COUNCIL AGENDA: 12-08-09
ITEM: 4.5

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Paul Krutko

SUBJECT: SEE BELOW

DATE: November 16, 2009

Approved

Date 11/20/09

COUNCIL DISTRICT: City-Wide

SUBJECT: PROPOSED RESOLUTION DESIGNATING THE CITY OF SAN JOSE AS A RECOVERY ZONE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

RECOMMENDATION

Adoption of a Resolution:

- Finding and determining that significant poverty, unemployment, rate of home foreclosures, and general distress exist throughout the City of San Jose as a consequence of the recent housing market collapse, the impact of the national recession and the fiscal crisis experienced by the State of California and local communities.

- Designating the entire geographic region of the City of San Jose as an Economic Recovery Zone in order to make the City eligible to issue Recovery Zone Economic Development Bonds (RZEDB) and Recovery Zone Facility Bonds (RZFB).

- Authorizing the City Manager or her designee to take such other actions, including negotiating and executing agreements, as may be necessary to ensure that the City of San Jose is designated a Recovery Zone in the event the California Debt Limit Allocation Committee (CDLAC) reallocates RZFB and RZEDB funding activity.

OUTCOME

The adoption of a resolution that establishes the City of San Jose as a Recovery Zone that qualifies for certain federal economic recovery bonds.

BACKGROUND

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA) of 2009 into law. The ARRA provides significant new financing methods for both State and local governments and public and private businesses by expanding the types of projects

that can be financed. The two financing methods include; Recovery Zone Economic Development Bonds (RZEDBs), and Recovery Zone Facility Bonds (RZFBs).

Recovery Zone Facility Bonds (RZFB)
The Recovery Zone Facility Bond (§§ 1400U–3(b)) is a new type of tax-exempt, *private* activity bond available to both non-profits and for profit business. Interest paid to bondholders of RZFBs is not subject to the alternative minimum tax. This results in lower interest rates for the borrower. In general, most types of businesses are eligible for this program except for those related to housing and any other specifically listed businesses. Section 144(c)(6)(B) states that no portion of the proceeds of such issue is to be used to provide any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

The proceeds from RZFBs must be used to purchase, construct or significantly renovate any depreciable asset. The asset must be acquired after the date of designation of a Recovery Zone by the city or county.

Recovery Zone Economic Development Bonds (RZEDB)
The Recovery Zone Economic Development Bond (§§ 1400U–2(b)) is used for public infrastructure and construction of public facilities. RZEDBs may be used to fund expenditures for job training and educational programs. RZEDBs are taxable bonds, however, the Treasury will reimburse the county or city 45% of the interest paid. This results in significantly lower borrowing costs.

Recovery Zone Designation
A majority of the provisions for both RZFBs and RZEDBs are temporary and only apply to obligations issued in 2009 and 2010. In order to qualify as an issuer of RZEDBs and RZFBs, cities must first designate eligible recovery zones based on certain specified criteria (§§ 1400U–1(b)):

1. Any area designated as having significant poverty, unemployment, rate of home foreclosures or general distress;
2. Any area designated as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and
3. Any area for which a designation as an empowerment zone or renewal community is in effect.

The Recovery Act states that any State, County, or large municipality (such as San Jose, with a population of over 100,000) may make these designations of Recovery Zones in any reasonable manner as it shall determine in good faith and discretion.

ANALYSIS

Under the American Recovery and Reinvestment Act (ARRA), two new bond programs for economic development called the Recovery Zone Facility Bond (RZFB) and the Recovery Zone

Economic Development Bond (RZEDB) were created. Section 1400U-1 of ARRA allocated $25 billion to the RZFB and RZEDB programs. The State of California received an allocation of $2 billion, $1.2 billion for RZFB and $806.2 million for RZEDB.

Using 2007 and 2008 unemployment rates to determine need, the Treasury allocated Federal stimulus dollars to States through Notice 2009-50. As a result of using the unemployment rate timeframe of December 2007 to December 2008, Santa Clara County and more specifically the City of San Jose was deemed not eligible under the first allocation of funds.

Both Santa Clara County and the City of San Jose job loss and foreclosures have lagged much of the state and nation. Locally, job loss and foreclosures have occurred late in 2008 and 2009. The County and City are now out-pacing the State in job loss and foreclosures.

Year-Over-Year Increase in Foreclosures (September)

	Year over Year 06-07	Year over Year 07-08	Year over Year 08-09
Rest of California	172%	29%	18%
Santa Clara County	**147%**	**70%**	**43%**

Source: DQNews

Average Annual Unemployment Rates

	2007	2008	2009*
California	5.4%	7.2%	11.5%
Santa Clara County	**4.7%**	**6.1%**	**11%**
City of San Jose	**5.3%**	**6.8%**	**12.2%**

Source: Employment Development Department, *Data through September 2009

Procedural guidelines developed by the California Debt Limit Allocation Committee (CDLAC) require city or counties who received initial allocations from the U.S. Treasury to file a plan of issuance no later than January 31, 2010 for funds. In addition, jurisdictions which do not allocate funds or have a notice of intent to issue by July 1, 2010 will have been deemed waived and returned to CDLAC for reallocation.

In anticipation of reallocation, by designating San Jose as a Recovery Zone, the City will be positioned to receive and quickly distribute RZFB and RZEDB funds.

Note that these are bonds, and the bondholders must be repaid so projects that have a revenue stream to repay the bonds will be higher priority. The award of a reallocation does not obligate the City or the Financing Authority Board to issue RZEDBs or RZFBs. An issuance of RZEDBs or RZFBs by the City would require approval of the City Council. In addition, RZEDBs or RZFBs finance the eligible capital expenditures as permitted by ARRA program guidelines and the City would be responsible for any ongoing operations and maintenance costs associated with the projects.

EVALUATION AND FOLLOW-UP

The adoption of this resolution will position San Jose for any reallocation of Federal Stimulus monies related to Economic Recovery Bonds. This action is consistent with the Mayor's June Budget message to continue to seek federal stimulus dollars.
Staff will report back to Council and the Financing Authority Board should the City receive any reallocation for Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds.

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 will be discussed at the December 8, 2009 City Council meeting.

COORDINATION

This memorandum has been coordinated with the Department of Finance and City Attorney's Office.

FISCAL/POLICY ALIGNMENT

These actions further the vision of San Jose as an entrepreneurial environment contained in the Economic Development Strategy to "Support Start-Up and Growth of Local Businesses, Small and Large, in Tech as well as Non-tech Fields" (Initiative 5). There is no fiscal impact to the General Fund as a result of designating the City of San Jose as a Recovery Zone.

CEQA

CEQA: Not a project

PAUL KRUTKO
Chief Development Officer

For questions please contact John Lang, Development Officer, at 408-535-8178