Content Management System

This letter is in response to your subject letter protesting the City's recommendation of award of contract for an Electronic Content Management System to Tribloom, Inc.

In your letter, you raise four concerns: 1) The City did not follow its own defined RFP process, 2) The decision not to include RS Computer Associates (RSCA) in Phase 4 of the Evaluation Process (Cost Proposal) was arbitrary, 3) The City is increasing its risk by selecting Tribloom, Inc., and 4) The two issues that caused RSCA to be disqualified in the previous RFP were taken off the table in this current RFP. Your letter also makes several references to the fact that this RFP was the City's second solicitation for this requirement, and makes numerous assumptions and conclusions using information from the first solicitation.

The City did issue a RFP for this requirement last year, and subsequently exercised its right to reject all proposals and re-issue the RFP because it was determined that there was ambiguity in the City's specification. The second RFP addressed the specification issues that were identified in the first RFP, and it was issued as a stand-alone document. Vendor knowledge of the previous RFP process was not a requirement, and pricing, scoring, or representations from the initial process was not considered. In the second RFP, proposals were received from six companies that did not submit a proposal in the first RFP.

As described in the RFP, the proposal evaluation and selection process was a four phase process. The first phase of the process established if a proposal was responsive and was scored on a pass/fail basis. The second phase of the evaluation process evaluated and scored the demonstrated experience of the proposing firm installing and implementing technical solutions. Proposers earning the highest scores in Phase 2 advanced to Phase 3 of the process, which maintained the experience score from Phase 2, and introduced a thorough evaluation of the proposed technical solution. Proposers earning the highest scores from Phase 3 (technical and experience) were then requested to submit a cost proposal in Phase 4 of the process, and the final award recommendation would be based on the highest scoring proposal for experience, technical, and cost. The reason for

## ATTACHMENT 2

this phased approach was to allow the City's evaluation team to concentrate on the proposals demonstrating the highest scores for experience and technical, and then obtain pricing only from those firms earning the highest scores.

The City cannot pre-determine what score will be sufficient to advance to the next Phase, or guarantee a minimum number of firms to advance. This depends on a number of variables, such as the number of proposals received, the scores, and the separation between the scores.

Ten proposals were received in response to this RFP and the evaluation process summarized above eliminated two proposals after Phase 1, and six additional proposals at the conclusion of Phase 2. RSCA and Tribloom were the only proposals earning scores high enough to advance to Phase 3, earning scores for experience that were 92% and 90% of the total available points, respectively.

As explained to you in the debriefing session on July 1, RSCA did not advance to Phase 4, and a cost proposal was not requested, because after two clarification rounds in Phase 3 that were intended to provide you with the opportunity to clarify your technical proposal, RSCA did not clearly respond to the City's technical requirements, and therefore received a technical score of only 55% of the total available points for this key category. By comparison, Tribloom earned a technical score that was 92% of the total available points for this category. The proposals were independently scored by a five member evaluation team, and the scoring was very consistent.

The City did follow its own defined process and is not obligated to invite multiple proposers to any Phase of the process. Furthermore, what constitutes a "reasonable spread" in the scoring cannot be pre-determined.

Your contention that the City is increasing its risk by selecting Tribloom appears to be based on RSCA evaluating and scoring Tribloom's proposal on behalf of the City, making several references to the original RFP, and surmising that any differences between the first and second RFP process are due to Tribloom "padding" their initial proposal or "removing critical services" in their current proposal. As previously explained, this second RFP process was designed to be "stand alone"; pricing, scoring, or representations from any other process was not considered.

After careful review, I have determined that the City's RFP process was followed, and to uphold staff's recommendation of award to Tribloom, Inc.

You may appeal this decision to the San Jose City Council by filing a written appeal with the City Clerk within ten days from the date of this letter.

Thank you for your interest and participation in this process. If you have any additional questions or would like to discuss this matter further, please contact Maria Contreras-Tanori at 408-535-7099.

Sincerely,

Mark Giovannetti  
Deputy Director, Finance

## ATTACHMENT 3



37600 Central Court, Suite 210, Newark, CA 94580

July 18, 2014

City of San Jose  
Office of the City Clerk  
San Jose City Hall  
200 E Santa Clara Street, 14<sup>th</sup> Floor  
San Jose, CA 95113

City Clerk,

RS Computer Associates, LLC (RSCA) is submitting this letter as an appeal to our protest regarding ECMS RFP 13-14-08 and the City of San Jose's (the City's) decision to award the contract to Tribloom, Inc. (Tribloom).

Historical Context – This RFP process has gone through two rounds: 1) RFP 12-13-05, issued in April, 2013, and; 2) RFP 13-14-08 issued in December 2013. RSCA originally won the first round but was ultimately disqualified for failing to include DOD 5015.2 compliance and Application Management in our proposal. The City chose to reissue the RFP and has just completed the second round awarding the contract to Tribloom.

We believe this decision is wrong based on the following points:

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2. The decision not to include RSCA in Phase 4 of the evaluation process was arbitrary.
3. The City is increasing its risk by selecting Tribloom.
4. Both issues, which caused RSCA to be disqualified in the first round, were taken off the table in the second round.
5. RSCA was not given a fair chance to provide clarification per the City's process

Each of these points is described in more detail below.

1. The City did not follow its own defined process

The RFP plainly states, "At the conclusion of the Phase 3 evaluation process, the highest scoring proposers from Phase 3 will be invited to participate in Phase 4..." (Section 13.4.1, Page 7) The plural form of the word "proposer" clearly infers multiple bidders.

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## ATTACHMENT 3

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Either these hours and costs were unnecessary to begin with, or their omission represents an increased risk to the City.

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In the case of DOD 5015.2 compliance, the City reversed its decision and clearly stated in the RFP that such compliance was NOT a requirement.

In the case of Application Management, the City did not change its position. However, Tribloom removed all Application Management from its proposal (as mentioned above) and yet was awarded the contract.

## ATTACHMENT 3

### 5. RSCA was not given a fair chance to provide clarification per the City's process

This point is in response to the City's letter, from Mark Giovannetti, dated July 9, 2014. In his letter he states, "As explained to you in the debriefing session on July 1, RSCA did not advance to Phase 4, and a cost proposal was not requested, because after two clarification rounds in Phase 3 that were intended to provide you with the opportunity to clarify your technical proposal, RSCA did not clearly respond to the City's technical requirements, and therefore received a technical score of only 55% of the total available points for this key category."

However, RSCA was not asked for clarification for all questions in the second clarification round.

On the morning of May 23, 2014, we received a list of questions for the second clarification round. Most of the questions included the following language, "Please identify the relevant pages/sections in your proposal where this information may be located or submit the information."

Later the same day, we received a revised list of questions because the first list contained "a few errors." The only changes made to the list was the elimination of the phrase, "or submit the information" from the language above.

This sent the very clear message that we weren't to add any additional clarifying information, but rather were only to identify where in our proposal each topic was already covered. These instructions prevented RSCA from elaborating and clarifying and affected our final technical score.

### Summary

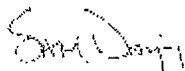
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The people of San Jose and the City Council deserve to receive the highest quality solution from the highest rated vendor, RSCA. Thank you again for your time and consideration in this matter.

Most Sincerely,



Sam Doying  
Vice President





# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** David Sykes  
Julie Edmonds-Mares  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** August 4, 2014

Approved

Date

8/12/14

**COUNCIL DISTRICT: 3**

**SUBJECT: REPORT ON BIDS AND AWARD OF CONSTRUCTION CONTRACT FOR THE 5283 - MARTIN PARK EXPANSION PROJECT AND ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE SUBDIVISION PARK TRUST FUND**

## RECOMMENDATION

- (a) Report on bids and award of a construction contract for 5283 - Martin Park Expansion to the low bidder, Granite Rock Company, in the total amount of \$2,869,295 and approval of a fifteen percent contingency in the amount of \$430,395.
- (b) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund:
  - (1) Increase the Beginning Fund Balance by \$49,000;
  - (2) Decrease the Future PDO/PIO Projects Reserve appropriation by \$790,000; and
  - (3) Increase the Martin Park Expansion Project appropriation to the Parks, Recreation and Neighborhood Services Department by \$839,000.

## OUTCOME

Approval of this construction contract will allow for the construction of the Martin Park Expansion project which includes landfill closure work as well as construction of a natural turf soccer field, turf area, small group picnic area, walkways, and concrete retaining/seatwalls. Approval of a fifteen percent contingency will provide funding for any unanticipated work that may be necessary for the completion of the project on a landfill site. Adoption of the Appropriation Ordinance and Funding Sources Resolution Amendments will provide the necessary funding to implement the construction project.

August 4, 2014

Subject: Construction Contract for 5283-Martin Park Expansion

Page 2

**BACKGROUND**

The site of the Martin Park Expansion project is a vacant 4.7 acre parcel, which is adjacent to existing Martin Park to the north, bounded by 22<sup>nd</sup> Street to the west, and Forestdale Avenue to the south and east. Prior to 1948, the project site was used as a clay borrow pit for brick and clay pipe manufacturing. In 1970, the site became a Class III disposal site known as Martin Park Landfill and received approximately 80,000 cubic yards of construction debris until 1974, when it was capped and sold to the City of San José. In 2009, the City completed the Martin Park Landfill Gas Cutoff Wall Project, which enclosed the landfill site with a below-ground wall to contain the migration of methane gas from the landfill and provide a sidewalk along Forestdale Avenue adjacent to the project site.

A concept design for the Martin Park Expansion Project was presented to the community in October 2004 and March 2005. A revised concept design was presented to and approved by the community in June 2005, and to the Parks and Recreation Commission at the March 1, 2006 meeting, during which the Commission recommended the concept design for City Council approval. On June 24, 2008 (Agenda Item 5.3), the City Council approved the associated Martin Park Master Plan for the expansion project, which includes landfill closure work as well as construction of a soccer field, turf area, small group picnic area, walkways, and concrete retaining/seatwalls. Construction documents were prepared for the project; however, in February 2010, a city-wide hold was placed on new park development including Martin Park. In May 2012, the hold was lifted. The construction documents had to be revised since there were new state requirements for construction over a landfill. Construction documents were finished earlier this year and construction is anticipated to begin in October 2014 with completion in April 2015.

**ANALYSIS**

Bids were opened on June 19, 2014 with the following results:

<u>Contractor</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/ (Under) Percent</u>
Granite Rock Company (San Jose)	\$2,869,295	\$290,290	(9)
O.C. Jones & Sons, Inc. (Berkeley)	\$2,937,000	\$222,585	(7)
<b>Engineer's Estimate</b>	<b>\$3,159,585</b>	---	---
Pacific States Environmental Contractors, Inc. (Dublin)	\$3,408,900	\$249,315	8

The low bid submitted by Granite Rock Company in the amount of \$2,869,295 is nine percent under the Engineer's Estimate. Staff considers this reasonable for the work involved and recommends awarding to Granite Rock Company. Granite Rock Company successfully completed the Martin Park Landfill Gas Cutoff Wall Project in 2009, which enclosed the landfill

August 4, 2014

Subject: Construction Contract for 5283-Martin Park Expansion

Page 3

site with a below-ground wall to contain the migration of methane gas from the landfill to the surrounding neighborhoods.

Council Policy provides for a standard contingency of five percent on park projects. Since this park includes closure of an older landfill which has minimal documentation, and because of the potential removal and off-hauling of refuse material beyond what is anticipated, staff recommends a fifteen percent contingency, which totals \$430,395.

Included in this memorandum is a recommendation to allocate funding of \$839,000 to the Martin Park Expansion project. A portion of these funds (\$49,000) are unexpended funds that were allocated to this project in 2013-2014. A rebudget of these funds did not occur as part of the Recommended Amendments to the 2014-2015 Proposed Operating and Capital Budgets memorandum and are therefore recommended to be rebudgeted as part of this memorandum. In addition, this memorandum includes a recommendation to decrease the Future PDO/PIO Projects Reserve by \$790,000. Additional funding is necessary due to the contingency amount being higher than what was anticipated, as well as new landfill closure requirements, and new storm water requirements that were not in place at the time of the master plan. Approval of the Appropriation Ordinance and Funding Sources Resolution amendments would allow for the construction of the project to proceed on its current schedule.

#### EVALUATION AND FOLLOW-UP

No follow up is necessary as a result of this memorandum.

#### 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)**

Community meetings to discuss the proposed project were held in 2004 and 2005. In 2006, the Park and recreation Commission approved the revised concept plan. The City Council approved the associated master plan for the project on June 24, 2008 (Item 5.3). An additional community meeting was held on February 27, 2014 to update neighbors on the project status.

To solicit contractors, this project was listed on Bidsync and advertised in the *San José Post Record*. This memorandum meets Criterion 1 above, and the memo will be posted on the City's website for the August 26, 2014, City Council Agenda.

### COORDINATION

This proposed project and memorandum has been coordinated with the Departments of Planning, Building and Code Enforcement, Environmental Services, and the City Attorney's Office.

### FISCAL/POLICY ALIGNMENT

This project is listed in the Greenprint 2009 Update which provides a strategic plan for developing recreation opportunities in San Jose.

### COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Project Delivery	\$ 528,372
Construction	2,869,295
Contingency	<u>430,395</u>
<b>TOTAL PROJECT COSTS</b>	<b>\$3,828,062</b>
<b>PRIOR YEAR EXPENDITURES</b>	<b>(\$221,773) *</b>
<b>REMAINING PROJECT COSTS</b>	<b>\$3,606,289</b>

\* A total of \$221,773 was expended/encumbered through 2013-2014 for Project Delivery costs.

2. COST ELEMENTS OF CONSTRUCTION CONTRACT:

Temporary Facilities, Mobilization, and SWPPP	\$95,996
Demolition and Site Clearing, Earthwork, Grading and Drainage	1,750,921
Rigid Paving, Pervious Pavers and Turf Block	206,775
Site Furnishings, Landscape Walls and Fencing	286,957
Planting and Irrigation	<u>528,646</u>
<b>TOTAL CONSTRUCTION CONTRACT AMOUNT</b>	<b>\$2,869,295</b>

3. SOURCE OF FUNDING: Subdivision Park Trust Fund (Fund 375)

4. OPERATING COSTS: It is anticipated that the Martin Park Expansion project will have an operating and maintenance impact of \$23,000 in 2015-2016 and will be approximately \$47,000 annually beginning in 2016-2017. These costs were included in the Five-Year General Fund Forecast released on February 28, 2014.

August 4, 2014

Subject: Construction Contract for 5283-Martin Park Expansion

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**BUDGET REFERENCE**

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

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Recommended Budget Action	Amt. for Contract	2014-2015 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
<b>Remaining Project Costs</b>				<b>\$3,606,289</b>				
<b>Remaining Funding Available</b>								
375	7497	Martin Park Expansion	176245	\$2,768,000	\$839,000	\$2,869,295	V-565	06/17/14 Ord. No. 29431
<b>Additional Funding Recommended</b>								
375	R001	Beginning Fund Balance		\$68,694,646	\$49,000		V-529	06/17/14 Ord. No. 77037
375	8845	Future PDO/ PIO Projects Reserve		\$22,557,646	(\$790,000)		V-601	06/17/14 Ord. No. 29431
<b>Total Project Funding</b>				<b>\$3,607,000</b>				

\*The 2014-2015 Capital Budget was adopted on June 17, 2014.

HONORABLE MAYOR AND CITY COUNCIL

August 4, 2014

Subject: Construction Contract for 5283-Martin Park Expansion

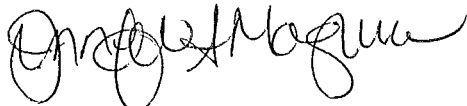
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**CEQA**

Pursuant to Section 15070 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the Initial Study/Mitigated Negative Declaration, for which findings were adopted by Site Development Permit file no. H06-017 on January 9, 2007 that adequately describes the activity and the project for the purposes of CEQA.

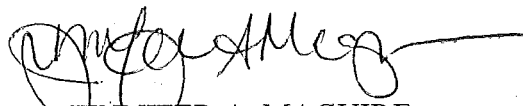
/s/  
DAVID SYKES  
Director of Public Works

/s/  
JULIE EDMONDS-MARES  
Director of Parks, Recreation and  
Neighborhood Services



JENNIFER A. MAGUIRE  
Deputy City Manager / Budget Director

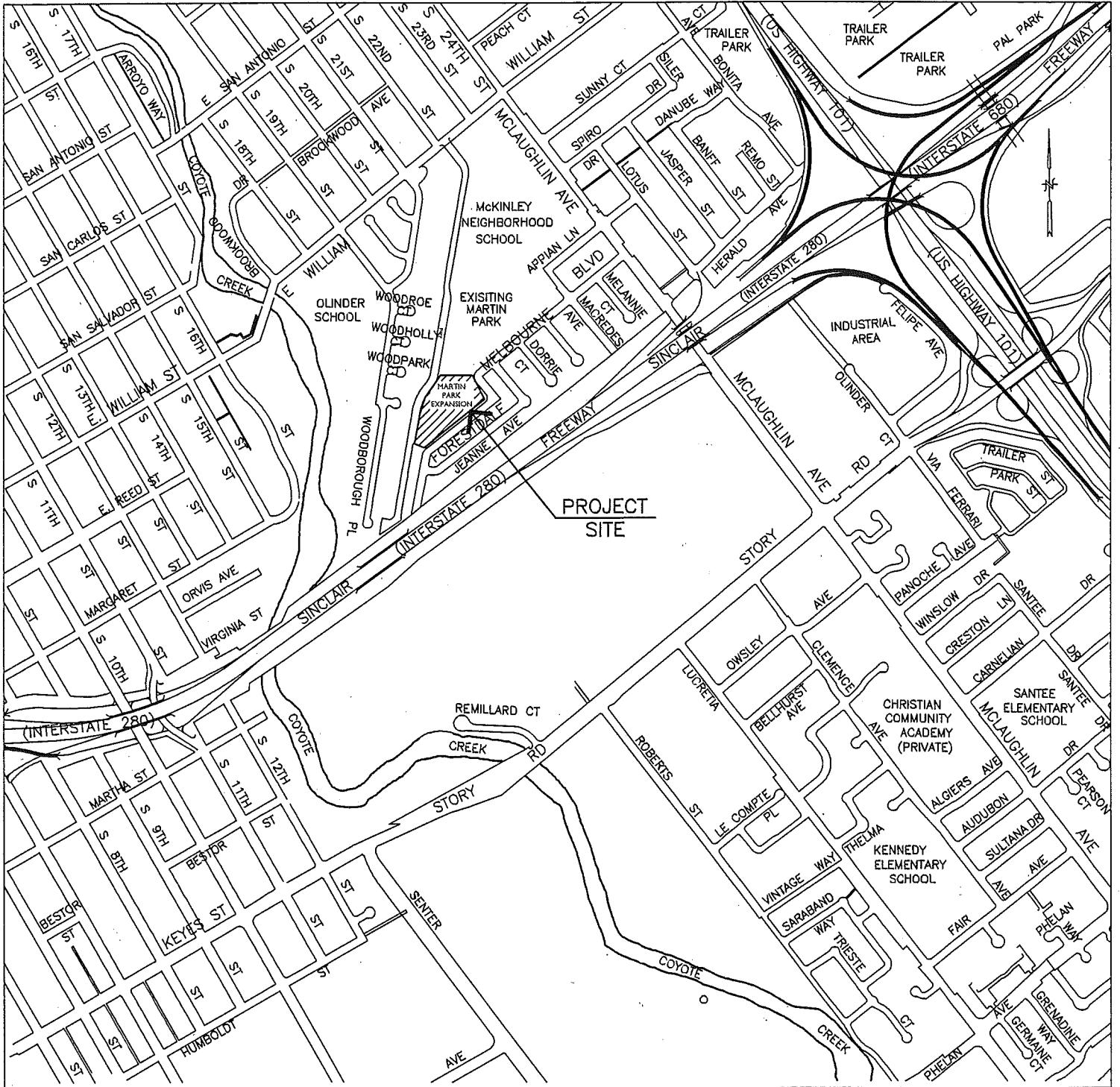
I hereby certify that there will be available for appropriation in the Subdivision Park Trust Fund in Fiscal Year 2014-2015, moneys in excess of those heretofore appropriated there from, said excess being at least \$49,000.



JENNIFER A. MAGUIRE  
Deputy City Manager / Budget Director

For questions, please contact Barry Ng, Acting Assistant Director of Public Works, at 408-535-8300.

Attachment: Martin Park Location Map



# MARTIN PARK LOCATION MAP

NOT TO SCALE



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kerrie Romanow

**SUBJECT: EMERGENCY DROUGHT  
DECLARATION**

**DATE:** August 4, 2014

Approved

Date

8/12/14

## RECOMMENDATION

Adopt a resolution declaring a water shortage of 20% city-wide and direct staff of the City's Municipal Water System to implement Stage 1 of its Water Shortage Contingency Plan, which describes the City's Municipal Water System's actions in the event of a water shortage, to be in effect through April 25, 2015.

## OUTCOME

The declaration of a 20% water shortage will trigger an enhanced level of city-wide restrictions on potable water use under Chapter 15.10 of the Municipal Code. Implementing these restrictions within the City's Municipal Water System (Muni Water) service area is required under recently adopted state regulations.

## BACKGROUND

On January 17, 2014, Governor Brown proclaimed a state of emergency due to state-wide drought conditions and called on all Californians to reduce their water usage by 20%. Additionally, the Governor signed legislation on March 1, 2014 that authorizes the State Water Resources Control Board (State Water Board) to issue emergency regulations in drought years. On July 16, 2014, the State Water Board adopted Resolution No. 2014-0038 with emergency regulations for urban water suppliers, and this includes Muni Water. These regulations became effective July 28, 2014 and will expire on April 25, 2015, unless extended by the State Water Board.

## ANALYSIS

The emergency regulations adopted by the State Water Board mandate that each urban water supplier, such as Muni Water, implement all requirements and actions of the stage of its Water Shortage Contingency Plan (WSCP) that imposes mandatory restrictions on outdoor irrigation of



ornamental landscapes or turf with potable water. If found to be in violation of the State Water Board's emergency regulation provisions after issuance of a cease and desist order, Muni Water could be subject to penalties of up to \$10,000 per day of violation.

Muni Water's WSCP was adopted by Council in June 2011, as part of Muni Water's Urban Water Management Plan. In Stage 1 of the WSCP, the use of potable water for irrigation of outdoor landscaping is prohibited during designated daylight hours. However, a Council declaration of a water shortage is needed for Muni Water to implement Stage 1 of the WSCP and remain in compliance with State Water Board regulations.

Council declaration of a city-wide water shortage will also prohibit the use of potable water for irrigation of outdoor landscape during designated daylight hours throughout San José. Staff recommends that Council adopt a resolution declaring a 20% water shortage city-wide in effect for as long as the State regulations requiring a landscape irrigation restriction remain in effect. Even though a declaration of a 10% water shortage is the minimum needed for Muni Water to comply with the State Water Board's regulations, a declaration of a 20% water shortage will be consistent with the Governor's call to reduce water by 20% and to communicate a strong message about the severity of the drought. In addition, the Santa Clara Valley Water District, the wholesale water agency that provides water to the three water retailers in San José, has a declared a water shortage of 20% county-wide.

In addition to the requirements for urban water suppliers, the State Water Board also adopted state-wide restrictions, which prohibit the use of potable water for the following except for immediate health and safety reasons:

- watering outdoor landscapes in a manner that causes excess runoff;
- washing down sidewalks and driveways;
- washing a motor vehicle with a hose, unless the hose is fitted with a shut-off nozzle; and
- operating a fountain or decorative water feature, unless the water is part of a re-circulating system.

Chapter 15.10 of the City's Municipal Code has water use restrictions very similar to these new State Water Board restrictions, and are in effect at all times.

### **EVALUATION AND FOLLOW-UP**

Staff will monitor water use in the Muni Water service area monthly and may recommend further action by Council if needed to further reduce water use. Staff will also monitor any revenue impacts and if a budget adjustment is needed, staff will return to Council with recommendations.

## POLICY ALTERNATIVES

*Alternative 1: Adopt this resolution, direct staff to implement Stage 1 of the Water Shortage Contingency Plan, and direct staff to propose changes to the Municipal Code to align the restrictions in the Municipal Code with the State Water Board's restrictions.*

**Pros:** This would reduce confusion over the small differences in the state-wide restrictions and the restrictions that are currently in effect in San José.

**Cons:** The State Water Board's regulations are temporary measures and are expected to expire April 25, 2015. In addition, the State Water Board may modify or add restrictions if drought conditions persist.

**Reason for not recommending:** Municipal Code Chapter 15.10 restrictions are very similar, and with the same intent, as the temporary State Water Board regulations.

## PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 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)**
- Criteria 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)**

Muni Water staff currently conducts outreach efforts with a strong water conservation message. This message is on the City's website, which can be translated into many languages; is sent out on social media; distributed to Muni Water customers via direct mail; and shared at community events. If Council adopts the recommended action, staff will notify Muni Water customers about the State Water Board's regulations and restrictions described in the Municipal Code and will conduct additional outreach using the methods above.

## COORDINATION

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

**COST SUMMARY/IMPLICATIONS**

Muni Water retail water rates for Fiscal Year 2014-15 were calculated assuming a decrease in water sales, revenue, and costs, and these will continue to be monitored throughout the year.

**CEQA**

Exempt, File No. PP14-065.

/s/  
KERRIE ROMANOW  
Director, Environmental Services  
Department

For questions please contact Jeff Provenzano, Division Manager, at 408-277-3288.