

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Hans F. Larsen

**SUBJECT:** ADA SIDEWALK  
TRANSITION PLAN UPDATE

**DATE:** 06-03-10

Approved

Date

6/7/10

**COUNCIL DISTRICT:** Citywide

## **RECOMMENDATION**

Approval of the Americans with Disabilities Act (ADA) *Transition Plan Update for Sidewalks* that identifies procedures and priorities for building curb ramps and removing sidewalk accessibility barriers and establishes goals for having fully accessible sidewalks along major streets, within pedestrian priority zones, and near public use facilities by 2020, and full sidewalk accessibility throughout the City by 2040.

## **OUTCOME**

The ADA Transition Plan Update for Sidewalks (ADA Plan) updates the City of San José's existing ADA Transition Plan as it relates to public sidewalks and maintains the City's compliance with state and federal laws regarding accessibility. The goals included in the ADA Plan for completion of curb ramps require an estimated investment of \$13.5 million through 2020 and an additional investment of \$50.5 million through 2040.

## **BACKGROUND**

### **Americans with Disabilities Act**

The ADA, enacted on July 26, 1990, provides comprehensive rights to persons with disabilities in different areas including access to public accommodations and transportation. The ADA requires that all public agencies develop a transition plan for eliminating barriers for persons with disabilities. The ADA provides that qualified individuals with a disability shall not be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity. The ADA is divided into five Titles. Title II prohibits local governments from discriminating against persons with disabilities or from excluding participation in or denying benefits of programs, services, or activities to persons with disabilities. Title II dictates

that a public entity must evaluate its services, programs, policies, and practices to determine whether they are in compliance with the nondiscrimination regulations of the ADA.

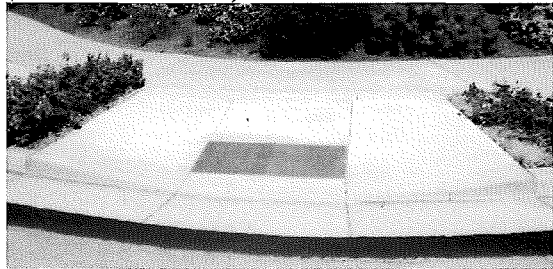
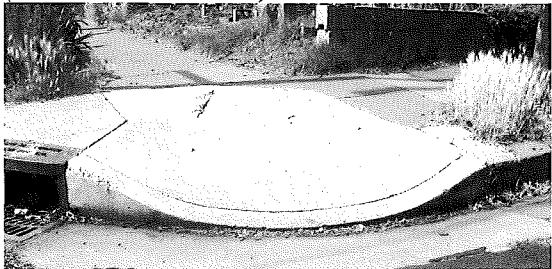
The ADA requires cities to maintain “program accessibility” for persons with disabilities. “Program accessibility” may include a variety of programs, activities, and services. This updated ADA Plan focuses on program accessibility under Title II as it relates to sidewalks, crosswalks, and signal devices in the public right-of-way.

**San José’s Current ADA Sidewalk Transition Plan and Curb Ramp Program**

The City’s current ADA Sidewalk Transition Plan includes a collection of programs, administrative procedures and design standards that support the implementation of accessible public sidewalks for people with disabilities. Currently, the City provides accessible sidewalks as a standard of new construction or as part of various retrofit programs. The City has been installing curb ramps for decades and approximately 17,900 ramps have been constructed. In recent years the City has spent an average of \$1.25 million annually to construct ADA ramps. This funding has included a number of funding sources including CDBG, Capital Improvement Program (CIP), pavement projects, grants, and SNI funding.

However, as standards for ADA ramps change over time, it is necessary to develop programs that comply with the new standards for construction and to retrofit older ramps that do not comply with current standards. The latest curb ramp standard required by new federal guidelines and adopted by the Department of Public Works in 2006, added new tactile bands and modified the slopes for new ramps (see Figure 1).

**Figure 1 – Curb Ramp Design Standards**

<p><b><i>ADA Compliant Ramp (New Standard) (Built Since 2006)</i></b></p>  <ul style="list-style-type: none"><li>• Has Tactile Bands</li><li>• Has gradual side slopes</li></ul>	<p><b><i>Non-ADA Compliant Ramp (Old Standard) (Built Prior to 2006)</i></b></p>  <ul style="list-style-type: none"><li>• Missing tactile bands</li><li>• Side slopes are too steep</li><li>• Requires retrofit or reconstruction</li></ul>
---	---

In 2007, the Department of Transportation (DOT) initiated a self audit of the City’s ADA Plan as an effort to ensure the City’s compliance with evolving ADA regulations, to inventory the City’s

progress with completing ADA ramps, and to consider best practices of other jurisdictions. As a result, an update to the City’s ADA Plan has been prepared and is now recommended for approval by the City Council. The scope of the ADA Plan is discussed further in the “Analysis” section of this report.

Based on the City’s current inventory of curb ramps, approximately 67% of the City’s curb locations have ramps for a total of 17,900 ramps. As noted in Table 1 below, 3,100 have been built since 2006 using the current ADA design standards. Therefore, 14,800 of the City’s existing ramps require modification or reconstruction to be considered in full compliance with current ADA standards.

**Table 1: Current Curb Ramp Inventory (Existing and Missing Ramps)**

Existing Ramps (17,900)	Meets Current ADA Standards (Since 2006)	3,100 (12%)
	Does Not Meet Current ADA Standards (Built prior to 2006)	14,800 (55%)
Missing Ramps		8,900 (33%)
<b>Total</b>		<b>26,800 (100%)</b>

About 14,800 of existing ramps need to be updated to current standards (as they were built prior to 2006) and 8,900 locations do not currently have ramps. The total estimated cost to retrofit the entire City with current ADA standard ramps (23,700 ramps) is \$64 million. This amount is included as part of the City’s \$394 million backlog of transportation infrastructure maintenance needs, as was reported most recently to the Transportation and Environment Committee on May 3, 2010. It is noted that curb ramp costs at \$64 million are the second highest element of the transportation infrastructure need, following pavement maintenance at \$249 million.

## ANALYSIS

The scope of the proposed update to the ADA Plan (Attachment A) includes a number of recommendations and requirements to ensure the City has a comprehensive and effective program. The plan includes the following elements:

- Overview of ADA and Intent of the Plan
- ADA Coordinator and Duties
- Citizen Request Procedures and Grievance Process
- Maintenance of Accessible Features
- ADA Design Standards
- Further ADA Inventory Development
- ADA Transition Plan Priorities
- Extent and Scope of ADA Implementation Program

- Capital Improvement Projects and Funding Strategies
- ADA Monitoring Procedures

### **Key Findings**

A key section of the proposed ADA Plan is the funding strategy (Section 12) and implementation goals. The City's goal is to be at full ADA compliance within a 30 year period, and to complete priority curb ramps for requests from persons with disabilities, along major streets, within pedestrian priority zones, and near public use facilities within the next 10 years. Completion of priority ramps will require construction or retrofit of approximately 7,400 ramps at a cost of \$13.5 million. This goal can be achieved if the City's current successful programs are continued and if average current funding levels (based on FY 2009-10 budget) are maintained as proposed as part of this plan.

However, to reach full compliance there are approximately an additional 16,300 ramps that will need to be constructed or retrofitted with an anticipated cost of approximately \$50.5 million. The City's goal is to be in full compliance within a 30 year period. In order to achieve this, the current ramp program needs to double the current funding levels, and the implementation will require a separate funding strategy. This long-range funding strategy will be addressed as part of the overall ongoing effort to address the City's backlog of infrastructure maintenance needs.

### **Summary of Updated ADA Plan**

#### *Overview of ADA & Intent of the Plan (Sections 1-4)*

The overall purpose of the proposed ADA Plan is to maintain compliance with federal and state accessibility laws and update the City's policies and practices for implementing physical accessibility improvements along intersections and sidewalks within the City's public right-of-way. The ADA Plan outlines pedestrian facilities needs and provides an implementation strategy that is consistent with the Americans with Disabilities Act.

#### *ADA Coordinator and Duties (Section 5)*

As set forth in the ADA, any public entity with fifty or more employees must designate at least one employee to coordinate ADA compliance, which is usually referred to as an ADA Coordinator (the current City ADA Coordinator is Eileen Ewing in the Department of Public Works). The ADA coordinator's role includes planning and coordinating overall compliance efforts, ensuring that implementation is completed, and receiving and investigating complaints related to discrimination on the basis of disability. The ADA coordinator will oversee a variety of tasks related to implementation of the ADA regulations in the public right-of-way.

*Citizen Request Procedures and Grievance Process (Section 6)*

This section identifies required elements for requesting ADA related improvements and describes the City's grievance procedure. The grievance procedure includes a description of the filing process, review timeframes, and record keeping for grievances and responses.

*Maintenance of Accessible Features and ADA Design Standards (Section 7-8)*

These sections define requirements regarding maintenance of accessible features and equipment such as sidewalks, walkways, parking spaces, street crossings, signage, curb ramps, temporary construction zones, and signals that ADA Design Standards require within the public right-of-way. They include a description of relevant codes, a list of definitions, a review of the City's standards, and recommendations for updates.

*Further ADA Inventory Development (Section 9)*

This section describes the requirement to conduct an inventory of all facilities and to identify physical barriers in the public right-of-way. DOT has surveyed ramps around the City and established an inventory of the presence or absence of ramps at all City intersections. This information was used to create the Accessibility Ramps database and is summarized in the ADA Ramps Needs Study maintained by DOT. The survey results indicate the locations of missing ramps and ramp improvements.

Overall there are approximately 23,700 ramps in the City that require construction or retrofit, however, the City's focus over the next ten years will be in key priority locations, such as requests from persons with disabilities, sidewalks along major streets, within pedestrian priority zones, and near public use facilities. This 2020 completion strategy for curb ramps at high priority locations is defined in Section 12 of the proposed ADA Plan.

*ADA Transition Plan Priorities (Section 10-11)*

Section 10 reviews existing priorities the City uses to prioritize improvements and recommends modifications to these criteria. While the existing criteria are reasonable for high priority curb ramp installation, the ADA plan expands and further defines these priorities. In general the priority status is given to requests from people with disabilities, along major streets, within pedestrian priority zones, and near public use facilities.

*Capital Improvement Projects and Funding Strategies (Section 12)*

In recent years, the City has spent an average of \$1.25 million annually to construct or improve ADA ramps. This funding has included a number of funding sources including CDBG, Capital Improvement Program (CIP), pavement projects, grants, and SNI funding. Over the next ten years the City will focus the funding resources on implementing curb ramps for requests from

persons with disabilities, along major streets, within pedestrian priority zones, and near public use facilities. There are approximately 7,400 ramps at these locations at a cost of \$13.5 million.

There are approximately an additional 16,300 ramps that will need to be constructed or retrofitted at other locations with an anticipated cost of approximately \$50.5 million. The City's goal is to be in full compliance within a 30 year period and it will require a funding source of \$2.5 million annually for the last 20 years of the plan. In order to achieve compliance, the program needs to double the current funding levels, and the implementation will require a separate funding strategy. Below is a summary of needs and costs for the next 30 years:

**Table 2: Ramp Completion Goals**

Priority Grouping	Completion Year	Ramps	Cost
Group A – High Priority Locations <i>(Requests from persons with disabilities, along major streets, within pedestrian priority zones, and near public use facilities)</i>	2020	7,400	\$13.5 M
Group B - All Other Locations	2040	16,300	\$50.5 M
<b>Total</b>		<b>23,700</b>	<b>\$64.0 M</b>

ADA Monitoring Procedures (Section 13)

Section 13 recommends procedures to monitor implementation of physical improvements to insure they comply with standards.

The ADA Plan also includes a number of appendices to standardize City procedures such as complaint and grievance forms and curb ramp inspection forms.

**EVALUATION AND FOLLOW-UP**

The ADA Plan will require an assessment within the initial five years. At that time staff will provide the City Council with an update on the status of improvements and outline funding strategies for completion.

### **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 and the proposed ADA Plan will be posted on the City's website before the Council meeting. The Department of Transportation provided Plan information to the City's Disability Advisory Commission (DAC) at three separate public meetings of the DAC. The first meeting provided an overview of the project and sought input on key elements. The second meeting presented an early draft Plan and sought input. The third meeting presented a pre-final draft and sought input.

### **COORDINATION**

A Technical Advisory Committee (TAC) was formed to coordinate the ADA Plan development with City departments. The TAC included representatives from the departments of Transportation; Planning, Building and Code Enforcement; Public Works; and Parks, Recreation and Neighborhood Services; and the Redevelopment Agency. The ADA Plan was also coordinated with the City Attorney's Office.

### **COST IMPLICATIONS**

The City's goal is to be at full ADA compliance within a 30 year period, and to complete priority curb ramps for requests from persons with disabilities, along major streets, within pedestrian priority zones, and near public use facilities within the next 10 years. Completion of priority ramps will require construction or retrofit of approximately 7,400 ramps at a cost of \$13.5 million (\$1.35 million a year for 10 years). This funding level is generally consistent with the City's average funding of \$1.25 million annually from the past decade.

However, to reach full compliance there are approximately an additional 16,300 ramps that will need to be constructed or retrofitted with an anticipated cost of approximately \$50.5 million (\$2.5 million a year for 20 years). In order to achieve this, the last 20 years of the ramp program

HONORABLE MAYOR AND CITY COUNCIL  
06-03-10  
**Subject: ADA Sidewalk Transition Plan Update**  
Page 8 of 8

will need to double the current funding levels, and will require a separate funding strategy.

**CEQA**

Categorically Exempt, File No. PP10-107

/s/

HANS F. LARSEN  
Acting Director of Transportation

For questions please contact Manuel Pineda, Acting Deputy Director of Transportation at 408-975-3295.

Attachment



**City of San José, California**

**ADA Transition Plan Update for Sidewalks**

# Acknowledgements

## Disability Advisory Commission

## Bicycle and Pedestrian Advisory Committee

## Technical Advisory Committee

John Brazil, Transportation

Michael Liw, Public Works

Rodrigo Orduna, Planning, Building & Code Enforcement

Steve Parker, Redevelopment Agency

Steve Wing, Public Works

Yves Zsutty, Parks, Recreation & Neighborhood Services

## Consultant Team

Brett Hondorp, AICP, Principal-in-Charge, Alta Planning + Design

Lauren Ledbetter, AICP, Project Manager, Alta Planning + Design

Logan Hopper, Principal Architect, Logan Hopper Associates

# Table of Contents

<b>ADA Transition Plan Update for Sidewalks.....</b>	<b>i</b>
<b>Acknowledgements .....</b>	<b>ii</b>
<b>Table of Contents .....</b>	<b>iii</b>
<b>Executive Summary .....</b>	<b>1</b>
<b>1. Introduction to the ADA.....</b>	<b>7</b>
<b>2. Public Agency Responsibilities under the ADA .....</b>	<b>10</b>
<b>3. Program Accessibility Requirements .....</b>	<b>13</b>
<b>4. Intent of This ADA Transition Plan Update .....</b>	<b>15</b>
<b>5. ADA Coordinator and Duties .....</b>	<b>17</b>
<b>6. Grievance Procedures .....</b>	<b>19</b>
<b>7. Maintenance of Accessible Features .....</b>	<b>20</b>
<b>8. ADA Design Standards .....</b>	<b>22</b>
<b>9: Further ADA Inventory Development.....</b>	<b>36</b>
<b>10. ADA Transition Plan Priorities .....</b>	<b>39</b>
<b>11. Extent and Scope of the ADA Implementation Program .....</b>	<b>43</b>
<b>12. Capital Improvement Projects and Funding Strategies .....</b>	<b>46</b>
<b>13. ADA Monitoring Procedures .....</b>	<b>50</b>
 <b>Appendices</b>	
<b>Appendix A: City of San José Draft ADA Ramp Needs Study .....</b>	<b>53</b>
<b>Appendix B: City of San José Grievance Procedure Under the ADA .....</b>	<b>54</b>
<b>Appendix C: ADA Complaint / Grievance Form.....</b>	<b>55</b>
<b>Appendix D: Audible Signal Request Form .....</b>	<b>56</b>
<b>Appendix E: Curb Ramp Construction / Modification Request Form .....</b>	<b>59</b>
<b>Appendix F: City of San José Curb Ramp Inspection Form .....</b>	<b>61</b>
<b>Appendix G: City of San José Sidewalk Inspection Form .....</b>	<b>62</b>



## Executive Summary

The City of San José, Department of Transportation, Americans with Disabilities Act (ADA) Transition Plan Update for Sidewalks Project, undertaken in conjunction with the City of San José Pedestrian Master Plan Project, began in December, 2006. The purpose of the ADA portion of the ADA Transition Plan Update is to update the City's policies and practices for implementing physical accessibility improvements along intersections and sidewalks within the City's public right-of-way. The Americans with Disabilities Act requires that all public agencies develop a transition plan providing for the installation of curb ramps or other sloped areas at locations where walkways cross curbs, as well as providing other improvements necessary to achieve programmatic accessibility for persons with disabilities. The main purpose of the transition plan update is to describe the curb ramp and pedestrian facility needs within the City of San José, and to outline the City's procedures for implementing and scheduling work to provide a complying system of curb ramps, sidewalks, and pedestrian signals.

The City of San José has a wide variety of facilities within the public right-of-way. These facilities include streets and roadways, vehicular and pedestrian bridges, underground and above-ground utilities, vehicular and pedestrian signal systems, signage systems, on-street parking facilities, sidewalks with curb ramps at intersections, planting strips and buffers, pedestrian activity areas, and unimproved open spaces that are part of the public right-of way. The goal of the overall ADA Transition Plan Update for Sidewalks and Pedestrian Master Plan Update project is to optimize the pedestrian experience, to provide safe and usable pedestrian facilities for all pedestrians, and to assure compliance with all federal, state, and local regulations and standards.

## Project History and Tasks

The ADA Transition Plan Update for Sidewalks consisted of five major tasks:

- **Task 1**, completed in March, 2007 and verified in April 2010, consisted of the compilation of City standards, policies, procedures, and practices relating to the ADA and other accessibility standards.
- **Task 2**, completed in May, 2007 and verified in April 2010, involved the documentation of federal and state standards and practices, as well as an investigation and documentation of ADA standards and policies of other local public agencies similar to San José.
- **Task 3**, completed in July, 2007 and verified in April 2010, was the major mechanism for recommendations for updates and revisions to City of San José's ADA policies and procedures, design standards, construction details, inventory development, capital improvement project implementation, and on-going monitoring activities, based upon the findings of the first two tasks.

- **Task 4**, completed in 2008, consisted of coordination with City departments and committees. A Technical Advisory Committee (TAC), consisted of representatives from City departments, reviewed all task products and met four times throughout the course of the project to coordinate policy development. The City's Disability Advisory Commission (DAC) had three meetings with the ADA Transition Plan Update for Sidewalks as a major agenda item, and the DAC has reviewed reports and recommendations prepared for this ADA Transition Plan Update for Sidewalks. The City's Bicycle and Pedestrian Advisory Committee (BPAC) also held three meetings dedicated to the overall project and reviewed all products.
- **Task 5**, completed in 2008 and verified in 2010, consisted of the preparation of the ADA Transition Plan Update for Sidewalks, including three sequential drafts for City and public review, not including the current draft.

## **Contents of the Plan**

### **Updates to ADA Policy Statements and Procedures**

As part of the ADA Transition Plan Update for Sidewalks, the City of San José has either updated or will revise various policies and procedures related to the ADA:

- updating the Department of Transportation informational brochures and public information to describe ADA programs and contacts for persons with disabilities;
- clarifying the duties and assignments of the Citywide ADA Coordinator and the ADA Liaison for the Department of Transportation;
- reinforcing ADA grievance procedures by providing a departmental grievance form and review procedures specifically related to curb ramps and public right-of-way facilities;
- describing procedures for assuring that facilities are maintained to remain accessible for persons with disabilities through an ADA Maintenance of Accessible Features policy; and
- updating citizen forms for requesting accessibility improvements within the public right-of-way.

### **New Construction and Alterations Within the Public Right-of-Way**

In accordance with current City policies and procedures, all new construction projects in the public right-of-way, whether implemented by City staff, private development, or City contract, will include ADA compliant curb ramps and sidewalks. All projects that alter existing public pedestrian rights-of-way, whether implemented by City staff, private development, City Contract, or regional transportation, currently require ADA compliant curb ramps and sidewalks, if not already present, and such policy will be

continued. Roadways receiving street resurfacing rehabilitation treatment will include ADA compliant curb ramps and sidewalks, if not already present, as is current policy.

## **ADA Design Standards**

While the City of San José has a variety of design standards maintained and implemented by a number of departments, these standards have not been previously combined in a single document to assure a systematic citywide application of federal and state accessibility requirements. The ADA Design Standards contained as part of the ADA Transition Plan Update for Sidewalks have been developed as part of an extensive process to compile current ADA-compliant practices of the City of San José and other similar jurisdictions. They have also been developed to assure continuing compliance with applicable federal and state guidelines, codes, and standards as they relate to the accessibility of all facilities within the public right-of-way. The standards are intended to apply to all construction undertaken within the City right-of way after the final approval of the ADA Transition Update Plan by City Council. These ADA Design Standards are included in Section 8.

The ADA Design Standards were developed to combine and resolve any conflicts between the Americans with Disabilities Act Accessibility Guidelines (ADAAG), published by the U.S. Architectural and Transportation Barriers Compliance Board in July, 1991, and the California State Building Code, Title 24, Part 2, of the California Code of Regulation, 2007 edition. Draft Guidelines for Public Rights-of-Way, published by the U.S. Architectural and Transportation Barriers Compliance Board in November, 2005, which are expected to take effect in the near future, were also considered in the standards. The standards were reviewed by the City's TAC and the DAC.

As part of the ADA Transition Plan Update, the City of San José will regularly review and update sidewalk and curb ramp design standards to maintain compliance with all approved federal and state standards.

## **ADA Construction Detail Revisions**

As part of the overall project, all current City of San José, Department of Public Works, Standard Construction Details, originally dated July, 1992, with some details revised during 2001 and 2006, were reviewed to evaluate compliance with federal and state accessibility codes, standards, guidelines, and "best practices" of other agencies. While it was felt that these standards were in basic compliance with the applicable requirements, some recommended revisions or additions to correlate these details more directly in line with the appropriate standards were provided. These details and specifications are not included as part of the ADA Transition Plan Update for Sidewalks. However, the Department of Public Works is undertaking a major revision to the City's 1992 City Standard Specifications and Details books, and recommendations from this ADA Transition Plan Update for Sidewalks will be evaluated for incorporation to this major update.

## **Further Curb Ramp and Sidewalk Inventory Development**

The City of San José has conducted extensive surveying of existing curb ramps and other pedestrian facilities throughout past years. Most of this inventory development has been to determine the presence or absence of curb ramps at existing corners and intersections, and the locations of discontinuous pavement in existing sidewalks. The results of these surveys and audits have been entered into a database and are updated as new curb ramps are constructed or as new locations of discontinuous sidewalk pavement are identified. As part of the implementation of the ADA Transition Plan Update for Sidewalks, this inventory will be updated and expanded to include the following additional information: (1) whether existing curb ramps are ADA compliant, (2) whether sidewalks are ADA compliant, and (3) a citywide inventory of locations where sidewalks are not continuous.

Items to be included in further inventory development are included in this ADA Transition Plan Update for Sidewalks. All findings will be maintained in a database designed to be user-friendly and allow for the continued monitoring of construction activity and producing status reports. The inventory updates are targeted to occur according to the following schedule:

- Ongoing: Continue to maintain and update the existing citywide curb ramp inventory;
- FY 11/12: Conduct a sidewalk inventory in all pedestrian cores and corridors and on all arterial streets, including known locations of state and local governmental and public use facilities.
- FY 12/13: Conduct a sidewalk inventory in all Neighborhood Business Districts (NBD's), in all specific plan areas, and along all identified routes to schools.

## **ADA Implementation and Capital Improvement Program**

An ADA Implementation Program, including a listing of capital improvement projects and potential funding sources, has been developed as a final step in implementing the ADA Transition Plan Update for Sidewalks. Final determination of exact projects and locations will be determined upon completion of the inventory development. Types of capital improvement projects that might include ADA-related improvements can be generally categorized as follows:

- Curb ramp construction or replacement projects based upon citizen requests.
- Curb ramp and intersection retrofit projects that are part of Street Resurfacing rehabilitation treatment projects or other City street or sidewalk construction projects;
- Curb ramp and intersection retrofit projects, in conjunction with construction by private parties;



- Continuation of the existing sidewalk maintenance program that assists homeowners with sidewalk repairs;
- Continuation of the existing sidewalk gap (locations where sidewalks are not continuous) closure program;
- Curb ramp and intersection retrofit projects deemed essential for mitigation of barriers based upon the ADA Transition Plan Update for Sidewalks and inventory data collected.

## Priorities

The following priorities are established as the basis for improvements:

- **Priority 1: Requests from persons with disabilities:** These projects include requests for improvements from community members with disabilities who wish to access shopping areas, medical facilities, bus stops, transportation, and other facilities or areas to accommodate their activities of daily living.
- **Priority 2: Locations along pedestrian cores or corridors, arterial streets, or collector streets, serving state and local governmental and public use:** These projects include those areas deemed to fall within the criteria established by the ADA for programmatic access to state and local services for persons with disabilities. This generally includes the areas along major pedestrian corridors serving governmental and public use land use zones. The final exact locations of work would be determined after a review of the newly developed inventory data.
- **Priority 3: Locations along routes to school, at transit stops, senior centers, or proximity to community facilities and transit:** These projects include those areas deemed to fall within the criteria established by the ADA for programmatic access to public and commercial services expected to serve persons with disabilities. The final exact locations of work would be determined after a review of the newly developed inventory data.
- **Priority 4: Projects based on other capital improvement plans:** These types of ADA/accessibility projects would be associated with other capital improvement projects instituted for various reasons. An example would be streetscape improvement projects and programs recommended as part of the City's Pedestrian Master Plan.
- **Priority 5:** Other locations, including residential areas.

In 2008, the consultant team prioritized San Jose's curb ramp and discontinuous sidewalk inventory based on the criteria described above, and this document was used internally by DOT. In March 2010, the City completed its ADA Ramp Needs Study which updated the curb ramp inventory. This document can be found in Appendix A.

## **Funding Strategies**

The ADA Implementation Program will implement the goals of this ADA Transition Plan Update for Sidewalks and is envisioned as one that will utilize, to the maximum extent possible, existing and prospective funding programs and sources. While specifying certain locations and scope of work required at these locations, the plan is also intended to serve as a conceptual plan whereby the extent of future projects can be evaluated prior to preparing detailed scope and cost estimates. A number of existing and potential programs and funding sources for capital improvement projects need to be further evaluated, and these include on-going City capital improvement and maintenance programs, as well as specific projects and funding sources allocated in the five-year Transportation & Aviation Services Capital Improvement Program (CIP).

The City will also continue to utilize developments/funds projects to upgrade the pedestrian system. The City will continue to fully fund all direct requests from persons with disabilities. The City plans to reprioritize CIP funds to achieve full compliance with ADA accessibility requirements for Priority 2 projects, as described above, within ten (10) years. The City will also seek additional funding to achieve full compliance with ADA accessibility requirements for Priority 3 projects, as described above, within twenty (20) years.

## **Current and Future ADA Monitoring**

The City of San José is currently engaged in an on-going effort to construct curb ramps and to improve sidewalks at numerous locations within the public right-of-way. Field inspections of facilities covered by the ADA are performed by Department of Public Works Inspection staff. Inspectors monitor construction and require that improvements be constructed pursuant to approved construction drawings. Any necessary field revisions are required to be coordinated through the Public Works design team, and this requirement applies to any revision that may alter facilities covered by the ADA.

The City will continue to provide record drawing information for all projects with completed facilities covered by the ADA. The City plans to image these records and make them available to the public and utilize them in any Citywide ADA inventory database. Section 13. ADA Monitoring Procedures, describes some recommended methods and procedures for further monitoring construction activities and for tracking the status of compliance with the ADA Transition Plan at all construction locations within the City. These procedures could also include a database for record keeping, as well as field forms usable at the completion of the transition plan.

# 1. Introduction to the ADA

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications. The ADA is companion civil rights legislation with the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. This legislation mandates that qualified individuals with a disability shall not be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity. The Act also provides employees with disabilities with certain protections and requires employers to make reasonable accommodation for qualified applicants and employees.

The ADA is divided into five parts, covering the following areas:

**Title I: Employment:** Under this title, employers, including governmental agencies, must ensure that their practices do not discriminate against persons with disabilities in the application, hiring, advancement, training, compensation, or discharge of an employee, or in other terms, conditions, and rights of employment.

**Title II: Public Services:** This title prohibits state and local governments from discriminating against persons with disabilities or from excluding participation in or denying benefits of programs, services, or activities to persons with disabilities. It is under this Title that this ADA Transition Plan Update has been prepared. A transition plan is intended to describe what physical changes are to be implemented to provide programmatic access to a public entity's programs and services.

**Title III: Public Accommodations:** Title III of the ADA requires places of public accommodation to be accessible to and usable by persons with disabilities. The term "public accommodation" as used in the definition is often misinterpreted as applying to public agencies, but the intent of the term is to refer to any privately funded and operated facility serving the public.

**Title IV: Telecommunications:** This title covers regulations regarding private telephone companies and requires common carriers offering telephone services to the public to increase the availability of interstate and intrastate telecommunications relay services to individuals with hearing and speech impairments.

**Title V: Miscellaneous Provisions:** This title contains several miscellaneous regulations, including construction practices, attorney's fees, and technical assistance provisions.

**Title II** of the ADA dictates that a public entity must evaluate its services, programs, policies, and practices to determine whether they are in compliance with the nondiscrimination regulations of the ADA. The regulations detailing compliance requirements were issued on July 26, 1991. These regulations mandate that each public entity is required to examine activities and services, identify problems or physical barriers that may limit accessibility for persons with disabilities, and to describe potential compliance solutions. The entity must then proceed to make the necessary changes resulting from the evaluation, and a transition plan must be prepared to describe any structural or physical changes required to make programs accessible.

In the ADA, the term “disability” means, with respect to an individual:

- 1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- 2) a record of such an impairment; or
- 3) being regarded as having such an impairment.

If an individual meets any one of these three criteria, he or she is considered to be an individual with a disability for purposes of coverage under the ADA. The Final Rules (official guidelines and regulations) of the ADA describe in greater detail the conditions included and excluded as disabilities under the ADA, and these rules should be referred to if more detailed descriptions of covered disabilities are desired.

The final Rules and Regulations of the ADA as set forth in Code of Federal Regulations, Title 28, Part 35, Subpart D describes the implementation and enforcement of the ADA. As described earlier, a public entity must operate its services, programs, and activities, when viewed in their entirety, so that they are accessible to and usable by individuals with disabilities. In order to achieve this basic goal, a public entity must implement policies and procedures intended not only to remove any discriminatory practices toward persons with disabilities but also to bring about conditions that comply with policies that have become common practice.

Enforcement under the ADA is generally provided in one or more of three ways:

- 1) The U. S. Department of Justice: Any person may file a complaint with that agency, and it is responsible for investigating such complaints and resolving disputes through its own regulatory policies.
- 2) The ADA generally provides for civil litigation as a method of effecting enforcement, and any person may file a civil complaint as a result of alleged discrimination under the ADA.
- 3) Each public entity is responsible for establishing its own grievance procedures for bringing about enforcement under the ADA. Complaint and grievance procedures must follow guidelines described in the ADA. A public entity is also

responsible for a continual monitoring of its policies and procedures with respect to its implementation of the ADA.

## 2. Public Agency Responsibilities under the ADA

Public agencies, including municipal city governments, have various obligations under Title II of the ADA. Title II of the ADA is similar to Section 504 of the Rehabilitation Act of 1973, but differs in that Section 504 applies only to agencies that receive federal financial assistance. The purpose of Section 504 is to ensure that no qualified individual with a disability shall, solely by reason of his or her disability, be discriminated against under any program or activity receiving federal financial assistance. The City of San José has been subject to and operated under the requirements of Section 504 for many years.

Title II of the ADA mandates that public entities may not require eligibility criteria for participation in programs and activities that would screen persons with disabilities, unless it can be proven that such requirements are necessary for the mandatory provision of the service or program. A public entity must reasonably modify its policies and procedures to avoid discrimination toward disabled residents. However, if the public entity can demonstrate that a modification would fundamentally alter the nature of its service, it would not be required to make that modification. The lone exception to these requirements would be because of undue hardship. “Undue hardship” is defined in the ADA as an “action requiring significant difficulty or expense” when considering the nature and cost of the accommodation in relation to the size, resources, and structure of the specific operation. Undue hardship is determined on a case-by-case basis.

The ADA specifically states the intent not to apply lesser standards than are required under other federal, state, or local laws; therefore, the law that is the most stringent takes precedence. This intent has particular application with respect to the City’s obligations under the ADA, Section 504, or under Title 24 of the California Code of Regulations, which in some cases exceeds ADA requirements with respect to structural and physical changes.

A public entity is required to designate a person to be responsible for coordinating the implementation of ADA requirements, including the transition plan, and for investigating complaints of alleged noncompliance. The ADA Coordinator and the duties involved are described later in this transition plan update.

A public entity that employs 50 or more persons is required by the ADA to adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by Title II. The grievance procedures as they relate to the City's public rights-of-way and sidewalks are provided in another section of this transition plan update, and these procedures, or other existing procedures currently used by the City, may be used as deemed to be appropriate by the City.

A public agency is required to prepare a transition plan if physical or structural modifications are required to provide access to programs or services. The transition plan is limited to evaluating physical barriers; however, an analysis of the programs and services rendered by the City is also important to determine what physical changes are necessary. The transition plan documents what actions the City has taken or will take to alter its facilities. Generally, the transition plan lists existing barriers in public rights-of-way under the City's jurisdiction, and it further schedules which barriers are to be removed to provide access for individuals with disabilities to City programs.

A transition plan is required by Department of Justice regulations to address the following aspects of accessibility:

- (1) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the ADA, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.
- (2) The transition plan shall identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
- (3) The transition plan shall describe the methods that will be used to make the facilities accessible; and
- (4) The transition plan shall specify the schedule for taking the steps necessary to achieve compliance with the ADA and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period.

The ADA does not designate a specific code or standard for evaluating access to existing facilities. Title II gives government agencies a choice between the Uniform Federal Access Standards (UFAS) and the Americans with Disabilities Act Accessibility Guidelines (ADAAG) as a standard for renovations. Since the ADA specifically states that it does not override requirements of other state and local requirements, the State of California Title 24 access regulations must also be applied. Therefore, for the purpose of this transition plan update, each facility or site area should be evaluated based on the most stringent requirements of the ADA Accessibility Guidelines dated July 26, 1991, or Title 24, 2007 edition (which became enforceable on January 1, 2008).

The ADA states that a public entity is required to make available to applicants, participants, residents, and other interested parties information regarding the transition plan and its applicability to the services, programs, or activities of the public entity. It is also required that the public be allowed to have an active role in the overall process.

The entity is required to apprise the public of the protections against discrimination afforded to them by the Title II, including information about how Title II requirements apply to its particular programs, services and activities. A public entity is required to provide an opportunity for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments and making specific recommendations. A copy of any transition plan or update should be made available for public inspection during a formal citizen review period.



### 3. Program Accessibility Requirements

The final Rules and Regulations of the ADA describe the requirements for “program accessibility” (Code of Federal Regulations, Title 28, Part 35, Subpart D, and U.S. D.O.J. Technical Assistance Manual, Section II-5.1000). A public entity may not deny the benefits of its programs, activities, and services to individuals with disabilities because its facilities are inaccessible. A public entity shall operate each service, program, or activity, when viewed in its entirety, so that it is accessible to and usable by individuals with disabilities. The ADA does not require the public entity to make all of its existing facilities accessible, nor does it require a public entity to take any action that would fundamentally alter the nature of a service, program, or activity. Also, it does not require implementation of the ADA that would result in undue financial and administrative burdens. In such cases where documentation is provided in keeping with strict procedures outlined in the ADA, there are various methods that may be appropriate for providing “program accessibility” in lieu of making actual physical structural changes to facilities.

Public entities may achieve program accessibility by a number of methods. In most situations, providing access to facilities through structural methods, such as alteration of existing facilities and acquisition or construction of additional facilities, may be the most efficient method of providing program accessibility. The public entity may, however, pursue alternatives to structural changes in order to achieve program accessibility. Nonstructural methods include acquisition or redesign of equipment, assignment of aides to beneficiaries, and provision of services at alternate accessible sites. When choosing a method of providing program access, a public entity must give priority to the one that results in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities.

With these facts in mind, the first step in determining what structural changes to existing facilities are necessary is to develop an understanding of the specific public programs and activities occurring at existing facilities within the City. That is what this section attempts to do. It should be noted that this section is not intended to be a “self-evaluation”, as described in the ADA. A self-evaluation includes an analysis of all programs and services offered by a public entity, and the City has previously executed an ADA self-evaluation in 1994. This process included communications, publications, employment, and many other factors that are separate from proposed structural or physical modifications to facilities.

The activity of using the public right-of-way may be considered a program in two different ways:

- Streets, sidewalks, and curb ramps may be part of a continuous path of travel between activities, or “programs”, at various public and private facilities located

on adjacent properties, such as public offices, schools, parks and recreational facilities, public service agencies, hospitals and health clinics, police facilities, and public housing uses.

- Streets, sidewalks, and curb ramps may themselves represent a “program” of public pedestrian activities that are essential to the usage and enjoyment of the City’s built environment.

The U.S. D.O.J. Title II Technical Assistance Manual points to the fact that a public entity’s programs related to streets, sidewalks, and curb ramps may be prioritized with respect to relative importance and frequency of usage. It further describes that “program accessibility” would not require all streets, sidewalks, and curb ramps to be fully accessible as required by current codes. A determination of what public rights-of-way are programmatically required to be accessible may vary from jurisdiction to jurisdiction.

Determination that a facility, including a City's public right-of-way, is accessible is primarily based on the standards of the Americans with Disabilities Act Accessibility Guidelines (ADAAG), and the criteria established by the transition plan document. The transition plan update provides the scoping requirements in place of those provided by the ADA and ADAAG for new construction and remodeling. Since the ADA specifically states that it does not override requirements of other state and local requirements, the State of California Building Code (California Code of Regulation, Title 24, Parts 2, 3, 5, and 8) access regulations must also be applied if actual construction is undertaken. Therefore, for the purpose of this transition plan, the construction work required at each facility is evaluated based on the most stringent requirements of the ADAAG, dated July 26, 1991, or Title 24, 2007 edition. Where the City undertakes new construction or modernization that is not restricted to accessibility, modifications to upgrade accessibility features that are not proposed in the transition plan may be required. Such work may also be triggered by the applicable guidelines or building code, and such work is separate from the program access requirement addressed by the transition plan.

## 4. Intent of This ADA Transition Plan Update

This ADA Transition Plan Update for Sidewalks represents the continuation of an extended process for evaluating the City's public rights-of-way and compliance with Title II of the ADA.

The City of San José prepared a Citywide ADA Transition Plan in August, 1994. That original transition plan described a process and schedule for providing curb ramps and other public right-of-way improvements. Priority was given to walkways serving state and local government offices and facilities, transportation, and places of public accommodation, followed by walkways serving other areas. The City subsequently instituted a process for receiving requests from citizens with disabilities for the installation of curb ramps in public use, commercial residential areas. As an adjunct to that transition plan, the City has undertaken a number of access renovations at various facilities within the public right-of-way. At this point in time, in conjunction with the City's overall efforts to evaluate pedestrian elements within the City as part of the Pedestrian Master Plan, this update has been undertaken to make a final assessment of all accessibility work undertaken in response to the requirements of Title II of the ADA, and to update its transition plan appropriately.

The City of San José, Department of Transportation, Americans with Disabilities Act (ADA) Transition Plan Update for Sidewalks Project, undertaken in conjunction with the City of San José Pedestrian Master Plan Project, began in December, 2006. The overall purpose of the project is to update the City's policies and practices for implementing physical accessibility improvements along intersections and sidewalks within the City's public right-of-way. The main purpose of the joint project is to describe pedestrian facility needs within the City of San José, and to outline the City's procedures for implementing and scheduling work to provide a complying system of curb ramps, sidewalks, and pedestrian signals.

The ADA Transition Plan Update for Sidewalks consisted of five major tasks:

- **Task 1**, completed in March, 2007 and verified in April 2010, consisted of the compilation of City standards, policies, procedures, and practices relating to the ADA and other accessibility standards.
- **Task 2**, completed in May, 2007 and verified in April 2010, involved the documentation of federal and state standards and practices, as well as an investigation and documentation of ADA standards and policies of other local public agencies similar to San José.
- **Task 3**, completed in July, 2007 and verified in April 2010, was the major mechanism for recommendations for updates and revisions to City of San José's ADA policies and procedures, design standards, construction details, inventory

development, capital improvement project implementation, and on-going monitoring activities, based upon the findings of the first two tasks.

- **Task 4**, completed in 2008, consisted of coordination with City departments and committees. A Technical Advisory Committee (TAC), consisting of representatives from City departments, reviewed all task products and met four times throughout the course of the project to coordinate policy development. The City's Disability Advisory Commission (DAC) had three meetings with the ADA Transition Plan Update as a major agenda item, and the commission has reviewed all reports and recommendations. The City's Bicycle and Pedestrian Advisory Committee (BPAC) also held three meetings dedicated to the overall project and reviewed all products.
- **Task 5**, completed in 2008 and verified in April 2010, consisted of the preparation of the Detailed ADA Transition Plan Update for Sidewalks, including three sequential drafts for City and public review.

## 5. ADA Coordinator and Duties

Under Title II of the ADA, any public entity with fifty or more employees must designate at least one employee to coordinate ADA compliance [28 C.F.R. § 35.107 (a)]. The regulations refer to this person, or persons, as the “responsible employee or employees”; this transition plan update uses the more commonly used term, “ADA Coordinator.” The ADA Coordinator is the key player in ensuring ADA compliance. The ADA Coordinator’s role includes planning and coordinating overall compliance efforts, ensuring that the implementation is completed, and receiving and investigating complaints related to discrimination on the basis of disability. To fulfill the job, the ADA Coordinator must have the authority, knowledge, skills, and motivation to implement the regulations effectively.

One purpose of this requirement is to ensure the members of the public can readily identify a person that is familiar with ADA requirements and can communicate those requirements to other key staff. It is expected that this employee will have the authority to take whatever action is needed to correct infractions. In order to ensure that individuals can easily identify the ADA Coordinator, the public entity must provide the ADA Coordinator’s name, office address, and telephone number to all interested individuals [28 C.F.R § 35.107 (a)]. Notice of the identity of the ADA Coordinator is generally combined for ease and efficiency with notice of ADA requirements.

The ADA Coordinator should oversee a variety of tasks related to implementation of the ADA regulations regarding curb ramps and the public right-of-way and organize the Department’s on-going compliance efforts. Specific duties that should be included in the ADA Coordinator’s job description include the following tasks:

- (1) Coordinate the development, refinement, and implementation of the Department's policies and plans for complying with the requirements of the ADA, as well as other disability laws. Collaborate with staff from various departments in developing and reviewing plans and policies in their areas of responsibility under the ADA.
- (2) Develop strategies for informing employees, managers, and community groups about departmental policies concerning the accommodation of persons with disabilities.
- (3) Maintain a working knowledge of architectural accessibility regulations and codes, including those in the Americans with Disabilities Act Accessibility Guidelines and the California State Building Code (Title 24) Accessibility Standards. Monitor federal and State of California legislation and regulations, rulings by governmental enforcement agencies, and court cases for developments that might affect departmental policies and procedures.

- (4) Investigate and resolve complaints and grievances alleging either failure to comply with ADA regulations or discrimination on the basis of disability.
- (5) Prepare periodic reports in response to requests by government agencies, other departments, staff, and the public.
- (6) Maintain communication with the City Manager's Office, City Council, and Department ADA Liaisons to promote coordination of departmental approaches, policies, and procedures regarding equal access and accommodation of persons with disabilities.
- (7) Oversee and monitor implementation of the final City Council approved ADA Transition Plan Update for Sidewalks, including review of physical accessibility modifications required by the Transition Plan.

## **Existing City Procedures and Recommendations**

The City of San José has an overall, Citywide ADA coordinator who oversees all of the City's ADA compliance efforts. Each City department also has an ADA Liaison, who coordinates the ADA compliance activities for that department. At the time of the drafting of this transition plan update, the ADA Coordinator and DOT ADA Liaison positions are held by:

### **Citywide ADA Coordinator:**

Eileen Ewing  
Office of Equality Assurance, Department of Public Works  
200 E. Santa Clara St.  
San José, CA. 95113-6096  
Telephone: (408) 535-8326  
TTY: (408) 294-9337

### **Department of Transportation ADA Liaison:**

Linda Byrne  
Department of Transportation  
200 E. Santa Clara St., 8th Floor  
San José, CA. 95113-6096  
Telephone: (408) 535-3850  
TTY: (408) 294-9337

## 6. Grievance Procedures

ADA Title II regulations provide that the ADA Coordinator is to oversee the investigation and resolution of complaints [28 C.F.R. § 35.107 (a)]. The Title II regulation also provides that public entities must adopt and publish grievance procedures, providing for prompt and equitable resolution of complaints [28 C.F.R. § 35.107 (b)]. The public entity may use a grievance procedure that is already in place; it is not necessary to design a separate process specifically for the ADA.

A grievance procedure should include the following components:

- a detailed description of the procedures for submitting a grievance;
- a two-step review process that allows for appeal;
- reasonable time frames for review and resolution of the grievance;
- records of all complaints submitted, responses given, and steps taken to resolve the issue; and
- an alternative procedure if the complainant alleges that the ADA coordinator or other officials with responsibilities regarding the grievance procedures process are a part of the alleged discrimination.

City of San José grievance and complaint procedures are given in Appendix B. These are also provided for the public on-line at:

<http://www.sanjoseca.gov/ADA/ADAGrievance.asp>

Appendix B also includes a citizen grievance and complaint form that was developed as part of this transition plan update. The form was developed to respond to specific issues involved with curb ramps and facilities within the public right-of-way.

Even though citizen requests may not specifically be considered complaints or grievances, prompt and appropriate responses to such requests are important to the overall ADA compliance efforts. As part of the ADA Transition Plan Update, forms for use by citizens to request accessibility improvements within the public right-of-way have been updated. This plan recommends that these forms be made available both on-line and at selected locations throughout the City.

The City's has used an Audible Pedestrian Signal Request form for several years. This form has undergone only minor updates, and a copy of this form is included in Appendix D. To date, the City has provided citizens the ability to request curb ramp construction or modifications through a telephone service. This service will be continued. However, Appendix C includes a new Curb Ramp Construction/Modification Request form.

## 7. Maintenance of Accessible Features

Under ADA Title II regulations, public entities must maintain in working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities under the ADA [28 C.F.R § 35.133(a)]. Section 504 regulations do not contain a comparable provision concerning the maintenance of accessible features.

This particular ADA requirement would also apply to alternative programs and services that are enacted to provide programmatic accessibility in lieu to physical accessibility. For example, programs and services that provide effective communications under the ADA must be maintained in operation as required to continue the services so that they may be used by someone in the future, even though they may not be actively used at the particular time.

It should be noted that ADA requirements regarding the maintenance of accessible features do not prohibit temporary obstructions or isolated instances of mechanical failure [28 C.F.R. § 35.133(b) (Preamble)]. Isolated or temporary interruptions in service or access due to maintenance or repairs are also not prohibited [28 C.F.R. § 35.133(b)]. However, allowing obstructions or “out of service” equipment to persist beyond a reasonable period of time would violate this requirement, as would repeated mechanical failures due to improper or inadequate maintenance [28 C.F.R. § 35.133 (Preamble)].

The City should maintain improvements within the public right-of-way to assure compliance with the ADA Accessibility Guidelines and to take all reasonable steps to provide both programmatic and physical access for persons with disabilities. Physical access items should be reviewed at a general level by the ADA Coordinator and the City’s facilities and maintenance departments, who would ultimately be responsible for maintenance and repairs. It is usually recommended that a public works department or transportation department appoint a supervisory-level person within the facilities and/or maintenance departments to be responsible for maintenance and repairs of accessibility-related improvement, train personnel, order parts, and resolve details of potential or reported problems. Examples of specific conditions that should be maintained to provide physical accessibility include, but are not necessarily limited to, the following items:

- 1) Maintain exterior sidewalks and walkways and repair any surface irregularities that may become greater than 1/2” due to wear or cracking, and make other repairs to keep pathways from causing hazardous conditions (Note: The City may utilize other City regulations to require adjacent property owners to maintain such facilities.)



- 2) Maintain accessible street parking spaces to have all appropriate signage and to keep access aisles or clear areas next to the spaces clear and usable.
- 3) Maintain and replace as required all signage that would direct persons with disabilities to the accessible paths of travel.
- 4) Maintain curb ramps to be clear of appurtenances and to have any detectable warnings firmly attached to the surface.
- 5) Maintain pedestrian signals to be functional and usable at all times.

## 8. ADA Design Standards

This section describes the ADA Design Standards that are to be utilized for construction and alteration work under the ADA Transition Plan Update within the public right-of-way in the City of San José. These were developed to combine and resolve any conflicts between the Americans with Disabilities Act Accessibility Guidelines (ADAAG), published by the U.S. Architectural and Transportation Barriers Compliance Board in July, 1991, and the California State Building Code, Title 24, Part 2, of the California Code of Regulation, 2007 edition. Draft Guidelines for Public Rights-of-Way, published by the U.S. Architectural and Transportation Barriers Compliance Board on November 23, 2005, which are expected to take effect in the near future, were also considered, but not necessarily replicated, in the ADA Design Standards described in this section.

The ADA Design Standards described in this section are intended to apply to all construction undertaken with the City right-of way after approval of the ADA Transition Plan Update. This would include all new construction and all construction undertaken as part of any Capital Improvement Programs.

### Sub-Section 1: Applicability of City ADA Standards

**1.1 New Construction:** All areas of newly designed and newly constructed facilities in the City-regulated public right-of-way should comply with these standards.

**1.2 Additions in the Existing Public Right-of-Way:** Each addition to an existing public right-of-way should comply with the applicable provisions of these standards. Where the addition connects with existing construction, the connection should comply with “Alterations”, as described in the next subsection.

**1.3 Alterations in the Existing Public Right-of-Way:** Where existing elements or spaces in the City-regulated public right-of-way are altered, each altered element or space should comply with the applicable provisions of these standards.

**1.3.1 Exception:** In alterations, where compliance with applicable provisions is technically infeasible, the alteration should comply to the maximum extent feasible.

**1.3.2 Prohibited Reduction in Access.** An alteration that decreases or has the effect of decreasing the accessibility of a public right-of-way or site arrival points to buildings or facilities adjacent to the altered portion of the public right-of-way, below the requirements for new construction at the time of the alteration, is prohibited.

**1.4 Dimensional Tolerances:** All dimensions and numerical requirements contained in these standards are absolute and requirements have been derived taking into account construction practices and constraints, and no dimensional tolerances beyond the maximum or minimum dimensions are allowed, unless otherwise stated. It is advised that designers use numerical criteria in designs and specifications that are below the maximum or are above the minimum requirements stated in these standards, so that the final constructed improvements meet the stated requirements.

**1.5 Future Applicable Federal and State Code Revisions:** All future enactments and revisions to legally applicable Federal or State accessibility codes, standards, or guidelines, such as the ADA Accessibility Guidelines or Title 24 of the California Code of Regulation, should be incorporated into these ADA Design Standards by periodic staff updates to city ADA documents, to the extent that such enactments or revisions exceed the requirements contained herein.

## **Sub-Section 2: Applicable Reference Codes and Standards**

Nothing in the City's ADA Design Standards shall have the effect of reducing any specific requirements of the referenced standards (1) or (3) below, or any other codes or standards required by applicable law or statute.

(1) The Americans with Disabilities Act Accessibility Guidelines (ADAAG), published by the U.S. Architectural and Transportation Barriers Compliance Board in July, 1991, binding regulatory law in 1992, with several revisions through July, 1998. (Note: some jurisdictions mistakenly use a revised edition of these standards dated September, 1994; this edition was never approved and should NOT be used.) The ADAAG guidelines were written to apply to newly constructed places of public accommodation. The ADAAG is an appendix to Title III of the ADA. The technical standards of the ADAAG also provide a technical definition for accessible elements. These guidelines were not written to specifically apply to public facilities, which must provide equal access to people with disabilities to all programs and services of local and state governments. Therefore, while meeting the technical requirements of the ADAAG assures owners of places of public accommodation of full compliance with the ADA, such technical compliance may not be sufficient to provide full access to programs and services for government entities.

(2) "Draft Guidelines for Public Rights-of-Way", published by the U.S. Architectural and Transportation Barriers Compliance Board on November 23, 2005. These guidelines are currently out for public review and are intended to replace the current ADAAG guidelines listed in (1) in the future. The guidelines have not been approved, but are represented to be the most current state-of-the-art with respect to accessibility in the public right-of-way. The guidelines were also written to apply to new construction. The extent to which they should be applied to major alterations and retrofits is still under review by the U. S. Department of Justice.

(3) California State Building Code, Title 24, Part 2, of the California Code of Regulation, 2007 edition, effective January 1, 2008. These code requirements apply to any actual construction work within the public right-of-way at the time that the work is constructed, but the requirements of Title 24 are limited to the actual work being constructed and do not apply to adjacent areas beyond the construction limits.

(4) Current City of San José Standards.

### **Sub-Section 3: Definitions**

Accessible Pedestrian Signal. A device that communicates information about the pedestrian walk phase in non-visual format.

Island. Curbed or painted area outside of the vehicular path that is provided to separate and direct traffic movement, and which also may serve as a refuge for pedestrians.

Blended Curb or Transition. A curb ramp shallower than 1:20 (5%), where the sidewalk is blended into or flush with the street.

Cross Slope. The slope that is perpendicular to the intended direction of travel.

Crosswalk. That part of a roadway at an intersection that is included within the extensions of the lateral lines of the sidewalks on opposite sides of the roadway, measured from the curb line or, in the absence of curbs, from the edges of the roadway or, in the absence of a sidewalk on one side of the roadway, the part of the roadway included within the extension of the lateral lines of the sidewalk at right angles to the centerline.

Marked Crosswalk. Any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb. A vertical or rolled transition from the roadway or gutter to the sidewalk or planting strip.

Curb Line. A line at the face of the curb that marks the transition from the roadway or gutter to a sidewalk or planting strip.

Curb Ramp. A ramp cutting through a curb.

Detectable Warning. A surface feature built in or applied to walking surfaces or other elements to warn of hazards on a pedestrian access path.

Driveway. A vehicular path serving a single parcel of private property.

Element. An architectural or mechanical component of a facility, space, site or public right-of-way.

Equivalent Facilitation. A departure from a particular technical or scoping requirement of these standards by the use of other designs and technologies, where the alternative designs and technologies used provide substantially equivalent or greater access to and usability of the element.

Facility. All or any portion of structures, improvements, elements, and pedestrian or vehicular routes located on a site or in a public right-of-way.

Flush Transition. See Blended Transition.

Grade. See Running Slope.

Grade Break. The meeting line of two adjacent surfaces of different slope (grade).

Land Use Zone. The land use of a particular property location, as defined by the San José Zoning Ordinance.

Locator Tone. A repeating sound that identifies the location of the pedestrian push button.

Parallel Curb Ramp. A system of two sloped ramps that run parallel to the curb line from a common lower landing that is approximately level with the street.

Pedestrian Access Route (Path). Any walk or path intended for pedestrian movement or activity.

Perpendicular Curb Ramp. A curb ramp with a main slope running perpendicular to the curb line, and which may include one or more flared side slopes.

Public Right-of-Way. Land or property owned by a public entity and usually is acquired for or devoted to transportation and/or pedestrian purposes.

Ramp. A sloping portion of a walkway with a running slope exceeding 5%.

Running Slope. The slope that is parallel to the direction of travel expressed as a ratio of rise to run, usually expressed in percent.

Sidewalk. That portion of a public right-of-way between the curb line or lateral line of a roadway and the adjacent property line that is improved for use by pedestrians.

Sidewalk Ramp. See Curb Ramp.

Street Furniture. Elements in the public right-of-way that are intended for use by pedestrians.

Technical Infeasibility. With respect to an alteration of an existing element, that it has little likelihood of being accomplished because existing physical or site constraints

prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction accessibility standards.

Walk Interval. That phase of a traffic signal cycle during which the pedestrian is to begin crossing, typically indicated by a walk message or the walking person symbol and its audible equivalent.

## **Sub-Section 4: Sidewalk And Pedestrian Access Standards**

**4.1 Scope:** Where sidewalks or pedestrian access paths are provided adjacent to streets or roadways within the public right-of-way, they shall meet the requirements of this section.

**4.2 Clear Width:** Where a sidewalk is provided adjacent to a street or roadway, each part shall provide a minimum clear width of 48 inches, not including the width of any curb that may be present between the sidewalk and the street or gutter.

4.2.1 Exception: Where existing conditions or obstructions or reduced right-of-way widths preclude providing a 48 inch clear width, the sidewalk width may be reduced to less than 48 inches for a distance not exceeding 24 inches, but in no case shall the clear width be less than 36 inches.

4.2.2 Advised: For streets or roadways with a right-of-way width of 84 feet or greater, a minimum clear width of 72 inches is preferred.

**4.3 Passing Space:** If a sidewalk has less than 60 inch clear width, passing spaces of at least 60 inches by 60 inches shall be located at reasonable intervals not to exceed 200 feet.

4.3.1 Exception: Where existing conditions or reduced right-of-way width preclude providing a 60 inch passing space, such space shall not be required.

**4.4 Cross Slope:** The cross slope of the sidewalk shall be 1:50 (2%).

**4.5 Running Slope:** The running slope of the sidewalk shall not exceed the grade of the adjacent roadway or 1:20 (5%), whichever is greater. See also Subsection 4.6 below.

**4.6 Level Areas on Continuous Slopes:** For sidewalks with a running slope exceeding 5% for at least 400 feet, a 60-inch long landing with a maximum slope of 2% shall be provided for every 400 feet of the sidewalk length, except for roadway overpasses.

**4.7 Curbs at Streets Adjacent to Sidewalks:** Curbs on the street side of sidewalks shall be approximately vertical, with a height of at least 4 inches but no greater than 8 inches.

4.7.1 *Exception:* Where a new portion of curb is constructed within an existing system of rolled curbs and existing drainage patterns must be maintained, a rolled curb matching the existing curb may be constructed.

**4.8 Surfaces:** The surface shall be either Portland-cement concrete or asphalt concrete, and it shall be firm, stable, and slip-resistant.

**4.9 Changes in Level:** Changes in level up to 1/4 inch may be vertical and without edge treatment. Changes in level between 1/4 inch and 1/2 inch shall be beveled with a slope no greater than 1 horizontal to 2 vertical. Changes in level greater than 1/2 in (13 mm) shall be accomplished by means of a 5% slope or a ramp. Multiple changes in level shall be separated horizontally by at least 30 inches.

**4.10 Gratings:** If gratings are located in the sidewalk surface along a pedestrian access route, they shall have spaces no greater than 1/2 inch wide in the direction of travel. If gratings have elongated openings, they shall be placed so that the long dimension is perpendicular to the direction of travel.

**4.11 Protruding Objects:**

The City of San José does not allow protrusions into the public right-of-way, with the exception of awnings, as stated in the San José Municipal Code.

Protruding objects shall not reduce the clear width required for sidewalks.

Objects with leading edges located between 27 inches above and 80 inches below the finish surface shall protrude no more than 4 inches horizontally into the pedestrian access route.

Free-standing objects mounted on posts or pylons shall overhang pedestrian access routes no more than 4 inches when located between 27 inches above and 80 inches below the finish surface.

Where a sign or other obstruction is mounted between posts or pylons and the clear distance between post or pylons is greater than 12 inches, the lowest edge of such sign or obstruction shall be located between 27 inches above and 80 inches below above the surface, and there shall be a bar or similarly detectable element 15 inches above the surface connecting the two posts or pylons.

**4.12 Barrier Curbs at Drop-Offs:**

Warning or barrier curbs shall be provided at the locations described in this sub-section.

Abrupt changes in level at the edge of sidewalks, except between a sidewalk and an adjacent street, exceeding 4 inches in a vertical dimension, such as at planters or fountains located in or adjacent to sidewalks, shall be identified by curbs projecting at least 4 inches in height above the surface.

Where the downward slope behind a sidewalk is greater than 2 (horizontal) to 1 (vertical), a barrier curb projecting at least 4 inches in height above the surface shall be provided for pedestrian safety. A retaining wall or fence may be provided in lieu of the required barrier curb.

#### **4.13 Driveway Crossings:**

Where a sidewalk crosses a driveway, the minimum width of 48 inches and the cross-slope of 1:50 (2%) shall be provided for the entire width of the driveway.

Each driveway shall have a ½-inch to 1-inch lip, beveled at 45 degrees, at the street or gutter

Driveway entries shall not be designed or used as curb ramps.

**4.14 Stairs:** To the maximum extent feasible, stairs shall not be constructed within the public right-of way.

4.14.1 Exception: If provided, steps or stairs shall provide 1.5 inch diameter handrails 34 inches to 38 inches above each nosing on both sides, with extensions at the top and bottom meeting all applicable portions of the California State Building Code, Chapter 11B. If provided, steps or stairs shall provide a 2" contrasting yellow color stripe at each tread and the upper approach of each staircase. The contrasting color stripe shall be yellow conforming to Federal Color No. 33538, as shown in Table IV of Standard No. 595B.

## **Sub-Section 5: Curb Ramp Standards**

**5.1 Scope:** Curb ramps shall comply with the City's Geometric Design Standards with respect to the provision of one versus two curbs ramps at a given corner. Each individual curb ramp shall comply with the requirements of this section.

5.1.1 Exception: Where pedestrian crossing in a specific direction is prohibited by a continuous raised median, barricade, or sign, no curb ramp shall be required. Where only one curb ramp is provided at a corner to serve only one direction of travel to an adjacent corner, the curb ramp shall be aligned and oriented parallel to the intended direction of travel.

5.1.2 Exception: Within residential areas and commercial areas with right-of-way widths less than 80 feet, only one curb ramp, located in the center of the curb return at each corner or directional to the path of travel, may be provided.

**5.2 Perpendicular Curb Ramps:** Perpendicular curb ramps are those that have a running slope that cuts through the curb at right angles or meets the gutter grade break at right angles.



**5.2.1 Running Slope:** The running slope of the main portion of the curb ramp shall be 1:20 (5%) minimum and 1:12 (8.33%) maximum.

**5.2.2 Cross Slope:** The cross slope of the main portion of the curb ramp shall be 1:50 (2%).

**5.2.3 Landing:** A landing measuring 48 inches minimum by 48 inches minimum shall be provided at the top of the curb ramp and shall be permitted to overlap other landings and clear spaces. Running and cross slopes of the landing shall be 1:50 (2%) maximum.

**5.2.4 Flared Sides:** Flared sides with a slope 1:10 (10%) maximum, measured along the curb line, shall be provided where a circulation path crosses the curb ramp.

**5.2.5 Clear Width:** The clear width of the main portion of the curb ramp, excluding flared sides, shall be 48 inches minimum.

**5.2.6 Detectable Warnings:** Detectable warning surfaces complying with Section 6 shall be provided for the width of the main portion of the curb ramp, with the front edge located approximately 6 inches behind the curb line.

**5.2.7 Grooved Border:** A 12-inch wide grooved border with 1/4 inch grooves approximately 3/4 inch on center shall be provided at the level surface of the sidewalk along the top of the main slope and at the side of each side slope.

**5.2.8 Surfaces:** Surfaces of curb ramps and landings shall comply with Section 4.9. Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, and gutter areas directly in front of curb ramps.

**5.2.9 Changes in Level:** Vertical changes in level greater than those described in Section 4.10 shall not be permitted on curb ramps, landings, or gutter areas directly in front of curb ramps.

**5.2.10 Gutter Slope:** The counter slope of the gutter area or street at the foot of a curb ramp or landing shall be 1:20 (5%) maximum for a distance of 4'-0" from the lip.

**5.2.11 Clear Space:** Beyond the curb line toward the street, a clear space measuring 48 inches minimum by 48 inches minimum shall be provided within any marked crosswalk that may be present and located wholly outside of the parallel vehicle travel lane.

**5.2.12 Obstructions:** Curb ramps shall be located or protected to prevent their obstruction by parked cars.

**5.3 Parallel Curb Ramps:** Parallel curb ramps are those that have running slopes that are in-line with the direction of sidewalk travel.

**5.3.1 Running Slope:** The running slope of each side slope shall be 1:20 (5%) minimum and 1:12 (8.33%) maximum.

**5.3.2 Cross Slope:** The cross slope of each side shall be 1:50 (2%).

**5.3.3 Clear Width:** The clear width of each side slope shall be 48 inches minimum.

**5.3.4 Landing:** A landing measuring 48 inches minimum by 48 inches minimum shall be provided at the bottom of each ramp slope. Landing slopes shall be 1:100 (1%) minimum and 1:50 (2%) maximum.

**5.3.5 Diverging Sidewalks:** Where a parallel curb ramp does not occupy the entire width of a sidewalk, drop-offs at diverging segments shall be protected with a 6-inch curb or similar barrier.

**5.3.6 Common Landing Width:** Where two parallel curb ramps are located at a corner, the landing between the top of each side slope shall be 48 inches minimum.

**5.3.7 Detectable Warnings:** Detectable warning surfaces complying with Section 6 shall be provided for the full width of the lower landing between the side slopes of the curb ramp, with the front edge located approximately 6 inches behind the curb line.

**5.3.8 Grooved Border:** A 12-inch wide grooved border with 1/4 inch grooves approximately 3/4 inch on center shall be provided at the top of each side slope.

**5.3.9 Surfaces:** Surfaces of curb ramps and landings shall comply with Section 4.9. Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, and gutter areas directly in front of curb ramps.

**5.3.10 Changes in Level:** Vertical changes in level greater than those described in Section 4.10 shall not be permitted on curb ramps, landings, or gutter areas directly in front of curb ramps.

**5.3.11 Gutter Slope:** The counter slope of the gutter area or street at the foot of the lower landing shall be 1:20 (5%) maximum for a distance of 4'-0" from the lip.

**5.3.12 Clear Space:** Beyond the curb line toward the street, a clear space of 48 inches minimum by 48 inches minimum shall be provided with any marked crosswalk that may be present and located wholly outside the parallel vehicle travel lane.

**5.3.13 Obstructions:** Curb ramps shall be located or protected to prevent their obstruction by parked cars.

## **Sub-Section 6: Detectable Warning Standards**

**6.1 Scope:** Where detectable warnings (truncated domes) are required by other sections of these standards, they shall comply with the requirements of this section.

**6.2 Size and Location:** Detectable warnings shall be 24 inches minimum in depth and 48 inches minimum in width for the area where they are required.

**6.3 Specifications:** The detectable warning surface shall be prefabricated and shall have in-line, square grid pattern truncated domes 0.2 inch high with 0.8 inch minimum and 1.0 inch maximum base diameter, tapering up to a top diameter of 0.4 inch minimum and 0.5 inch maximum, with a center to center spacing of approximately 2.3 inches, measured diagonally, and with safety field dots 30 per square inch between truncated domes. The 0.2 inch height of domes shall be measured from the top of highest field safety dot to the highest point on top of the truncated dome. Detectable warnings shall be a color contrasting from the surrounding surface by at least 70%.

## **Sub-Section 7: Pedestrian Crossing Standards**

**7.1 Scope:** All controlled intersections shall be provided with marked crosswalks as described in this section. "Controlled intersections" refers to intersections with a traffic signal system or all-way stop signs. Partially controlled or uncontrolled intersections may be provided with marked crosswalks as determined by the Director. If provided, all marked crosswalks shall comply with the requirements of this section.

**7.2 Width:** Marked crosswalks shall be 96 inches wide minimum, as measured between the striped lines.

**7.2.1 Advised:** Where feasible, marked crosswalks shall be 120 inches wide, as measured between the striped lines.

**7.3 Color and Size:** Crosswalk stripes shall be 12 inches wide, and white in color.

**7.3.1 Exception:** Crosswalks serving schools shall be yellow in color.

**7.4 Advised Cross Slope:** The cross slope of the pavement within a marked crosswalk shall be 1:50 (2%) maximum, measured perpendicular to the direction of pedestrian travel.

**7.5 Running Slope:** The running slope of the pavement within a marked crosswalk shall be 1:20 (5%) maximum measured parallel to the direction of pedestrian travel in the crosswalk.

**7.6 Pedestrian Signal Phase Timing:** All pedestrian signal phase timing shall be calculated using a pedestrian walk speed of 3.5 (with 3.0 preferable) feet per second maximum. The total crosswalk distance used in calculating pedestrian signal phase timing shall include the entire length of the crosswalk plus the length of the curb ramp.

**7.7 Medians and Pedestrian Refuge Islands:** Medians and pedestrian refuge islands in crosswalks shall be cut through level with the street or have curb ramps complying with Section 5. Where the cut-through connects to the street, edges of the cut-through shall be aligned with the direction of the crosswalk for a length of 24 inches minimum.

**7.7.1 Width:** The width of all cut-throughs shall be 48 inches minimum.

7.7.1.1 *Advised:* Where feasible, the width of all cut-throughs shall be 60 inches.

**7.7.2 Length:** Where signal timing is not designed or intended for full crossing of all traffic lanes or where the crossing is not signalized, cut-through medians and pedestrian refuge islands shall be 96 inches minimum in length in the direction of pedestrian travel.

**7.7.3 Detectable Warnings:** Medians and refuge islands shall have detectable warnings complying with the section "Detectable Warnings". Detectable warnings at cut-through islands shall span the full width of the cut-through and shall be separated by a 24-inch minimum length of walkway without detectable warnings. See Sub-Section 6.

**7.8 Crosswalk Alignment:** To the maximum extent feasible, marked crosswalks shall have straight alignment, with no change of direction between the terminal ends of the crosswalk.

## **Sub-Section 8: Accessible Pedestrian Signal Standards**

**8.1 Scope:** Each crosswalk with pedestrian signal indication shall have a signal device which includes audible indications of the walk interval. Where a pedestrian pushbutton is provided, it shall be integrated into the signal device and shall comply with the requirements of this section.

### **8.2 Types and Location of Accessible Pedestrian Signals:**

Accessible pedestrian signals (APS) may be either of the following types: (1) Overhead - the APS is mounted to the Pedestrian Head, or (2) Pedestrian Activated Signal Control (PASC) - the APS accessibility features is incorporated into the PASC.

All overhead and PASC accessible pedestrian signal devices shall serve the nearest crosswalk in relationship to their installation site. The speakers of all overhead and PASC APS devices shall be oriented toward the center of the crosswalk and/or the direction of travel to the maximum extent feasible. If possible due to intersection configuration, all overhead and PASC APS devices shall be separated a minimum of 120 inches from any other APS device, unless on an island or median, where space will not permit.

The audible pedestrian signals shall comply with the sound standards pursuant to the California Department of Transportation Traffic Manual, Section 9-04.8. Volume measured at 36" from the pedestrian signal device shall be between 2 and 5 decibel (dB) above ambient noise level and responsive to ambient noise level change. Automatic volume adjustment in response to ambient traffic sound level should be provided up to a maximum volume of 89 dB. When accessible pedestrian signals have an audible tone, they shall have a tone for the walk interval. The audible tone shall be audible from the beginning of the associated walk interval.

Activation of the pedestrian-activated signal control shall simultaneously activate the accessible pedestrian signal. There shall be no extended button press required to activate the auditory tone feature that announces the onset of the walk interval. An extended button press shall be permitted to activate additional features (e.g. auditory announcement, "wait", "street name", etc). Buttons that provide additional features shall be marked with three Braille dots forming an equilateral triangle in the center of the pushbutton.

**8.3 Pedestrian Pushbuttons:** Pedestrian pushbuttons shall comply with the details described in this section.

8.3.1 Location: Pedestrian pushbuttons shall be located 60 inches maximum from the crosswalk line extended, and if possible due to intersection configuration, 120 inches maximum and 30 inches minimum from the curb line, and 120 inches minimum from any other pedestrian pushbutton at a crossing. The control face of the pushbutton shall be installed to face the intersection and be parallel to the direction of the crosswalk it serves.

8.3.2 Reach and Clear Space: A clear space measuring 30 inches wide by 48 inches deep shall be provided at each pushbutton and shall connect to or overlap the pedestrian path of travel.

8.3.3 Mounting Height: Pedestrian pushbuttons shall be mounted at a height of from 34 inches minimum to 46 inches maximum to the centerline above the lowest adjacent walking surface.

8.3.4 Operation: Pedestrian pushbuttons shall require no more than 5 pounds of pressure to operate.

8.3.5 Size and Contrast: Pedestrian pushbuttons shall be a minimum of 2 inches across in one dimension and shall contrast visually with their housing or mounting.

8.3.6 Locator Tone: Pedestrian pushbuttons shall incorporate a locator tone (one per pole) at the pushbutton. Locator tone volume measured at 36 inches from the pushbutton shall be 2 dB minimum and 5 dB maximum above ambient noise level and shall be responsive to ambient noise level changes. Automatic volume adjustment in response to ambient traffic sound level should be provided up to a maximum volume of 89 dB. The duration of the locator tone shall be 0.15 seconds maximum and shall repeat at intervals of one second. The locator tone shall operate during the "don't walk" and flashing "don't walk" intervals only and shall be deactivated when the pedestrian signal system is not operative.

## **Sub-Section 9: Sidewalk Furnishings & Appurtenances Standards**

**9.1 Clear Space:** Street and sidewalk furnishings shall have a 30 inch wide by 48 inch deep clear space in front of each portion used by a pedestrian and shall be connected to the sidewalk or pedestrian access route.

**9.2 Facilities and Elements:** Where drinking fountains, telephones, concession stands, kiosks, information counters, or public toilet facilities are provided, they shall comply with all applicable portions of the California State Building Code, Chapter 11B.

**9.3 Benches:** Benches and all similar sidewalk furnishings shall be set back 12 inches minimum from the required minimum width of the pedestrian access route. Benches shall be 17 inches to 19 inches from the adjacent walkway surface to the seat.

## **Sub-Section 10: Temporary Construction Standards**

**10.1 Scope:** Where construction or other temporary conditions prohibit full access to pedestrian facilities with the City-regulated right-of-way, an alternate pedestrian route shall be provided in compliance with the requirements of this section.

**10.2 Location:** To the maximum extent feasible, the alternate pedestrian route shall parallel the disrupted pedestrian route, on the same side of the street. Determination of technical infeasibility shall be determined by the Director. Where technical infeasibility exists, the alternate pedestrian route may be located on the opposite side of the street as long as the distance in excess of the disrupted pedestrian route does not exceed 300 feet, and as long as all requirements of these standards are met.

**10.3 Elements:** The alternate pedestrian route shall include sidewalks and pedestrian access routes, curb ramps, pedestrian crossings, and all other elements included in these standards.

**10.4 Width:** The alternate pedestrian route shall have a width of 48 inches minimum.

10.4.1 Exception: Where technical infeasibility exists, the alternate pedestrian route may have a width of 36 inches minimum.

**10.5 Barricade Protection:** The alternate pedestrian route shall be protected with a solid barricade to separate alternate pedestrian route from any adjacent construction, drop-offs, openings, or other hazards. Barricades shall be continuous, stable, and non-flexible and shall consist of a solid wall or fence or a Type II or Type III barricade as specified in MUTCD Section 6F-60, with the bottom or lower rail 1-1/2 inches maximum above the walking surface, and the top of the fence, wall or upper rail 36 inches minimum above the walking surface. Barricade support members shall not protrude beyond the barricade face into the alternate pedestrian route.

## 9: Further ADA Inventory Development

Over the past years, the City of San José has undertaken and maintained extensive surveying / inventory process documenting the presence or absence of curb ramps. This effort shows approximately 12,000 intersections in the City of San José and approximately 26,000 existing curb ramps (see Appendix A for details). The City has also surveyed numerous sidewalks to determine the locations where sidewalk pavement was discontinuous. These surveying efforts have allowed the City to establish a GIS-database and mapping system of existing pedestrian facilities within the City of San José, mainly focusing on the presence of curb ramps and conditions at immediate adjacent areas. The City updates this database and mapping system on a continual basis as new curb ramps are constructed. These data have been used to determine what general facilities exist and their basic characteristics, and they have assisted in the development of ADA Transition Plan priorities and determinations of the need for future inventory efforts.

As part of this ADA Transition Plan Update for Sidewalks, the City of San José has scheduled additional inventory development to establish a detailed database of sidewalks, intersections, and curb ramp data within the City. It should be noted that curb ramps and sidewalks constructed after 1991 are not often included in inventory surveys since it is expected that they would have been constructed to meet ADA Accessibility Guidelines that came into effect at that time. However, if there are any questions regarding the compliance of such recently constructed facilities, they too should be surveyed.

The updated survey and inventory development efforts are targeted to occur according to the following schedule:

- Ongoing: Continue to maintain and update the existing citywide curb ramp inventory.
- FY 11/12: Conduct a sidewalk inventory in all pedestrian cores and corridors and on all arterial streets, including known locations of state and local governmental and public use facilities.
- FY 12/13: Conduct a sidewalk inventory in all Neighborhood Business Districts (NBD's), in all specific plan areas, and along all identified routes to schools.

"Surveying", as used in this section, refers to visiting the particular location by a trained accessibility "surveyor", and obtaining measurements, dimensions, gradients, and/or other visual determinations as may be appropriate depending on the particular location.



Table 1 and Table 2 list the public right-of-way data that should be collected and analyzed. These data should be maintained in a permanent database similar to the one described in the ADA Monitoring Procedures in Section 13.

**Table 1: Recommended Curb Ramp and Pedestrian Island Inventory Data**

<b>Feature</b>	<b>Information to be collected</b>
Directional Corner of Intersection	NE, SE, SW and NW. (Note: All corners should be referred to by one of these compass points. If the street is not perfectly aligned north and south, the direction will be assigned within the nearest 45 degrees.)
Curb Type:	Whether a curb is present, and if present, the type (e.g., vertical or rolled).
Number of Curb Ramps	Whether existing curb ramp(s) are present at any of the corners within the intersection.
Main Slope	Main slope of the curb ramp or level landing in percent adjacent to and perpendicular to the street, in percent.
Cross Slope	Cross slope of the main slope of the curb ramp or level landing, parallel to the street, in percent. The cross slope is perpendicular to the main slope of a curb ramp.
Flared Side Slope(s)	Whether a side slope or parallel slope is present, and if present, the slope of each sloping side or flare parallel to the street, in percent.
Landing Depth	Whether a 48-inch deep landing is provided at the top of the curb ramp, or at the top of each slope of a parallel curb ramp, in inches.
Landing Slope	Slope of the landing(s) or transition(s) to the sidewalk, in percent.
Width of ramp	Width of the curb ramp or pan (bottom landing), in inches. A pan or level landing exists when there is a lack of vertical separation between the sidewalk and the street.
Gutter Slope	Slope in percent of the gutter or street transition, in percent.
Bottom Landing in Crosswalk	Whether a curb ramp is wholly contained in the marked crosswalk, if applicable.
12" Grooved Border	Whether a 12" grooved border around all sides is present.
Detectable Warnings/Truncated Domes	Whether truncated domes are present. If present, the dome location, size, type (e.g., plastic, concrete, concrete tile, brick or other) and color.
Flush Transition, or Lip	Whether a lip is present at the bottom of the curb ramp, and if present, the height to the nearest 1/4".
Common Landing	Width of a common landing between two curb ramps, in inches, if present.
Pedestrian Signals	Whether visual or audible pedestrian signals are present. If present, the size, height, and location of actuator buttons.

**Table 2: Recommended Sidewalk Inventory Data**

<b>Feature</b>	<b>Information to be collected</b>
Width of Sidewalk	The width of the sidewalk, in inches, measured from the edge of pavement (including the curb) if a grass buffer is not present. If a grass buffer is present, the width is measured from the edge of the buffer to the backside of the sidewalk.
Sidewalk Obstructions	The number, type, and location of fixed (immovable without construction, for example utility poles) and non-fixed (movable features such as benches) obstacles on an existing sidewalk. Obstacles may include utility poles, street furniture, gaps, tree roots and fire hydrants. These obstacles are only recorded if they decrease the travel path width to less than 36 inches or reduce the height clearance to less than 80".
Sidewalk Obstacles	The presence, nature, and location of abrupt changes in sidewalk level of greater than one-half inch.
Curb Type	Whether there is a vertical curb and gutter, a rolled curb, or an open shoulder along the roadway segment.

## 10. ADA Transition Plan Priorities

Current City of San José policies provide for the prioritization of curb ramp installations based upon the following geographical criteria:

- Known routes used by and requests from persons with disabilities;
- Known locations (either identified by staff analysis or customer request) with high pedestrian activity, such as near schools, parks, libraries, community centers, senior centers or along a pedestrian corridor;
- All other locations (either identified by staff analysis or customer request).

While these criteria are reasonable for high priority curb ramp installations, the ADA Transition Plan Update expands these priorities so that capital improvement projects forming the ADA Implementation Plan would be similarly prioritized to determine which projects should be undertaken first. While the overall transition plan process may eventually revise some of the policies described herein, the prioritization listed below would describe the basic concepts. It should also be noted that this recommended prioritization follows ADA requirements and guidelines as contained in 28 CFR Part 35, Section 35.150 (c), (d) and 35.151 (e), and in the Accessibility Policy Statement of the U. S. Department of Transportation, dated July, 1999.

### **Prioritization Criteria for Constructing ADA-Related Capital Improvement Projects**

#### **Priority 1: Citizen Requests**

The City of San José has operated a program of citizen requests for constructing curb ramps, installing audible signals, and providing other accessibility improvements for a number of years. Generally, requests for improvements have come from community members with disabilities who wish to access shopping areas, medical facilities, bus stops, transportation, and other facilities or areas to accommodate their activities of daily living. This plan recommends that these requests continue to be handled as the first line of priority.

When requests are received, the Department of Transportation should evaluate the location for construction or reconstruction. For a curb ramp request, the evaluation consists of the requested curb ramp and the entire intersection at which the curb ramp is located. Any existing curb ramp should be evaluated for usability and safety in order to determine the usable path of travel through that intersection.

Recommended processes and forms for citizens' requests are included in the appendices.

## **Priority 2: State and local governmental and public use facilities**

These areas are typically located along major pedestrian cores or corridors, arterial streets, or collector streets. The final exact locations of work should be determined after a review of newly developed inventory data. Included are those locations within the public right-of-way that abut or serve public and governmental agencies and offices, and these generally include the following uses, in the recommended order of priority:

- State and local governmental buildings located within the City,
- Public hospitals, health clinics, medical clinics, mental health clinics & therapy centers,
- Public housing projects and public homeless shelters,
- Police neighborhood service centers,
- Service sites of disability organizations,
- Employment training agency facilities,
- Public schools, including in the following order, but not limited to: community colleges; high school, junior high and elementary school programs with magnet programs for children with disabilities; and all other schools.

Appendix A summarizes Priority 2 curb ramp and sidewalk projects. The City should further prioritize and refine this list after the additional inventory effort, described in 9: *Further ADA Inventory Development*, is completed.

## **Priority 3: Public accommodation facilities**

These areas include locations along routes to school, transit stops, senior centers, or proximity to community facilities and transit. The final exact locations of work should be determined after a review of newly developed inventory data. These projects should include those areas deemed to fall within the criteria established by the ADA for programmatic access to public and commercial services expected to serve persons with disabilities, and they generally include the following uses in the recommended order of priority:

- Private hospitals, doctors' offices, and medical and mental health offices,
- City parks,
- Senior facilities,
- Rehabilitation facilities,
- Major shopping malls,
- Major employment sites,
- Supermarkets,

- Large housing complexes,
- Retail strip centers.

Appendix A summarizes and maps Priority 3 curb ramp and sidewalk projects. The City should further prioritize and refine this list after the additional inventory effort, described in *Section 9: Further ADA Inventory Development*, is completed.

#### **Priority 4: Projects based on other capital improvement plans:**

These types of ADA/accessibility projects would be associated with other capital improvement projects instituted for various reasons. An example would be the streetscape improvement projects recommended as part of a condition of development.

#### **Priority 5: Other locations.**

These areas are those within the public right-of-way that abut or serve places of public accommodations which are privately owned, including, but not limited to, the following in the recommended order of priority:

- Small housing complexes,
- Single-family residential areas,
- Industrial areas
- Areas not included in any of the above groups.

Appendix A summarizes and maps Priority 5 curb ramp and sidewalk projects. The City should further prioritize and refine this list after the additional inventory effort, described in Section 9: Further ADA Inventory Development, is completed.

### **Methods for Prioritizing Projects within Priority Levels**

Current City policies utilize basic considerations and evaluation factors when determining whether a curb is suitable for construction or reconstruction. In the ADA Transition Plan Update for Sidewalks, these factors are referred to as "conditions" because they are based on the physical condition of an existing intersection, corner, or curb ramp. These factors should also be used for consideration when determining the priority of a specific item within a priority group or category list.

The most critical conditions and remedies would be to re-construct curb ramps at locations where existing curb ramps have unsafe characteristics that may cause a trip and fall. Examples are vertical displacements of curb ramps, excessively steep main or side slopes, or deteriorated surface conditions. Within a priority or category, new curb ramps should next be installed at locations where no curb ramp currently exists to provide accessibility to the sidewalk. Next, existing curb ramps should be re-

constructed when they do not meet current federal and state accessibility standards (e.g., excessive slopes, improper landings, lack of detectable warnings, etc.).

In reviewing the priorities for reconstructing existing curb ramps, criteria that separate existing curb ramps that pose a real barrier or safety hazard from those that are slightly out of specification should be established. Such a determination should be made on a case-by-case basis by the ADA Coordinator or the Director of the Department of Transportation. All of these types of non-complying curb ramps should be on the list of ADA-required work, but those curb ramps that could function well for most persons with disabilities should be shifted to the end of the list. It is recommended that such criteria for those curb ramps and related facilities that are out of compliance, but not posing a great need for quick reconstruction, could include one or more of the following:

- Main slopes greater than 8.3%, but less than 10%.
- Side flared slopes greater than 10%, but less than 12%.
- Pan or landing cross-slopes greater than 2%, but less than 3.5%.
- Gutter slopes greater than 5%, but less than 10%.
- Detectable warning surfaces missing.
- Curb ramp lips not flush, but less than 1/2".

When a corner has one existing curb ramp and conditions allow for the construction of an additional curb ramp at the same corner, and provided that traffic controls allow for a safe path of travel, an additional curb ramp should be installed as the lowest priority related to existing conditions. This policy would most likely apply only to corners at intersections on arterial or thoroughfare streets, and it would most likely not apply to signalized locations on major streets for which the geometry of the intersection makes it impossible to install an 8-phase signal operation, or for residential or local commercial uses. At some locations, existing conflicting facilities or intersection geometry may make installation of an additional curb ramp technically infeasible.

# 11. Extent and Scope of the ADA Implementation Program

The City of San José should further develop an ADA Implementation Program and Capital Improvement Project List to define the extent of the City's and other participants' projects necessary to implement the ADA Transition Plan Update within the public right-of-way. This section describes the basis for such determinations, and final determinations should be made as the inventory development proceeds.

Types of implementation projects included can be generally categorized as follows:

- Curb ramp construction or replacement projects based upon citizen requests.
- Curb ramp and intersection retrofit projects, included with street overlay or other street or sidewalk construction projects.
- Curb ramp and intersection retrofit projects, in conjunction with construction by private parties.
- Curb ramp and intersection retrofit projects deemed essential for mitigation of barriers based upon a finalized ADA Transition Plan.
- Street and sidewalk construction or retrofit projects planned for the improvement of overall pedestrian facilities.
- Pedestrian signal retrofit projects.

A number of existing and potential programs and funding sources for capital improvement projects are described in the next section. These include on-going City capital improvement and maintenance programs, as well as specific projects and funding sources. The ADA Capital Implementation Plan is envisioned as one that will utilize, to the maximum extent possible, existing and prospective funding programs and sources. The basis of the plan is recommended to include specified goals for the construction of accessibility improvements.

The extent of work included in the ADA Transition Plan Update would include the types of capital improvements that should be made to intersections, streets, and sidewalks. The final extent of work included in the plan should be based on the overall review process that will include review and recommendations of all basic elements of the transition plan by the City of San José.

This plan recommends that most capital improvements be "comprehensive" in their approach. A comprehensive approach refers to making a series of related improvements at each particular location of work in an effort to bring the entire

location into compliance with the applicable ADA Design Standards. As a typical example, at a typical 4-way signalized intersection, if funds are available the extent of work could include not only the construction of curb ramps at each corner, but also the removal of accessibility barriers along the pedestrian route from any public use in the same block leading to the curb ramps, and installing accessible audible pedestrian signals, crosswalk striping; accessible islands, if required; and appropriate signage. It is probable that some capital improvement projects may, to a lesser degree, include only specific elements that represent physical barriers that need to be removed at a particular location, or that are specifically funded by an existing program.

The typical extent and scope of work that are recommended for the most common types of capital improvements, listed from most to least comprehensive, is shown below:

- (1) **Complete ADA retrofit of signalized 4-way intersection:** 8 new curb ramps, 2 per corner (unless infeasible due to existing conditions such as utility conflicts or geometry); new complying sidewalk paving to meet existing sidewalks and other sidewalk improvements to provide access to public uses along the path of travel; new audible pedestrian signals with push buttons; and crosswalk striping (if not existing, including removal and replacement of crosswalk striping where in poor condition) for all crossing directions where crosswalks are required by the ADA Design Standards. The scope may include new islands with cut-throughs or curb ramps at corners, if required by the standards or at the design engineer's discretion.
- (2) **Complete ADA retrofit of controlled intersection:** either 4 or 8 new curb ramps, 1 or 2 per corner (depending on existing conditions such as utility conflicts or geometry); and crosswalk striping for all crossing directions where crosswalks are required by the ADA Design Standards; new complying sidewalk paving to meet existing sidewalks and other sidewalk improvements to provide access to public uses along the path of travel. The scope may include providing new islands with cut-throughs or curb ramps at corners, if required by the standards or at the design engineer's discretion.
- (3) **Complete ADA retrofit of signalized T-intersection:** 6 new curb ramps with 2 per corner, except only one at each "top" of each T (unless infeasible due to existing conditions such as utility conflicts or geometry); new audible pedestrian signals with push buttons; and crosswalk striping (if not existing, including removal and replacement of crosswalk striping where in poor condition) for all crossing directions where crosswalks are required by the ADA Design Standards; new complying sidewalk paving to meet existing sidewalks and other sidewalk improvements to provide access to Priority 1 uses along the path of travel. Scope may include providing new islands with cut-throughs or curb ramps at corners, if required by the standards or at the design engineer's discretion.



- (4) **Installation of new audible pedestrian signals with push buttons and crosswalk striping** (if not existing, including removal and replacement of crosswalk striping where in poor condition) for all crossing directions where crosswalks are required by the ADA Design Standards.
- (5) **Partial ADA retrofit at 4-way intersection, single-family residential area:** 4 new curb ramps (1 per corner); crosswalk striping for at all signalized or stop-controlled intersections, for crossing directions where a crossing is not prohibited.
- (6) **Partial ADA retrofit at T-intersection, single-family residential area:** 2 new curb ramps to cross main street at one location of T-intersection, and at least one and preferably two new curb ramps to cross secondary street.
- (7) **One or more new single curb ramp** where other curb ramps at the intersection comply.
- (8) **Renovation of an existing curb ramp to remove hazardous conditions.**
- (9) **Renovation of an existing curb ramp to add detectable warnings** (truncated dome panel).
- (10) **Miscellaneous sidewalk or other walkway widening and leveling.**
- (11) **Removal of sidewalk barriers** (either moving or removing the barrier or reconstructing the pedestrian walkway around the barrier, or the reconstruction of driveways).

## 12. Capital Improvement Projects and Funding Strategies

There are a number of existing and potential programs and funding sources for capital improvement projects to be included in the ADA Implementation Program. A number of programs are operated by or coordinated with the City of San José Department of Transportation on an on-going, annual basis. The extent of funding levels may be fixed or may vary yearly. The City intends to continue to pursue grant funding and expand on existing programs. These programs include the following:

### **Department of Transportation / Traffic Capital Programs:**

The following programs are currently used to operate and fund ADA-related and accessibility improvements:

**Curb Ramp Accessibility Program:** This program identifies curbs, gutters, and adjacent sidewalks that are in need of repair or replacement and develops a priority list for their inclusion into the maintenance program. Priority is based upon such factors as citizens' requests, severity of damage, the amount of pedestrian traffic, and the proximity to schools, parks, bus stops, and hospitals.

**Miscellaneous Street Improvements:** This program identifies streets in need of repair or replacement, including asphalt overlays and rehabilitation of existing streets. While this program does not specifically target ADA-related improvements, roadways receiving a Street Resurfacing rehabilitation treatment will continue to include ADA compliant curb ramps and sidewalks, if not already present at corners (per U.S. D.O.J. policies in the *Kenney v. Yersusalem*, PA. case). It is estimated that approximately 30% of these projects' funding will impact new and existing curb ramps

**North San José Deficiency Plan Improvements:** While this program does not specifically target ADA-related improvements, it is estimated that approximately 25% of the project's funding will impact new and existing curb ramps.

**Bicycle and Pedestrian Facilities Program:** These programs do not specifically target ADA-related improvements, and the exact scope of work is unknown. It is estimated that approximately 30% of the project's funding will impact new and existing curb ramps.

### **Caltrans Construction Projects:**

Caltrans construction and renovation of roadways and facilities along State highways within the City limits typically includes new curb ramps and other accessibility-related

improvements. While the City of San José does not directly manage these projects, it coordinates locations and details of the work with Caltrans.

## **Private Developer Construction Projects adjacent to the City Right-of Way**

Private construction throughout the City has direct impact on improvements within the right-of-way. As a condition of the approval of a building permit, contractors are typically required to construct or improve the sidewalk, including curb ramps, directly adjacent to the subject property. For larger projects, developers may also be required to construct intersections complete with traffic signals. This plan recommends that the City develop and conduct a renewed training effort for plan checkers and inspectors to assure that the full potential of the ADA Transition Plan Update for Sidewalks is realized.

### **State Funded Programs:**

Projects funded by the various State funding programs include those listed below. It is unknown at this time what funding levels will be expected to continue.

- STIP: State Transportation Improvement Program
- SR2S: Safe Routes to School Program
- TCRP: Traffic Congestion Relief Program

### **Federally Funded Programs:**

Funding approved under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) or the 1998 Transportation Equity Act for the 21st Century (TEA-21) is listed below. It is unknown at this time what funding levels will be expected to continue.

- CMAQ: Congestion Mitigation and Air Quality Program
- HBRR: Highway Bridge Replacement & Rehabilitation Program
- HES: Hazard Elimination & Safety Program
- RSTP: Regional Surface Transportation Program
- TEA: Transportation Enhancement Activities
- SRTS Federal Safe Routes to School Funding

## Transition Plan Funding:

As part of the ADA Transition Plan Update for Sidewalks, it is recommended that one or more ADA Transition Plan Retrofit Projects be undertaken to make up for any shortfall and provide funding for required ADA improvements. Funding may come from one or more of sales tax funds, developer fees, Santa Clara County programs, and currently unspecified Citywide sources, and not necessarily from Department of Transportation funds.

## Summary of Programs and Funding

The basis of the ADA Implementation Program of the ADA Transition Plan Update for Sidewalks includes specified goals for the construction of accessibility improvements. The exact goals take into account all of the various items of work required under the plan, including curb ramps, accessible audible pedestrian signals, sidewalk barrier removal and sidewalk installation, crosswalk markings, and other work necessary to comply with the ADA Design Standards. The ADA Transition Plan Update for Sidewalks lays the groundwork for concepts concerning the extent of ADA work required, prioritization, locations, and potential funding sources. Until exact funding sources are finalized, the annual work and expenditures proposed are estimates. The City of San José should commit to a reasonable yet aggressive schedule to bring the City's curb ramps and sidewalks into ADA compliance. This work should include installation, repair, and replacement of curb ramps, together with other specified improvements, on an annual basis. Based upon the programs and funding sources described above, the Fiscal Year 2009/2010 commitment for the ADA Implementation Program is summarized below:

**Table 3: City Funding for ADA Implementation Program Fiscal Year 2009/2010**

	<b>Program / Funding</b>	<b>Est. Amount</b>
1	Curb Ramp Accessibility Program	\$500,000
2	Miscellaneous Street Improvements	\$706,000
3	Bicycle and Pedestrian Facilities Program	\$100,000
4	<b>Total Funding Level for FY 2009/2010</b>	<b>\$1,306,000</b>

Scheduling commitments include the following:

- The City will continue to fully fund direct requests from persons with disabilities (Priority 1).

- CIP funds are to be re-prioritized to achieve full compliance with ADA accessibility requirements for Priority 2 projects, as described in Section 10, within ten (10) years.
- The City will also seek additional funding to achieve full compliance with ADA accessibility requirements for all locations, as described in Section 10, within thirty (30) years.

## 13. ADA Monitoring Procedures

The City of San José is currently engaged in an on-going effort to construct and rehabilitate curb ramps and sidewalks at numerous locations within the public right-of-way. This construction activity involves several types of projects, including street overlay and rehabilitation projects, street beautification projects, utility construction projects, and other capital improvement projects in the public right-of-way. In addition, once the ADA Transition Plan Update for Sidewalks is implemented, even more curb ramps and related improvements will be constructed.

Field inspections of facilities covered by the ADA are currently performed by Department of Public Works Inspection staff. Inspectors monitor construction and require that improvements be constructed in accordance with approved construction drawings. Any necessary field revisions are required to be coordinated through the Public Works design team, and this requirement applies to any revision that may alter facilities covered by the ADA.

While it is important to assure that codes and standards used to design and construct curb ramps and related improvements are up-to-date, as described in the ADA Design Standards, it is equally important that curb ramps be constructed properly and in compliance with all applicable codes and standards. Therefore, the on-going monitoring of construction activities and the reporting of the status of improvements is important in assuring an effective overall program.

This section of the ADA Transition Plan Update for Sidewalks describes potential procedures and methods for monitoring the implementation of curb ramp and sidewalk construction within the City. The scope of construction included in the monitoring includes all construction undertaken under the jurisdiction of the City of San José Department of Transportation or its contractors as part of capital improvement projects or other specialized construction projects.

The types of projects under which curbs ramps and other improvements are or will be constructed and inspected include the following:

- curb ramp and/or sidewalk construction or rehabilitation undertaken under the jurisdiction of the Department of Transportation or its contractors as part of capital improvement projects or other specialized construction projects,
- curb ramp and/or sidewalk construction or rehabilitation undertaken by other agencies or private parties within the city limits, over which the City of San José has jurisdiction, and
- curb ramp and/or sidewalk construction or rehabilitation undertaken as part of a subsequent ADA Transition Plan for Sidewalks.

## Recommendations for ADA Monitoring Procedures

There are a number of alternative methods available to monitor right-of-way construction on an on-going basis. The City should continue to provide record drawing information for all projects with the completion of facilities covered by the ADA. These records should be imaged and made available for public review or for any future Citywide inventory database.

This plan recommends that all curb ramps and sidewalks currently being constructed or renovated under the jurisdiction of the City be personally inspected by a trained inspector either employed by or in consultation with the Department of Transportation. Specific procedures for field inspections are recommended to be as follows:

- Every curb ramp constructed under the jurisdiction of the City should be personally inspected by a City-approved inspector after the completion of the curb ramp construction. Note that the City currently follows this recommendation.
- The inspector should inspect and obtain all dimensions using a tape measure to verify that all dimensions meet or exceed City standards.
- The inspector should inspect and obtain all slopes and gradients using a 2-foot long “Smart-level” or equal slope-measurement tool to verify that all slopes and gradients meet or exceed City standards.
- The inspector should inspect all other physical conditions relating to the curb ramp and related construction to verify that all construction meets or exceeds City standards.
- The inspector should inspect all physical conditions relating to the installation of all accessible pedestrian signals to verify that all installations meet or exceed City standards.
- The inspector should inspect all physical conditions relating to the installation of all sidewalks to verify that all installations meet or exceed City standards.
- If data are to be utilized in a Citywide inventory database, all details as described above should be entered on approved City curb ramp inspection forms and sidewalk inspection forms. Sample layouts for a Curb Ramp Inspection Form and a Sidewalk Inspection Form are shown in Appendices F and G. The City may want to develop a pedestrian signal inspection form once those criteria are finalized.
- Any exceptions to full compliance with City standards should be described on the forms and certified as a finding for non-compliance element(s) due to technical infeasibility by the inspector and approved by the Program Manager.

Once the inspections are completed, either utilizing the Curb Ramp Inspection Forms and Sidewalk Inspection Forms or other methods for each newly constructed or altered curb ramp or sidewalk, it is recommended that the data should be entered into an inventory database. It is recommended that this database should be utilized as part of the overall ADA Transition Plan Update in conjunction with the ADA inventory process, and it should contain detailed data for curb ramps, intersections, and sidewalk segments constructed within the public right-of-way.

It is recommended that the computerized database or other suitable reporting method be made available to the general public, either by public access computers made available at the Department of Transportation offices, or other methods to be determined by the City. In addition, Department of Transportation staff should be available to the general public to provide updated "As Constructed" status reports upon request.



# **Appendix A: City of San José Draft ADA Ramp Needs Study**

## **Appendix B: City of San José Grievance Procedure Under the ADA**

It is the policy of the City of San José to provide access to its services and programs for persons with disabilities in accordance with Title II of the Americans with Disabilities Act (ADA) of 1990. This Grievance Procedure is established to meet the requirements of the ADA. It may be used by anyone who wishes to file a complaint concerning access to City facilities, services, activities, programs, or benefits.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request. The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

**ADA Coordinator, City of San José**  
200 East Santa Clara Street, 5th Floor  
San José, CA 95113  
408-535-8326 (voice) or 408-294-9337 (TTY)

Departments should inform the ADA Coordinator immediately of any complaint that is filed with the department.

1. Upon receipt of a complaint, the ADA Coordinator will provide the appropriate department ADA Liaison with a copy of the complaint. Within 15 calendar days after receipt of the complaint, the ADA Coordinator and/or the department ADA Liaison will then conduct an investigation that may involve meeting with the complainant to discuss the complaint and possible resolutions.
2. If an informal resolution is not reached with the complainant, within 60 calendar days after receipt of the complaint, the ADA Coordinator or department ADA Liaison will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio recording. The response will explain the position of the City and offer options for substantive resolution of the complaint.
3. If the response by the ADA Coordinator does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the City Manager or his/her designee.
4. Within 30 calendar days after receipt of the appeal, the City Manager or his/her designee will review the complaint and the determination of the ADA Coordinator and respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the City's ADA Coordinator or his/her designee, appeals to the City Manager or his/her designee, and responses from these two offices will be retained by the ADA Coordinator for at least five years.

Employment-related complaints are governed by Chapter 1.1.1 of the City's Policy Manual, entitled "Discrimination and Harassment." Employees and job applicants may file disability related complaints with the Office of Employee Relations at 408-535-8150 (voice) or 408-294-9337 (TTY).

## Appendix C: ADA Complaint / Grievance Form

Complainant:

---

Person Preparing Complaint  
(if different from complainant):

---

Street Address & Apt. No.

---

City:

State:

Zip:

---

Phone: ( )

Email:

---

Please provide a complete description of your complaint or grievance:

---

---

---

Please specify the location of your grievance (if applicable):

---

---

---

Please state what you think should be done to resolve the grievance:

---

Please attach additional pages as needed.

---

Signature:

Date:

---

Please return to:

Eileen Ewing, ADA Coordinator, Public Works Department, Office of Equality Assurance, City of San Jose, 200 E. Santa Clara St., 8th Floor, San José, CA. 95113-6096, 408-535-8326 (voice), 408-294-9337 (TTY).

Upon request, reasonable accommodations will be provided in completing this form, or copies of the form will be provided in alternative formats. Contact the ADA Liaison at the above address.

## Appendix D: Audible Signal Request Form

REQUEST NO. \_\_\_\_\_

Requester's Name: \_\_\_\_\_ Request Date: \_\_\_\_\_

Name of User (if other than requester): \_\_\_\_\_

Requester's / User's Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Requested Intersection: \_\_\_\_\_

Specified Crosswalks: \_\_\_\_\_ Direction(s) of Travel \_\_\_\_\_ Time of Day \_\_\_\_\_

Conflicting Vehicle Movement(s): \_\_\_\_\_

Other Relevant Considerations: \_\_\_\_\_

*Such as:* Is mobility training being provided to user by a visually impaired support service agency?

AUDIBLE PEDESTRIAN SIGNAL EVALUATION	Y	N	N/A	Rmk
1. Is this intersection near or en route to a generator of significant pedestrian activity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Are all crosswalks parallel to vehicular traffic movements, which alternatively provide helpful audible cues for a visually impaired person (V.I.P.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the intersection laid out in such a way that the audible signals will not inadvertently provide misleading cues for an incorrect crosswalk?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Are crosswalks free of obstructions and bends, which could misdirect a V.I.P.?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Are pedestrian push buttons (PPB):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Oriented on poles so as to help direct a V.I.P.?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mounted 3' from grade per CSJ Standards?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Regarding pork-chop islands:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Could a V.I.P. potentially access the PPB safely, avoiding any speeding/heavy RT-turn traffic?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do RT-turning motorists have an adequately unobstructed view of approaching V.I.P.s?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do these islands have curbed wheelchair openings, allowing negotiable access to crosswalks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Are there continuous, unobstructed sidewalks at both ends of all crosswalks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Do all wheelchair ramps have directional grooving/raised domes installed to date?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Does the requested crossing have a clearly marked crosswalk?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUDIBLE PEDESTRIAN SIGNAL REQUEST NO. \_\_\_\_\_

Remarks: (correlate above Item No. with comment)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE INSTALLATION OF AUDIBLE SIGNALS IS:

RECOMMENDED; INSTALL ON THE FOLLOWING CROSSWALK(S):

NORTH       SOUTH       EAST       WEST       ALL  
EXISTING

TOTAL NO. OF AUDIBLE SIGNAL UNITS REQUIRED: \_\_\_\_\_

NOT RECOMMENDED; REASON AS FOLLOWS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EVALUATION COMPLETED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

RECOMMENDATION APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

DATE REQUESTER NOTIFIED OF STATUS OF REQUEST: \_\_\_\_\_

IF AUDIBLE SIGNAL INSTALLATION IS NOT RECOMMENDED, DATE DAC NOTIFIED: \_\_\_\_\_

IF AUDIBLE SIGNAL INSTALLATION IS RECOMMENDED, IS FUNDING AVAILABLE TO INSTALL?

YES; WRITE WORK ORDER

NO; PLACE ON WAITING LIST FOR FUTURE INSTALLATION

WORK ORDER NUMBER: \_\_\_\_\_ INSTALLATION DATE: \_\_\_\_\_



# Appendix E: Curb Ramp Construction / Modification Request Form

CURB RAMP INSTALLATION / MODIFICATION REQUEST NO. \_\_\_\_\_

Requester's Name: \_\_\_\_\_ Request Date: \_\_\_\_\_

Name of User (if other than requester): \_\_\_\_\_

Requester's / User's Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Requested Intersection: \_\_\_\_\_

Specified Corners: \_\_\_\_\_ Direction(s) of Travel \_\_\_\_\_ Time of Day \_\_\_\_\_

Conflicting Vehicle Movement(s): \_\_\_\_\_

Other Relevant Considerations: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CURB RAMP / INTERSECTION EVALUATION	Y	N	N/A	Rmk
1. Is this intersection near or en route to a generator of significant pedestrian activity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Are all crosswalks parallel to vehicular traffic movements, which alternatively provide helpful audible cues for a visually impaired person (V.I.P.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the intersection laid out in such a way that curb ramp will not inadvertently provide misleading cues for an incorrect crosswalk?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Is there a curb ramp existing at the corner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Are there curb ramps existing at other corners?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, which corners?				
6. Are there islands in the path of travel across the street:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do these islands have curbed wheelchair openings?				
7. Are there continuous, unobstructed sidewalks at both ends of all crosswalks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Do existing curb ramps have directional grooving/raised domes installed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Does the requested crossing have a clearly marked crosswalk?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Remarks: (correlate above Item No. with comment)

\_\_\_\_\_

\_\_\_\_\_

CURB RAMP INSTALLATION / MODIFICATION REQUEST NO. \_\_\_\_\_ Page 2

If curb ramp(s) are present, what modifications are needed:

---

---

---

---

---

---

---

---

---

---

THE INSTALLATION OF A CURB RAMP IS:

RECOMMENDED; INSTALL ON THE FOLLOWING CROSSWALK(S):

NORTH     SOUTH     EAST     WEST     ALL EXISTING

TOTAL NO. OF CURB RAMPS REQUIRED: \_\_\_\_\_

NOT RECOMMENDED; REASON AS FOLLOWS:

---

---

---

---

---

---

---

---

---

---

EVALUATION COMPLETED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

RECOMMENDATION APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

DATE REQUESTER NOTIFIED OF STATUS OF CURB RAMP REQUEST: \_\_\_\_\_

IF CURB RAMP INSTALLATION IS NOT RECOMMENDED, DATE DAC NOTIFIED:

---

IF CURB RAMP INSTALLATION IS RECOMMENDED, IS FUNDING AVAILABLE TO INSTALL?

YES; WRITE WORK ORDER

NO; PLACE ON WAITING LIST FOR FUTURE INSTALLATION

WORK ORDER NUMBER: \_\_\_\_\_ INSTALLATION DATE: \_\_\_\_\_



# Appendix F: City of San José Curb Ramp Inspection Form

To be filled out for every ramp constructed in City right-of-way.  
 This form should be completed within ten days of curb ramp construction.

Curb Ramp Location: \_\_\_\_\_ Project Name: \_\_\_\_\_  
 N/S Street: \_\_\_\_\_ E/W Street: \_\_\_\_\_

N/E    N/W    S/E    S/W

Vertical Curb    Rolled curb    One Ramp    Two Ramps

**CURB RAMP SLOPES:**

A: \_\_\_\_\_ B: \_\_\_\_\_ C: \_\_\_\_\_ D: \_\_\_\_\_

RIGHT SIDE LENGTH: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

PAN WIDTH: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

LEFT SIDE LENGTH: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

**TWO RAMPS ON CORNER (FOR 2ND RAMP):**

E: \_\_\_\_\_ F: \_\_\_\_\_ G: \_\_\_\_\_ H: \_\_\_\_\_

RIGHT SIDE LENGTH: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

PAN WIDTH: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

LEFT SIDE LENGTH: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

DISTANCE BETW. RAMPS: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

Inspected/measured by: \_\_\_\_\_

Date Field Measured: \_\_\_\_\_

Compliance with Standards:

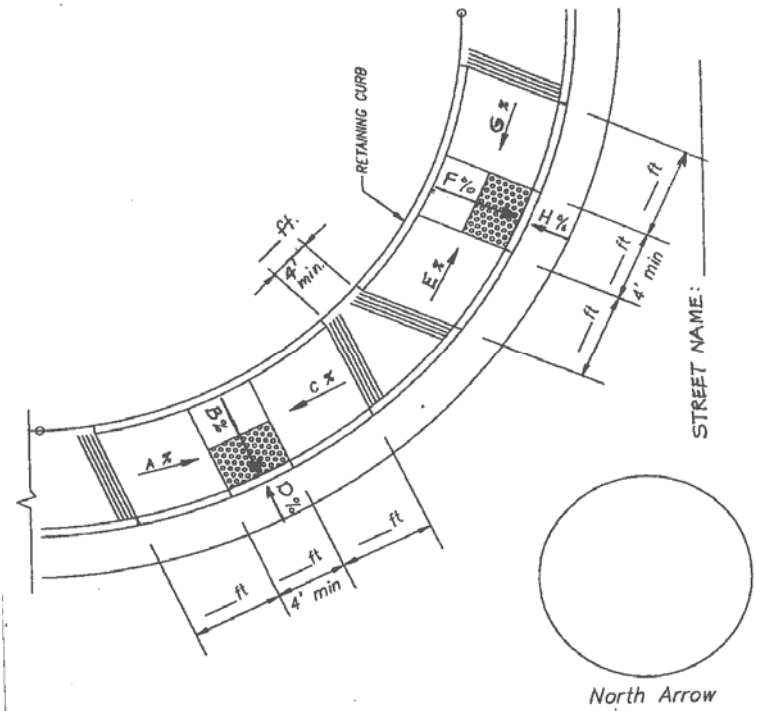
All curb ramps should comply with City's current design and construction standards. Where it is infeasible to construct or reconstruct a curb ramp to current standards, the Designer or Inspector must complete the Findings for Non-compliance Element(s) section below and state what the non-compliant element(s) are and the reason for the non-compliance. After completing this form submit it for acceptance.

Findings for Non-Compliance Element(s):

---



---



# Appendix G: City of San José Sidewalk Inspection Form

To be filled out for every sidewalk constructed in City right-of-way. This form should be completed within ten days of sidewalk construction.

Street: \_\_\_\_\_ Project Name: \_\_\_\_\_

Sides of Street:  N  E  S  W

Nearest Cross-Streets:

N or  E STREET \_\_\_\_\_  S or  W STREET \_\_\_\_\_

Vertical Curb  Rolled curb  No Curb  Planter strip entire length  Partial length planter strip

**STANDARDS:**

- Clear width at least 48" (not including curb) or at least 36" at obstruction (street signs, pole, bench, etc.)
- No overhead obstructions lower than 84".
- Cross-slope 2%. Running slope not greater than street or 5%, whichever is greater.
- No gaps deeper or than 1/2"; no cracks wider than 1-1/2".
- Surface concrete or asphalt, broom finish or equal slip-resistance. No drop-off greater than 4" at back.

**DRAW ALL OBSTRUCTIONS OR HAZARDS ON THE PLAN**

**NORTH OR WEST SIDE OF STREET:**

SIDEWALK CLEAR WIDTH: A1: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

A2: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

A3: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

PLANTER STRIP WIDTH: B: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

(PUT "0" IF NO PLANTER STRIP)

RUNNING SLOPE: C1: \_\_\_\_\_ % C2: \_\_\_\_\_ % C3: \_\_\_\_\_ %

CROSS-SLOPE: D1: \_\_\_\_\_ % D2: \_\_\_\_\_ % D3: \_\_\_\_\_ %

OTHER SPECIFIC CONDITIONS: \_\_\_\_\_

**SOUTH OR EAST SIDE OF STREET:**

SIDEWALK CLEAR WIDTH: E1: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

E2: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

E3: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

PLANTER STRIP WIDTH: F: \_\_\_\_\_ FT. \_\_\_\_\_ IN.

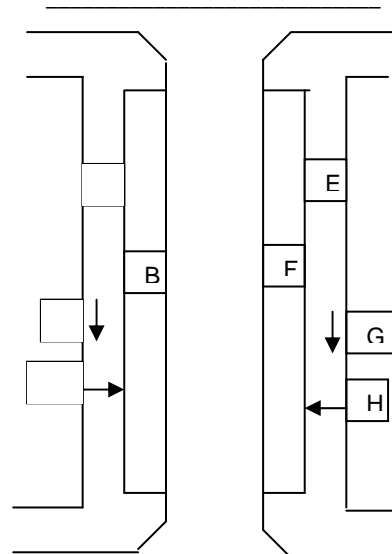
(PUT "0" IF NO PLANTER STRIP)

RUNNING SLOPE: G1: \_\_\_\_\_ % G2: \_\_\_\_\_ % G3: \_\_\_\_\_ %

CROSS-SLOPE: H1: \_\_\_\_\_ % H2: \_\_\_\_\_ % H3: \_\_\_\_\_ %

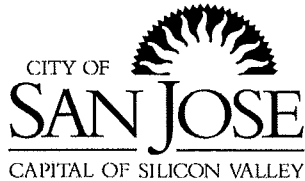
OTHER SPECIFIC CONDITIONS: \_\_\_\_\_

NORTH OR EAST CROSS-STREET



Inspected/measured by: \_\_\_\_\_ Date Field Measured: \_\_\_\_\_

Findings for Non-Compliance Element(s): \_\_\_\_\_



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Hans F. Larsen  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** 06-01-10

Approved

Date

6/4/10

**COUNCIL DISTRICT:** 3  
**SNI AREA:** N/A

**SUBJECT: AUTOMATED TRANSIT NETWORK AGREEMENTS AND ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE CONSTRUCTION EXCISE TAX FUND**

## RECOMMENDATION

1. Adopt a resolution authorizing the City Manager to negotiate and execute the following agreements to support the evaluation and potential implementation of an Automated Transit Network (ATN) connecting the San José Norman Y. Mineta International Airport to Light Rail, Caltrain, and future BART transit systems:
  - a. A cooperative agreement with the Santa Clara Valley Transportation Authority (VTA) providing funds in the amount of \$3.6 million from VTA to the City to retain two consultants for evaluation of an ATN system with an allocation of \$1.8 million for Phase 1 and \$1.8 million for Phase 2, using no City funds.
  - b. A consultant services agreement with Aerospace Corporation, a California Corporation to develop performance requirements for San José's proposed ATN system, assess the technical capability of current and future ATN systems, and evaluate the technical feasibility of building an ATN system that meets the City's goals, for a period from June 15, 2010 to December 31, 2011 and in the amount not to exceed \$1,000,000.
  - c. A consultant services agreement with Arup North America Ltd., a United Kingdom corporation authorized to conduct business in California to identify routing and station options, prepare ridership and revenue estimates, and evaluate the financial feasibility of building an ATN system, for a period from June 15, 2010 to December 31, 2011 and in the amount not to exceed \$800,000.
2. Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in 2010-2011 in the Construction Excise Tax Fund:

- a. Establish an appropriation to the Department of Transportation for the Automated Transit Network Project in the amount of \$1,800,000.
- b. Increase the estimate for Earned Revenue by \$1,800,000.

### **OUTCOME**

The recommended actions will enable the City and VTA to conduct a thorough technical and financial feasibility analysis for developing an automated transit connection between the Airport, Light Rail, Caltrain, and future BART transit services, consistent with requirements of the 2000 Measure A transit program. The project proposes to deploy a new form of transit technology referred to as an Automated Transit Network (ATN), Personal Rapid Transit or Podcars. Contemporary ATN projects are in operation or development in Europe and Asia. San José is receiving national and international attention for its active consideration as the first potential deployment of an ATN system in the United States. In October 2010, San José will be co-hosting an international podcar conference together with the International Institute for Sustainable Transportation and the Mineta Transportation Institute.

### **BACKGROUND**

In November 2000, Santa Clara County voters approved Measure A, a 30-year half cent sales tax extension dedicated to a specified list of public transit improvements as well as transit operations. One of the projects on the Measure A project list was construction of a rail line connecting the San José Norman Y. Mineta International Airport (Airport) to the Santa Clara Caltrain/future BART station to the west of the Airport and the North San José Light Rail Transit line to the east.

In 2001, the City hired a consultant to look at the possibility of building a Light Rail or Automated People Mover (APM) at the Airport. The study, which concluded in 2004, determined that an APM may be feasible. In 2006, VTA assumed the project lead and worked with the consultant to analyze additional routes for the APM. One of those options connected the Airport to the adjacent transit stations via a tunnel under the Airport runways. The final report issued by the consultants in June 2008 estimated the cost to construct the 1.5 mile tunnel alignment, the preferred route, at \$640 million dollars. This alignment would have offered the most direct connection between the various points, but would have provided only one station to serve the entire Airport. Given the high cost and limited service offered by the proposed APM system, the City and VTA chose not to move forward with the project and the City began to explore other options to meet the Measure A mandate.

In August 2008, the City issued a Request for Interest (RFI) for an Automated Transit Network (also known as Personal Rapid Transit or Podcar) — an innovative, emerging transit technology that, according to numerous studies, can be built and operated at lower cost than conventional transit and offer a higher-quality, more energy-efficient service in situations where conventional transportation solutions often do not work. The RFI sought to determine the readiness of this

emerging transit technology, depth of experience in the field, and potential for a public-private partnership to finance, build and operate such a system in the City.

San José received 17 responses to its RFI from firms around the globe. Based on responses to the RFI, as well as interviews with ATN firms, consultants, and independent researchers, the City's Department of Transportation concluded that further analysis was warranted as the technology appeared ready for commercial deployment.

One of the distinctions of an ATN, in contrast to conventional rail systems, is the ability to travel non-stop, from point of origin to destination. Stations are off the main line, allowing vehicles to bypass stations unimpeded by those stopping to pick up or discharge passengers. The vehicles are small (4-6 passenger), lightweight, and computer-controlled (driverless). They are typically operated on or suspended below an elevated network of guideways. Service is available on demand; there is no fixed schedule or routes. Passengers specify their destination. The analogy frequently applied is that of a horizontal elevator or an automated taxi service. A network of guideways can provide greater routing flexibility, serve larger geographic areas and extend the half-mile circle considered "walkable" around traditional transit stations. By extending round-the-clock transit service deeper into neighborhoods and to key destinations, such as office campuses, medical facilities, and shopping centers, ATN can boost transit ridership and improve the mobility of transit-dependent residents.

ATN technology has been in development for more than 50 years, but now appears to be making the transition from concept to reality. The first modern ATN system was built in Heathrow-London Airport and opened to the public in April 2010. Another ATN system built in the United Arab Emirates is currently in testing mode. A third ATN firm has signed a contract to build a system in South Korea. Additionally, Sweden intends to construct an ATN system in one of its major cities.

On April 1, 2010, the VTA Board voted unanimously to authorize expenditure of \$4 million dollars in Measure A funds to support the development of an ATN system as a transit connector serving the Airport. Of that total, \$3.6 million would be provided to the City for consultant services; the remainder would be retained by the agency to cover its project costs. Half of the funds, \$1.8 million, would be devoted to the first phase of the project (Preliminary Engineering). VTA has committed \$1.8 million towards the estimated \$6 million cost for Phase 2 (Final Design). If the VTA and City decide to move forward with the project to Phase 2 (Final Design), the City and VTA will need to work together and secure additional funding for Phase 2 (Final Design), and subsequent Phase 3 (Construction and Verification).

The City is also interested in evaluating whether any proposed ATN system could be expanded to other areas such as to the Diridon Station. Attached is a map of the proposed ATN network in the Airport area and a potential extension to the Diridon Station. VTA will not fund any analysis for expansion and the City would need to secure approximately \$200,000 in additional funds in Phase 1 for its consultant team to conduct a preliminary investigation of the potential to expand the system beyond the Airport.

Should San José move forward with the construction of an ATN system, it is likely to be the fifth such system built in the world and the first in the United States. That possibility has focused national media attention on the City and could aid San José in its efforts to secure the additional funding necessary to finalize the design and build the system. San José's decision to pursue an ATN, coupled with its connection to Silicon Valley, prompted the Swedish based International Institute for Sustainable Transportation to ask the City's Department of Transportation to speak at the 2009 international Podcar City conference in Malmo, Sweden and subsequently to host its 2010 conference. The San José event will be the fourth Podcar City conference; the first was held in Uppsala, Sweden, the second in Ithaca, New York. This event is expected to draw 250 participants from around the world.

### **ANALYSIS**

An ATN appears to offer the potential to advance a number of San José's Green Vision goals, including greening the City's transportation system, reducing its energy consumption, increasing the number of clean tech jobs, and improving the environment. It could improve the effectiveness of the City's transit system by helping to overcome the "last mile" barrier. But there are also significant challenges involved in pursuing such a project. The City needs to analyze whether the reality of ATN is equal to its promise.

The primary focus of the first phase of the ATN Project is a rigorous and comprehensive analysis of the technical and financial feasibility of the Airport-area ATN Project. If the City is able to secure additional funding, the consultants will expand this analysis to examine the feasibility of expanding the system to other areas of the City, e.g., Diridon Station.

As part of this Phase 1 analysis, the City's consultants will develop ridership and revenue projections, assess the capability and capacity of existing ATN suppliers, and determine if these suppliers can deliver a system at a price that would make construction of the system viable. They will examine different types of financing structures that might be used to finance the construction, operation, maintenance and future expansion of the system. And they will determine whether the system could be operated in a manner that would have a net neutral, if not positive, impact on the Airport and VTA.

For example, an ATN system that would connect the Airport to mass transit could reduce Airport parking revenues by making it easier for passengers to use transit rather than drive. However, the ATN could potentially have a net neutral or even positive impact on the Airport by: reducing the Airport's annual shuttle costs (estimated at \$8.8 million for fiscal year 2010-11), expanding the Airport service area by connecting it to Diridon Station and High Speed Rail passengers; or by expanding the Airport's real estate options by enabling it to build a long-term/employee parking garage offsite, served by the ATN.

If the project proceeds to Phase 2, the consultant team would prepare the necessary environmental documents to secure state and possibly federal certification, finalize the business plan, advance the design to 65 percent; evaluate whether a "design/build" procurement process

would result in monetary and time savings for City, assist City in preparing the solicitation for possible “design/build” or finalizing the design for bid, and select the City’s ATN vendor. In Phase 3, the ATN consultant team would assist in construction management, continue outreach to the community and stakeholders; verify that the system meets regulatory and Project requirements and that operational and maintenance systems are in place.

Ultimately, the analysis produced at the conclusion of Phase 1 will provide the City with objective information and measures it may use to determine whether to move forward with Phase 2 and subsequently Phase 3 of the project.

### Guiding Principles

The City has also developed the following guiding principles for the analysis and development of the Project. The ATN project must:

- Support and advance the City’s Green Vision.
- Support San Jose’s Envision 2040 General Plan update, which contemplates increasing land use densities and transit usage in selected areas (Transit Villages) around the City and may include greenhouse gas emission and vehicle miles traveled target reductions.
- Enhance transit ridership on existing rail systems and potentially overcome the “last mile” hurdle.
- Facilitate the generation, directly or indirectly, of green tech jobs.
- Result in no net negative impact on the Airport.

### VTA Funding and Cooperative Agreement

The proposed funding and cooperative agreement between VTA and the City would provide all of the anticipated funding required for Phase I of this project (Preliminary Engineering) and a portion of the anticipated funds needed for Phase 2 (Final Design). The City is seeking grant funding to augment the VTA’s commitment for Phase 1 to allow its consultant team to study the potential for expanding the system beyond the Airport area and the defined Measure A project, to areas such as Diridon Station and North San José. If the City is successful in securing additional funds, staff will ask the Council to approve amendments to the consultants’ contracts.

The proposed funding and cooperative agreement between VTA and the City in the amount of \$3.6 million has the following obligations, terms and conditions:

1. VTA is only funding the study, planning, and design for a direct connection between the Airport and adjacent public transit stations (as described in the Background section) and any potential stops along that direct alignment that might make the initial system financially viable. Any consideration of expanding the system or diverting the alignment beyond this direct connection must be funded with non-VTA money.

2. City and VTA agree that the project will not proceed to Phase 2 (Final Design) until additional funding is secured and both parties agree at the end of Phase 1 (Preliminary Engineering) that the technical and financial feasibility of the airport transit connection project has been established.
3. VTA will provide City the \$1.8 million in four (4) installments in accordance to a schedule included in the proposed agreement based on key milestones during Phase 1. It is anticipated that VTA will furnish the funds in advance for each installment, approximately in four, three (3)-month increments. Upon execution of this proposed agreement, City and VTA agree to meet before the City's consultants begin work, to further define Phase 1 tasks, deliverables, costs, and schedule for deliverables.
4. If VTA and the City agree to proceed to Phase 2 of the Project, the City and VTA agree to work together to secure the additional \$4.2 million that it is anticipated will be needed for Phase 2. The precise amount that will be required will be determined at the end of Phase 1.

Either party may terminate the agreement with sixty (60) day written notice. If the Agreement is terminated, City shall return all funds (including interest) provided by VTA and unexpended as of the effective date of the termination, less the funds detailed and invoiced as necessary to pay for services rendered prior to the effective date of the termination. City shall return such funds within thirty (30) calendar days of the effective date of the termination. If the City is owed money by VTA, VTA shall render such funds prior to the effective date of the termination.

#### Consultant Contracts

The City's Department of Transportation conducted a consultant selection process in accordance with the City's Qualifications Based Consultant Selection Policy. A Request for Qualifications for Transportation Planning Services was issued on August 24, 2009. A Request for Qualifications for a Federally Funded Research and Development Center (FFRDC) Development Services was issued on December 9, 2009.

Due to the developmental nature of the project, the City determined it would be prudent to pair its transportation consultant with an FFRDC with extensive systems engineering experience. FFRDCs are non-profit organizations sponsored by federal agencies that assist the United States government with research on and the development of new technologies; ensuring that new, complex systems acquired by the government meet operational requirements; and preparing analyses in support of policy development and alternative approaches. Today there are 36 FFRDCs. The first was RAND, created by the Air Force in California in 1947. It was followed by such other well known entities as Mitre Corporation, the National Renewable Energy Laboratory, and Lawrence Livermore National Laboratory. Within limitations established by their sponsor, many FFRDCs can accept work from entities others than their sponsor. They are prohibited by statute from competing with the private sector; consequently their work tends to



focus on new technologies that have not yet been commercialized. One of their functions is to facilitate the process of converting basic research into commercially viable products.

The missions and core competencies of FFRDCs vary in relation to the needs of their sponsors. One subset specializes in the design, development, acquisition and operation of large scale, highly integrated, advanced technology systems—such as verifying the design of NASA’s space shuttles and rockets. These systems must meet extremely high levels of system reliability and safety. Staff felt that including an FFRDC with these skills, capabilities and experience—which differ and complement those of private sector transportation consultants—would minimize the City’s risk exposure on this project and maximize its odds of success. In addition, the involvement of an FFRDC can help build confidence in the project and facilitate public and private investment for project implementation.

Staff conducted the RFQs with the intention that future design/development and construction support contracts associated with the Project would be negotiated and executed with the selected consultants with Council approval. The terms of the RFQ indicated that the selected consultants would perform all of the design, development, and construction support services for the Project, should it move forward to Phase 2 and Phase 3.

The consultant review panels for both RFQs included representatives from the VTA, the Airport Department and the Department of Transportation.

#### FFRDC Selection Process

The FFRDC Development Services RFQ was initially issued as an RFP on August 31, 2009 and reissued as an RFQ on December 9, 2009 to bring the procurement process into conformity with the City’s Qualifications Based Consultant Selection Policy. The City contacted all thirty-six (36) recognized FFRDCs by phone, mail or e-mail to make them aware of the RFQ. One (1) Statement of Qualification (SOQ) from Aerospace Corporation was received in response to both solicitations. A five-member review panel consisting of DOT, Airport and VTA scored the SOQ and the interview based on the following criteria:

- The firm’s overall ability as well as that of the project lead to provide the services required;
- The firm’s demonstrated understanding of the issues involved in automated systems and automated networked systems;
- The qualifications/technical expertise of the key personnel comprising the Project Team related to the development and deployment of new, complex technological systems;
- The firm’s demonstrated grasp of the Project and the steps that will be necessary to successfully achieve Project goals;
- City’s Local Business and Small Business Preference Ordinance.

The review panel selected Aerospace and believes they have the experience and qualifications to perform under the proposed agreement. The consultant agreement with Aerospace for Phase 1

(preliminary engineering) will be in an amount not to exceed \$1,000,000 for independent systems engineering support. The proposed contract includes the following key elements:

- Development of technical requirements for a preferred system.
- Evaluation of system architecture options to support San José's preferred system arrangement, including technical performance and readiness assessments, technology gap evaluations, and reliability estimates.
- Development of a preliminary acquisition strategy sufficient to evaluate the feasibility of the project, including independent cost and schedule estimates, risks and potential mitigation strategies, and vendor capacity and industrial base/logistics assessments.

If the City is successful in securing additional funds to study potential extensions to the Airport-area, Council will be asked to approve amendments to the consultant's contract. If the Council elects to proceed to Phase 2 (final design and development) and Phase 3 (construction, verification and testing) of the Project, a revised contract with Aerospace will be submitted to the Council for approval for these later phases.

#### Transportation Consultant Selection Process

The Transportation Design Services RFQ was issued on October 23, 2009. Four (4) SOQs were received in response. A five-member selection board consisting of DOT, Airport and VTA staff interviewed the two top scoring firms on January 7, 2010 based on the SOQ scores. (The two top ranked firms scored at least 15 points higher than those ranked third and fourth.) The selection board ranked the firms as follows: 1) Arup North America; 2) Lea + Elliot; 3) Hatch Mott McDonald; 4) Jakes and Associates.

The board scored the SOQ and the interview based on the following criteria:

- The firm's overall ability as well as that of the project lead to provide the services required;
- The firm's knowledge of and experience with automated systems and automated networked systems;
- The qualifications/technical expertise of key personnel and sub-consultants comprising the Project Team related to the development and deployment of new transit technology;
- The firm's demonstrated grasp of the Project and the steps that will be necessary to successfully achieve Project goals;
- The firm's experience with and expertise in community/stakeholder outreach and conflict resolution;
- City's Local Business and Small Business Preference Ordinance.

The evaluation process accorded 100 points to the interview and 100 points to the SOQ. In the final tabulation, the selection board ranked Arup first.

The consultant agreement with Arup for Phase 1 will be in an amount not to exceed \$800,000 for transportation design and planning services. The contract will include the following key elements:

- Development of routing and station options, ridership and revenue projections
- Preparation of a business plan for design, construction, financing, operating and maintaining ATN system
- Preparation of a cost/revenue analysis for fare model and identification of fare collection approaches
- Outreach to community and stakeholders
- Identification of environmental documents that would need to be prepared should the project move forward
- Identification of fire/life safety criteria and requirements

If the City is successful in securing additional funds to study potential extensions to the Airport-area project, Council will be asked to approve amendments to the consultant's contract. If the Council elects to proceed to Phase 2 (final design and development) and Phase 3 (construction, verification and testing) of the Project, a revised contract with Arup will be submitted to the Council for approval.

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

Staff's recommendations on whether to proceed to subsequent phases of the project will be provided to the Council at the conclusion of Phase 1, along with the consultants' preliminary technical and financial feasibility report. The Phase 1 process is proposed to be complete in Spring 2011.

### **POLICY ALTERNATIVES**

Not applicable.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- Criterion 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- Criterion 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

The recommendations in this memorandum meet Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This memorandum will be posted on the City's website as part of the Council Agenda. As part of the ATN project, City staff and the Consultant team will conduct stakeholder outreach and, if the project is deemed technically and financially feasible, outreach to the public on the proposed project. The RFQs were posted on the City's Internet Bid Line and e-mails were sent to every FFRDC for which City staff could obtain an e-mail address.

### **COORDINATION**

Preparation of this report was coordinated with the City Attorney's Office, Airport Department, and Department of Planning, Building and Code Enforcement.

### **FISCAL/POLICY ALIGNMENT**

The Project aligns with the City's Green Vision/Green Mobility goals.

### **COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:  
Project – Phase I, Preliminary Engineering (VTA Funds)                      \$1,800,000
2. SOURCE OF FUNDING: Construction Excise Tax Fund
3. FISCAL IMPACT: This memorandum recommends the adoption of a resolution authorizing the City Manager to negotiate and execute agreements for consultant services to evaluate the financial and technical feasibility of building an ATN connecting the San José Airport to the Light Rail transit system along North First Street and the Caltrain/future BART transit stations west of the Airport in Santa Clara. Phase 1 includes the development of a business plan, which will identify preliminary operations and maintenance costs. These costs will be finalized upon completion of Phase 2 (the final design and development). One goal of this evaluation will be to minimize the amount of operations and maintenance costs to the City.

### **BUDGET REFERENCE**

Phase 1 of this project in the amount of \$1.8 million will be funded entirely by VTA, the funds will go to the City and be recognized in the Construction Excise Tax Fund, and the funds will provide for the consultant services agreements. In the event the City would like to expand Phase 1 of the project to include analysis of potentially expanding the ATN system to other parts of the City, other than the vicinity of the Airport, City will need to secure additional funding and will seek Council approval for any required budget action at that time. Additionally, in the event the City and VTA jointly elect to proceed to Phase 2 of the project, VTA will provide an additional \$1.8 million for Phase 2 and City will need to secure additional funding of approximately \$4.2

million for Phase 2. Staff will go back to Council for any required budget action at the appropriate time.

The table below identifies the fund and appropriations proposed to fund the agreements recommended as part of this memo.

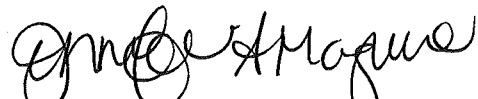
Fund	Appn.	Appn. Name	Total Appn.	Amt. for Agreements	2010-2011 Proposed Capital Budget Page	Last Budget Action (Date, Ord. No.)
<b>Funding Recommended</b>						
465	TBD	Automated Transit Network	\$1,800,000	\$1,800,000	N/A	N/A
<b>Total Funding for Agreements</b>			<b>\$1,800,000</b>	<b>\$1,800,000</b>		

**CEQA**

Not a project. There is a statutory exemption from CEQA for feasibility and planning studies under Section 15-262. If the City decides to proceed with the project, to move to Phase II, Arup will prepare all necessary environmental documents to inform future City decisions regarding the potential construction of an Automated Transit Network.

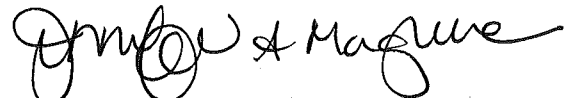


HANS F. LARSEN  
Acting Director of Transportation



JENNIFER A. MAGUIRE  
Budget Director

I hereby certify that there will be available for appropriation in the Construction Excise Tax Fund in the Fiscal Year 2010-2011 monies in excess of those heretofore appropriated therefrom, said excess being at least \$1,800,000.

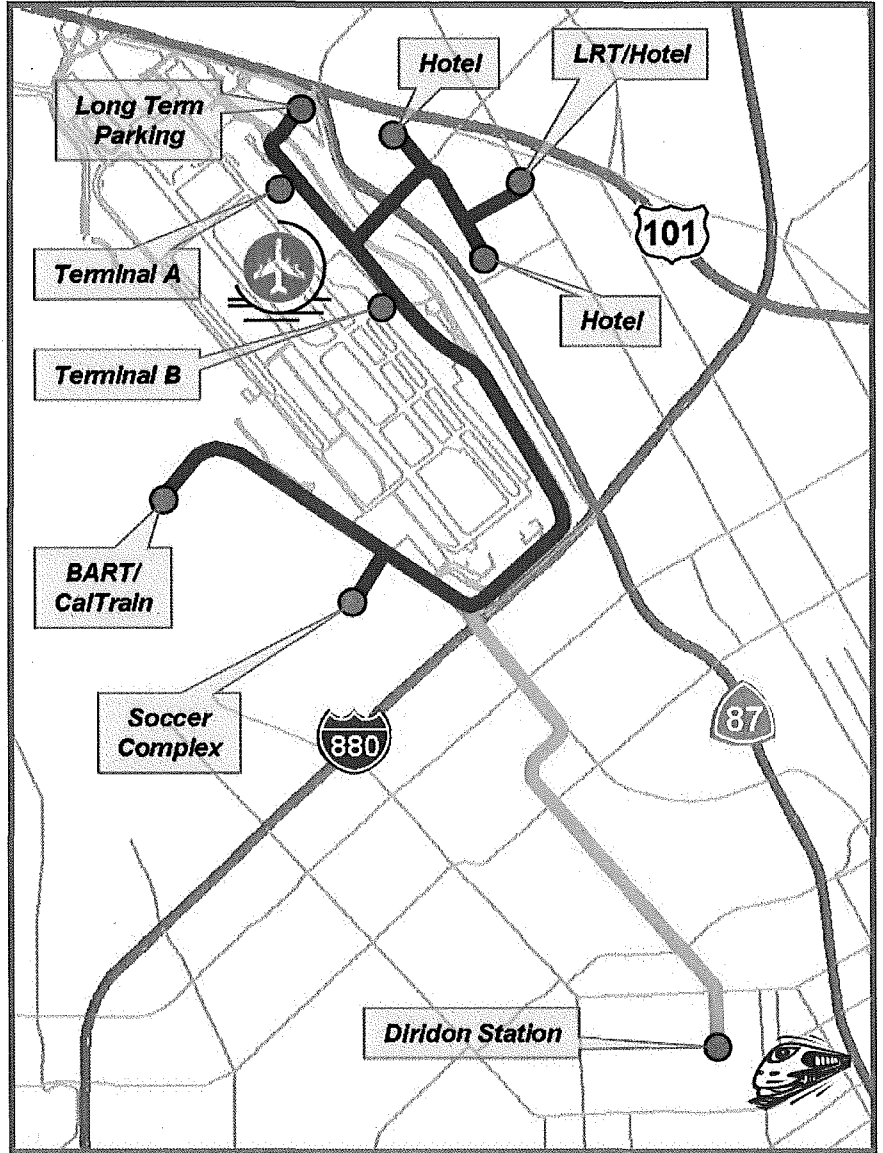
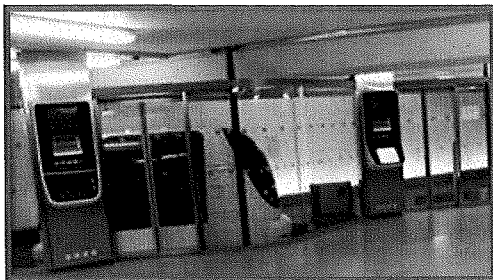
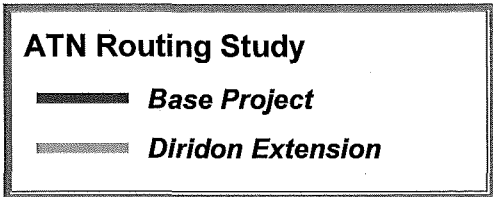


JENNIFER A. MAGUIRE  
Budget Director

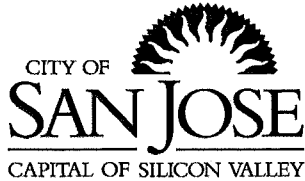
For questions please contact Laura Stuchinsky, Sustainability Officer, Department of Transportation, (408) 975-3226.

Attachment

# Automated Transit Network Project Study Area



NOTE: Photographs illustrate an ATN system built at Heathrow-London Airport.



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** John Stufflebean

**SUBJECT:** SOLID WASTE SERVICE  
AGREEMENTS

**DATE:** 06-01-10

Approved

Date

6/7/10

**COUNCIL DISTRICT:** City-Wide

## RECOMMENDATION

1. Adopt a resolution authorizing the City Manager to negotiate and execute the following agreements for solid waste services with terms from July 1, 2010 through June 30, 2021:
  - a) California Waste Solutions for recyclables collection and processing for single-family dwellings in Districts A and C, for a total first year cost of \$16,129,900.
  - b) Garden City Sanitation, Inc. for single-family dwelling garbage collection in Districts A and C for a total first year cost of \$18,314,800, with an option for providing billing and customer service for single-family dwellings in Districts A and C at an additional cost.
  - c) GreenTeam of San Jose for collection of garbage and recyclables for multi-family dwellings Citywide, single-family dwellings in District B, neighborhood clean-up services in District B, and City Facility garbage and recycling collection and processing services, for a total first year cost of \$28,924,989, with an option for providing billing and customer services for single-family dwellings in District B and multi-family dwellings Citywide at an additional cost.
  - d) GreenWaste Recovery, Inc. for Citywide residential yard trimmings and street sweeping collection and processing, back-end processing of municipal solid waste where applicable, neighborhood clean-up services in Districts A and C, and Citywide public litter can collection and processing services, for a total first year cost of \$22,847,700.
2. Direct staff to allocate a \$2,000,000 savings realized from the proposed solid waste service agreement with GreenWaste Recovery in 2010-2011, originally recommended to mitigate Recycle Plus rate payer increases and to fund diversion activities, for the construction of a permanent Household Hazardous Waste facility in San Jose for the City's residential Recycle Plus customers.

## **OUTCOME**

Approval of this recommendation would improve the City's integrated waste management program and advance the City's Green Vision and Zero Waste goals by using the savings from reducing the cost of existing services to pay for program improvement, by providing an option to transition the billing and customer service to the contractors, and by reducing emissions through the use of compressed natural gas (CNG) fuel.

Allocating the savings for Fiscal Year 2010-2011 from these new agreements to the construction of the Household Hazardous Waste Facility would provide San Jose residents a safe and convenient means to dispose of common toxic residential waste.

## **BACKGROUND**

On March 30, 2010, the Council directed staff to negotiate new agreements with California Waste Solutions (CWS), Garden City Sanitation (Garden City), GreenTeam of San Jose (GreenTeam) and GreenWaste Recovery, Inc. (GreenWaste), which included an option for contractor provided billing, customer service, and remittance processing services, and to return to Council with the proposed agreements. From March 30, 2010 to late May 2010, staff met with the contractors in several negotiation sessions to establish the terms of these new agreements.

The following table (**Table 1**) shows the current solid waste contractors, their collection districts, diversion requirements, and the services they provide.



**TABLE 1: Current Solid Waste Agreements**

Service	Contractor	2010-2011 Contract Budget	Diversion Requirement	District A (93,500 households)	District B (48,500 households)	District C (67,000 households)	Multi Family (3,300 complexes; 95,500 units)
Single-Family Dwelling (SFD) Garbage	Garden City	\$18,314,800	N/A	X		X	
SFD Recycling	CWS	\$16,129,900	30% A 35% C	X		X	
SFD Garbage & Recycling	GreenTeam	\$11,978,500	35%		X		
Multi-Family Dwelling (MFD) Garbage & Recycling	GreenTeam	\$11,729,200	35%				X
Yard Trimmings & Residential Street Sweeping	GreenWaste	\$22,399,600	95%	X	X	X	
MFD Garbage Processing	GreenWaste	\$3,924,800	70%				X
Neighborhood Clean-Up (NCU) (Rubbish & Recycling)	GreenWaste	\$448,100	75%	X		X	
NCU (Rubbish & Recycling)	GreenTeam	\$51,900	50%		X		
<b>Total Recycle Plus Contracts</b>		<b>\$84,976,800</b>					
City Facilities	GreenTeam	\$1,240,589	70%	155 City-owned and operated facilities			
Public Litter Cans (PLC)	GreenWaste	\$0	70%	~800 containers throughout the City			
<b>Total All Contracts</b>		<b>\$86,217,389</b>					

**ANALYSIS**

The proposed solid waste agreements provide for various financial, operational, programmatic, and administrative benefits. Financial benefits would be realized in the Integrated Waste Management (IWM) Fund due to negotiated reductions in certain solid waste costs and potentially in the option to switch to contractor-provided billing. These financial benefits could be utilized for various purposes, including mitigating future Recycle Plus rate increases, implementing program enhancements over the term of the new agreements, and provide key funding for the construction of a household hazardous waste (HHW) facility in San José. The contractors would upgrade their collection fleets to biodiesel or CNG, improve recyclables processing, and agree to various administrative adjustments to simplify the day-to-day management of the contracts. Finally, continuation of collection services with the current

contractors through June 2021 would defer a transition to other contractors for the City's more than 300,000 Recycle Plus customers.

The terms of the new agreements are summarized in Table 2, and are further described following Table 2.

**TABLE 2: Benefits of Proposed Solid Waste Agreements (July 1, 2010 - June 30, 2021)**

Contractor	2010-2011 Ratepayer Savings	Eleven Year Ratepayer Savings	Detail of Ratepayer Savings	Additional Benefits
Garden City	\$0	\$21,200,000	Annual payments of \$2,650,000 per year starting in 2013-2014 payable in installments which could include monthly invoice deductions beginning July 1, 2013 <i>(Savings: \$21,200,000)</i>	Beginning in 2012-2013, phased-in repowering of entire 50 vehicle fleet from diesel to CNG <i>(Estimated Value: \$7.5 to \$8 million)</i>
GreenWaste	\$2,600,000	\$8,434,061	In 2015-2016, forego annual adjustment for Yard Trimmings, Street Sweeping, MFD Processing, and District A & C NCU services <i>(Estimated Compounded Savings: \$5,834,061)</i> In 2010-2011, \$2,000,000 cash payment upon agreement execution In 2010-2011, monthly invoice deductions <i>(Savings: \$600,000)</i>	When needed, replace vehicles with CNG powered engines at no additional cost Option to process 100-150 tons per day of SFD garbage at an additional cost. From 2013-2014 to 2020-2014, no charge for processing residential street sweeping material, contingent upon the City sending SFD garbage tons for processing. Commitment to clean and domestic recycling of electronic waste at no additional cost Effective July 1, 2010, increase NCU diversion from 75% to 90% Provide 50 targeted NCU bins per year at no charge <i>(Estimated Value: \$48,861 over 11 years)</i> During entire term, provide PLC services at no charge <i>(Estimated Value: \$4,455,660)</i>

**TABLE 2 (Cont'd.)**

CWS	\$218,182	\$2,400,000	<p>Annually beginning in 2010-2011, savings of \$218,182 accomplished by:</p> <ol style="list-style-type: none"> <li>1. Assuming costs of sending baled residue to Newby Island Landfill <i>(Estimated Savings over 11 years: \$613,800)</i></li> <li>2. Monthly invoice deductions <i>(Estimated Savings over 11 years: \$330,000)</i></li> <li>3. Annual invoice deductions payable in June <i>(Estimated Savings over 11 years: \$1,456,200)</i></li> </ol>	<p>Effective July 1, 2010, increase Large Item diversion from 50% to 75%</p> <p>During second half of 2014-2015, switch entire fleet from diesel to biodiesel or another mutually agreed upon alternative fuel at no additional cost</p> <p>During second half of 2014-2015, replace all supervisor and appropriate light-duty vehicles to hybrid-drive technology</p> <p>Commitment to clean and domestic recycling of electronic waste at no additional cost</p>
GreenTeam	\$17,400	\$191,400	<p>Starting in 2010-2011, assume costs of sending baled residue to Newby Island Landfill <i>(Total Estimated Savings: \$191,400)</i></p>	<p>Effective July 1, 2010, increase Large Item diversion from 50% to 75%</p> <p>Effective July 1, 2010, increase NCU diversion from 50% to 75% at no additional cost</p> <p>Beginning in 2011-2012, phased-in replacement of entire fleet from biodiesel to CNG and construction of a slow-fill CNG fueling station to allow vehicle conversions <i>(Estimated Value: \$2.6 to \$3 million)</i></p> <p>Effective July 1, 2010, process all recyclables to standards set by the Institute of Scrap Recyclers Industries, Inc.</p> <p>Commitment to clean and domestic recycling of electronic waste at no additional cost</p> <p>Provide 12 targeted NCU bins per year at no charge <i>(Estimated Value: \$68,580 over 11 years)</i></p> <p>In 2010-2011, option to fund a Recycle Bank pilot for MFDs at an additional cost</p> <p>In 2010, forego annual CPI adjustment for City Facilities collection <i>(Estimated Compounded Value through 2021: \$495,666)</i></p>
<b>Contractor</b>	<b>2010-2011 Ratepayer Savings</b>	<b>Eleven Year Ratepayer Savings</b>	<b>Detail of Ratepayer Savings</b>	<b>Additional Benefits</b>
<b>Total Recycle Plus Ratepayer Savings</b>	<b>\$2,835,582</b>	<b>\$32,225,461*</b>		

\* Equivalent to 3.4% of the total contract value (\$948 million) over the proposed eleven year term.

**Financial Benefits**

- *Immediate Savings in 2010-2011 and Monthly Invoice Deductions Beyond 2010-2011* – The table above depicts immediate savings in 2010-2011 of \$2.8 million. Of this amount, two million, which will be received as a cash payment in 2010-2011, is proposed to fund the construction of an HHW facility in San José. In the fall, staff plans to bring forward to Council budget actions to appropriate these savings as part of a memorandum on construction and funding strategies for the Household Hazardous Waste facility and Environmental Innovation Center. It is anticipated that the \$2 million used to build the HHW facility would be returned to the IWM Fund over the life of the building in the form of lease payments made by non-City users of the facility (most likely the County of Santa Clara). Using the \$2 million as described above would leave approximately \$836,000 in immediate savings from the new agreement benefits in the IWM Fund balance. This \$836,000 would mitigate the need for a one percent ratepayer increase in 2010-2011. It is important to note that avoided rate increases in 2010-2011, and the \$32 million in ratepayer financial benefits, do not mean that customer rates will not increase over the entire term of the new agreements. The Recycle Plus rates are structured to provide the contractors recovery for all costs including changes in economic conditions (i.e. labor, fuel, and general inflation), contractual obligations and new program services. Furthermore, as noted in the footnote below Table 2, the financial benefits of the new agreements represent only 3.4% of the total contractual costs during the term of the new agreements. Therefore, even with \$32 million in financial benefits over the eleven year term, rate increases will be necessary as early as 2011. The specific amounts can only be estimated until the annual cost of living contract adjustments are determined and any other impacts are incorporated into program costs in the annual budget preparation process.
- *Deferral of Annual Cost of Living Adjustments* – In the current terms of the Recycle Plus agreements, there are no limits (either up or down) to the annual Refuse Rate Increase (RRI). The RRI is similar to a cost of living adjustment that allows for cost increases (fuel, labor, etc.). Annual adjustments for contract costs are based on changes in indices published by the Bureau of Labor Statistics. No RRI limits can be problematic for a contractor that has experienced increased expenses despite a negative RRI, and conversely problematic to ratepayers if the RRI is exceptionally high. The proposed contracts would smooth out the impact by carrying over any RRI amount below zero percent or over six percent to the subsequent year. Positive RRIs over six percent will be deferred for a maximum of four years. Although this provision is not a strict limit to RRIs, it does serve to defer one-time spikes and drops in annual adjustments, thus providing protection to ratepayers and contractors.
- *Foregone Annual Adjustments (Refuse Rate Increase)* – Two contractors would forego one annual adjustment. In 2015-2016, GreenWaste would waive any increase to service rates for Citywide Yard Trimmings, Residential Street Sweeping, and MFD solid waste processing services, and for Neighborhood Clean-Up (NCU) collection and processing in Districts A and C. In calendar year 2010, GreenTeam would waive any increase to its annual cost of living adjustment for all City Facility collection services, valued at almost \$26,000. When compounded through the end of the proposed term, the value of these offers total \$5,841,720 for GreenWaste and \$399,177 for GreenTeam.

### **Community Benefits**

- *No Cost PLC Collection and Processing* – Historically, the City included PLC service in the residential solid waste service agreements, a practice which is common throughout municipalities in the Bay Area. By adding this service to the proposed Recycle Plus agreement scope of services, GreenWaste can provide PLC collection and processing services at no cost for the entire term of the new agreement, a value of nearly \$4.5 million. In addition, the contract terms will allow for slight growth of PLCs over the years, capped at 1% per year.
- *No Cost Targeted NCU Bins* – The City's Code Enforcement Division assists public and private properties to perform targeted NCUs. In each contract year, GreenWaste would provide 50 targeted bins at no charge and GreenTeam would provide 12 targeted bins at no charge. The total value of these offers between both contractors is roughly \$117,000 over the entire term of the contracts, and benefits the community by cleaning up properties outside of the regularly scheduled NCU rotation paid by ratepayers.

### **Program Enhancements**

- *Option to Increase Frequency of NCUs* – At the March 30, 2010 City Council meeting, Council directed staff to evaluate the costs involved with increasing the frequency of NCUs from the current three-year rotation to a two- or one-year rotation. The NCU contract with GreenWaste currently allows for the two-year rotation. New agreement language will include the flexibility to provide bin services on a two-year or one-year schedule should Council choose to increase NCU service levels. Staff, as requested by Council, will bring forth to the Transportation and Environment (T&E) Committee an analysis of the cost to expand the NCU program to a two-year or more frequent rotation in late 2010.
- *Option to Utilize Yard Trimmings Material for Demonstration Projects* – The new agreements would provide an option for the City to utilize up to 6,000 tons per year of yard trimmings and/or the pre-processed organics fraction of municipal solid waste to a facility within San Jose that is designated by the City to conduct pilot test programs for energy conversion technologies.
- *Future Opportunity for Containerized Yard Waste Collection* – Council could consider at a future date amending GreenWaste's contract with the City to provide all City residents with up to two yard trimmings carts for weekly collection of yard waste, and once monthly on-street pick-ups of yard waste. Staff is evaluating this collection method using data obtained through the organics pilots currently underway and scheduled for completion in August 2011 (discussed below). Therefore, the earliest possible implementation of the yard waste cart collection system citywide would be 2013.

### **Improved Recycling Requirements**

- *Option for Additional Garbage Processing* – In 2009-2010, the City implemented three organics pilots to determine the best methods for capturing food waste, yard trimmings, and other organics from residential garbage. The three pilots include a garbage processing pilot that sorted single-family garbage for recyclables; a yard trimmings cart pilot; and an organics cart pilot to collect bagged food waste in the yard trimmings cart. Staff proposes to

discontinue the garbage processing pilot effective June 30, 2010 and to reserve this service as an option in the new GreenWaste agreement. There will be no change in service to residents by discontinuing this pilot. Important data has been obtained from this pilot, which indicates that approximately 350 tons of recyclables were being diverted monthly. As a cost saving measure (\$700,000 in 2010-2011), staff recommends resuming this processing of up to 150 tons per day when additional contract savings become available. The rate for this service is \$75 per ton and GreenWaste has committed to a 75% diversion rate. In addition, should the City opt to implement this option, GreenWaste would process residential street sweeping waste at no additional cost to the City from 2013-2014 to 2020-2021. Currently, the City pays for disposal of this material at Newby Island Landfill, and this benefit would reduce the City's disposal costs.

- *Processing of All NCU Materials* – All material that is collected from NCU events and categorized as 'rubbish' is disposed of at the landfill. GreenTeam and GreenWaste would be required to sort the NCU material prior to disposal to increase diversion. GreenTeam's diversion requirement would increase from 50% to 75%, and GreenWaste's target would increase from 75% to 90%.
- *Recycling Processing Improvements* – To achieve the highest and best use of San Jose's recycling stream, CWS currently has a contract requirement to process all recyclables to standards set by the Institute of Scrap Recycling Industries, Inc. (ISRI). GreenTeam has agreed to incorporate this higher recycling standard into its new contract, resulting in consistent Citywide specifications for processing residential recyclables. Additionally, the new agreements will help to improve waste diversion by allowing for secondary processing of some recyclables. To ensure that initial processing is adequate, secondary processing of recyclables will be limited to a specified maximum percentage of the total recyclables collected.
- *Processing of All Large Item Collections* – Both GreenTeam and CWS will be required to divert 75% of the material collected under the Large Item Collection program. These new waste diversion standards represent a significant increase over the current 50% diversion standard. These diversion standards would not represent an extra charge to ratepayers; the costs would be fully borne by the contractors.
- *Processing of All E-Waste to City-Approved Standards* – CWS, GreenTeam, and GreenWaste currently recycle electronic waste collected as part of the NCU and Large Item Collection programs. The proposed contracts include more stringent processing standards for electronic waste by requiring the contractors to comply with the Basel Action Network e-Stewardship Standard and Pledge (Pledge). The Pledge is a commitment to clean recycling and disallows the export of hazardous e-waste to developing countries. Similar to the Large Item processing requirements, these diversion standards do not represent an extra charge to ratepayers, and any additional costs would be fully borne by the contractors. The California Electronics Recycling Act entitles the contractors to receive State funding via a refund from approved cathode ray tube (CRT) recyclers.

### **Equipment Improvements**

- *Truck Fuel Upgrades* – Garden City, GreenTeam, and GreenWaste will retrofit or replace vehicles to operate with CNG, and CWS will switch from using diesel to using a 20% biodiesel / 80% diesel blend (B20) and will replace light-duty vehicles with hybrid-drive technology. These proposals would allow the City to significantly reduce the carbon footprint of its residential solid waste collection fleet in the near term, resulting in a net reduction in greenhouse gas emissions of -547 metric tons per year compared to existing operations. Switching to alternative fuels will also result in a 56% decrease in nitric oxide and nitrogen dioxide (NOx) emissions and a 17% decrease in carbon dioxide emissions. Additionally, to accommodate more efficient fueling of the converted vehicles, GreenTeam will invest the capital necessary to build a slow-fill CNG fueling station at its corporation yard in North San Jose, at a date subject to completion of the City's permitting requirements.

### **Administrative and Technical Adjustments**

The contractors have agreed to adjustments that streamline business processes and increase efficiencies for the contractor, the City's contract managers, and City staff involved with the Integrated Billing System (IBS). These adjustments include:

- Consolidation of contractor rates and elimination of extraneous, unused rates
- Consolidation of contracts to one per contractor
- Simplified disposal reconciliation procedure for NCUs
- Simplified payment methodology for cart exchanges and replacements
- Contractors bill and collect revenue directly from customers for on-demand Large Item Pickup services

Additionally, the contractors have agreed to provide additional detail on routes, personnel, productivity statistics, educational activities, tonnage reporting, and annual financial statements, and agree to contract language clarifications regarding the terms for transition to the next contractor. An additional technical adjustment in the GreenTeam contract will adjust the pricing structure for Multi-Family Dwelling (MFD) solid waste processing to ensure intended contractual compensation. Because staff has negotiated a "not to exceed" ceiling in the agreement, increases in waste diversion will not increase customer rates. Furthermore, GreenTeam in 2013-2015, and Garden City in 2013-2014, would not be required to re-paint their entire fleet of collection vehicles if, as determined by the City, the vehicles meet certain objective criteria for appearance and identification. Notwithstanding this waiver, contractors are still required to maintain their vehicles in compliance with all State or federal laws and regulations.

### **Contractor-Provided Billing and Customer Service Option**

Although staff will be considering a broad array of options for contractor-provided billing, Garden City and GreenTeam have agreed to an optional "safety net" provision for customer service, billing, and delinquent account management. The contractors would require a twelve month implementation period to transition data, make facility modifications, and have staff in-place and trained to take over billing and customer service. A summary of the services is detailed in an attachment to this memorandum. This safety net option for billing and customer

services is limited to the haulers that collect garbage (Garden City and GreenTeam) for the following reasons:

1. Residents are billed based on the level of garbage not recycling service;
2. GreenTeam and Garden City provide garbage service, and own and operate existing billing systems;
3. Since only Garden City and GreenTeam maintain and update garbage service information, using their systems for billing would be the most streamlined and pose the lowest risk for hauler billing options; and
4. GreenTeam and Garden City already have service locations and level of service on their systems for each customer in the City. The only additional information they would need to add is the customer account information for billing and property owner information as required to support the lien process.

Staff plans to return to Council in late 2010 with a preliminary IBS Technology Strategy and Business Case that provides further analysis of the contractor billing option and options for billing the other utilities that currently reside on IBS and recommends a course of action to address the estimated IBS end of life in 2015. A business case will consider the costs, benefits, risks, and business impact of each option. The provision of Recycle Plus billing and customer service by GreenTeam and Garden City is one of the options that will be considered. In this case, the business case will focus on the impact that adopting this option will have on each of the business functions currently provided by IBS and will recommend a business continuity strategy for each of the utilities billed. Implementation of the contractor-provided billing option in the GreenTeam and Garden City agreements would require a separate Council action after consideration of the IBS Technology Strategy. The City will incur costs from shifting the other utilities and Customer Relationship Management from IBS, which will be described in the business case. It is important to note, however, that significant costs for a billing alternative would likely be incurred even without implementing the contractor-provided billing solution due to the anticipated end of life of IBS in 2015.

The cost estimates for contractor provided billing and customer service options are highlighted in Table 3. The contractor-provided one-time start-up costs are significantly lower than the approximate costs to replace IBS in 2015 because rather than having to purchase a new full scale system, the contractors would be leveraging their existing billing systems. This billing solution also poses lower risk than outsourcing to a new contractor, as the haulers are already acclimated with the City's billing operations.

Also included in Table 3 are the approximate annual costs to Recycle Plus rate payers for the current in-house City-provided billing and customer service and an approximate City cost to replace IBS in 2015. This replacement cost estimate only considers contractual costs and excludes other City costs such as personal services and other resources. According to an Information Memorandum issued by the Finance Department to Council on April 24, 2009, the total one-time costs (including City staff) for implementing IBS for residential (single- and multi-family) garbage, storm and sanitary sewer, and municipal water billing and customer service expensed to the utility funds were just over \$14 million, with the majority of these costs borne by the residential garbage ratepayers. Certain costs may require adjustment for inflation, depending on the final implementation schedule of the billing system.



**TABLE 3: Recycle Plus Billing and Customer Service Cost Information**

<b>Contractor-Provided Option</b>	<b>One-Time Start-Up Costs</b>	<b>Annual On-Going Costs</b> (Some lien processing costs included)	<b>Number of Accounts</b>	<b>Annual Revenue Billed</b>
Garden City	\$ 1,221,000	\$ 3,299,000	SFD 161,500	\$ 58,000,000
GreenTeam	\$ 694,000	\$ 1,220,000	SFD 48,500 MFD 3,300	\$ 39,500,000
<b>Total</b>	<b>\$ 1,915,000</b>	<b>\$ 4,519,000</b>	<b>212,300</b>	<b>\$ 97,500,000</b>

Current City Cost for Recycle Plus Billing & Customer Service (Includes lien processing)	\$ 6,300,000
Approximate City Billing System Replacement Costs in 2015	\$ 10,000,000*

\* These start-up costs are for the replacement of an entire billing system (including Recycle Plus, water, sanitary and storm sewer, and business tax billings). Estimate does not include City costs such as personal services and other resources.

*Simplification of Billing Services* – As part of a near-term initiative, staff in the Information Technology, Finance and Environmental Services Departments have been reviewing possible efficiencies which can be implemented in 2010-2011 in order to save operational costs with limited impact to customer service, accuracy and accountability of the billing system, and its strategic goals. Efficiencies requiring Council action or Municipal Code changes will be presented for Council consideration in a separate memorandum.

**Funds for a Permanent HHW Facility**

Providing safe and convenient disposal of common household waste (i.e., paint, pesticides, and cleaning chemicals) is a critical service for the City’s residential solid waste program. An effective HHW collection program significantly reduces the likelihood of toxics entering the City’s storm and sanitary systems, and prevents contamination of the San Francisco Bay and local groundwater supplies. San José residents account for nearly 11,000 drop-offs annually at temporary sites in the City. In 2008-2009, it is estimated that over 1.6 million pounds of HHW were collected from San José residents. The temporary sites are not adequate to address the demand and staff has been developing plans to build a permanent HHW facility at the Las Plumas Environmental Innovation Center. It is estimated that more than 25,000 annual drop-off appointments could be accommodated at this facility. In January 2010, the Administration completed a Program Prioritization Process, in which 550 Citywide programs were reviewed and ranked by teams of staff and community stakeholders to inform the preparation of the 2010-2011 Proposed Operating Budget. The HHW program was in the highest tier of programs ranked through this effort.

The allocation of savings for 2010-2011 from the new solid waste service agreements to the construction of this facility is the most advantageous of various potential funding strategies for

the facility. Staff explored third-party loan options prior to identifying internal funds for facility construction. Third-party financing, however, would cause the City to incur increased total project costs due to higher interest payments and a shorter amortization period. Staff will seek Council approval to appropriate these funds in early fall 2010 at the same time they seek approval of an agreement to construct the facility.

Since the construction of the HHW facility will be funded by revenue from Recycle Plus ratepayers, any other jurisdictions using the facility must pay the fully-loaded apportioned share of the capital improvement and operational costs. Any revenue for services from this facility must be used toward programs limited to Recycle Plus ratepayers.

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

As directed by Council on March 30, 2010, a staff evaluation of an evergreen contract option is included in the fall 2010 T&E workplan. The IBS Technology Strategy is under development for Council consideration in late 2010. The Code Enforcement Division will be returning to the T&E Committee and Council in late 2010 to present options for NCU services. Staff plans to evaluate Recycle Plus rate changes for 2011-2012 in fall 2010 and initiate a Recycle Plus Proposition 218 public rate increase notification process in late 2010.

### **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)**

This item meets Criteria #1: Requires Council action on the use of public funds equal to \$1 million or greater.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, the Finance, Information Technology, Transportation, and, Planning, Building, and Code Enforcement

Departments, Airport, the City Manager's Budget Office, and the Office of Economic Development.

**COST SUMMARY/IMPLICATIONS**

Approval of staff's recommendation to proceed with the new agreements would save the IWM Fund (423) approximately \$32 million over the entire term of the agreements as described in the Analysis section of the memo. The savings reflected in Table 2 of approximately \$835,000 for Fund 423 will be reflected in the 2010-2011 Operating Budget Annual Fall Clean-up. There is no impact to the cost of City Facility solid waste services to the other funds and Departments charged for this service.

**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	Total Appn.	Amt. of Contract (2010-2011)	Proposed 2010-2011 Operating Budget*
Amount of Recommendation (2010-2011)				<b>\$86,217,389</b>	
423	0764	ESD MFD Recycle Plus	\$15,654,000	\$15,654,000	XI-47
423	0763	ESD SFD Recycle Plus	\$46,923,200	\$46,923,200	XI-47
423	0766	ESD Yard Trimming/Street Sweeping	\$20,772,600	\$20,772,600	XI-47
Fund #	Appn #	Appn. Name	Total Appn.	Amt. of Contract (2010-2011)	Proposed 2010-2011 Operating Budget*
446	0766	Yard Trimmings/Street Sweeping	\$1,627,000	\$1,627,000	XI-82
423	N/A*	City Facilities Recycle Plus	\$791,989	\$791,989	XI-47
423	0762	ESD Non-Personal /Equipment	\$2,878,867	\$15,000	XI-47
515	0762	ESD Non-Personal /Equipment	\$18,263,559	\$6,000	XI-88
541	0762	ESD Non-Personal /Equipment	\$245,398	\$32,000	XI-78
513	0762	ESD Non-Personal /Equipment	\$25,020,618	\$149,100	XI-75
446	0762	ESD Non-Personal /Equipment	\$ 4,339,491	\$5,000	XI-82
523	0802	Airport Non-Personal /Equipment	\$42,146,543	\$236,000	XI-3
290	2505	Adult Workers Program	\$3,487,936	\$2,425	XI-90
290	2530	Dislocated Workers Program	\$4,681,062	\$1,517	XI-90
290	2364	Youth Workers	\$4,236,110	\$1,283	XI-90
290	2981	Administration	\$946,836	\$ 121	XI-90
290	2983	Rapid Response Grant	\$717,721	\$ 154	XI-90
<b>Total Funding for Recommendation</b>			<b>\$192,732,930</b>	<b>\$86,217,389</b>	

\*The 2010-2011 Proposed Operating Budget is scheduled to be considered by the City Council on June 22, 2010.

HONORABLE MAYOR AND CITY COUNCIL

06-01-10

**Subject: Solid Waste Service Agreements**

Page 14

**CEQA**

2010 Solid Waste Service Agreements: Negative Declaration, file no. PP10-055. May 26, 2010.  
<http://www.sanjoseca.gov/planning/eir/MND.asp>

Household Hazardous Waste Facility: Mitigated Negative Declaration, file no. PP09-138.  
Adopted December 1, 2009

/s/

JOHN STUFFLEBEAN

Director, Environmental Services

For questions, please contact Jo Zientek, Deputy Director, Environmental Services Department,  
at (408) 535-8557.

Attachment: Contractor Billing and Customer Service Option Summary

**ATTACHMENT**  
**Contractor Billing and Scope of Services Option Summary**

First, customer data must be transferred to contractor Customer Information Systems and both parties must prepare their organizations for the deployment of the new business model. These activities are described in the table below and are referred to collectively as Implementation.

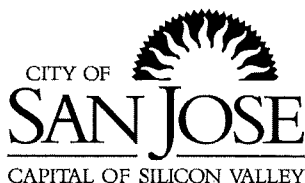
Implementation	Acceptance Criteria
Full implementation services will be delivered by the contractor that include: <ul style="list-style-type: none"> <li>• Project management</li> <li>• Data migration</li> <li>• Business Process analysis and reengineering</li> <li>• Modifications to the system to support City ordinances (including reports and any interfaces)</li> <li>• Testing of modifications</li> <li>• Training for City and contractor staff</li> <li>• Acceptance testing of the entire solution, utilizing end-to-end business processes for both the City and the contractor</li> <li>• Deployment</li> </ul>	City participates in all activities and has joint responsibility for sign-off of each project deliverable and phase.  City accepts the entire solution at the end of Acceptance Testing. Acceptance Testing must prove that the solution as built will support live operation of the system and the business models to be used by both the City and the Contractor in the execution of their respective contractual responsibilities.

Following Implementation, the contractor will deliver the following services. Associated with each service is a minimum service level that must be adhered. A failure to achieve a service level subjects the contractor to a financial penalty that is assessed against the contractor's invoice to the City.

Business Service	Service Level to be achieved
<b>Billing</b> <ul style="list-style-type: none"> <li>• Manage financial information to support the calculation and billing of Garbage, Recycling Yard Trimmings and Street Sweeping services;</li> <li>• Print and mail customer bills.</li> </ul>	<ul style="list-style-type: none"> <li>• Must reconcile field services delivered with billing to customer</li> <li>• Must adhere to the billing schedule as agreed.</li> </ul>
<b>Customer Service</b> <ul style="list-style-type: none"> <li>• Provide customer service for inquiries, complaints and problem resolution over the phone, web and in person.</li> </ul>	<ul style="list-style-type: none"> <li>• Must answer phone in average of 5 minutes or less.</li> <li>• Complaints answered in an average of 2 days or less.</li> </ul>
<b>Revenue Collection</b> <ul style="list-style-type: none"> <li>• Collect payments from customers on behalf of the City;</li> <li>• Transfer cleared balances into the City's bank account daily.</li> </ul>	<ul style="list-style-type: none"> <li>• Must penny balance and reconcile daily receivables with deposits.</li> </ul>
<b>Management of Delinquent Accounts</b> <ul style="list-style-type: none"> <li>• Provide collection services including monitoring of aging debt;</li> <li>• Provide best practice collections: strategies</li> </ul>	<ul style="list-style-type: none"> <li>• Must adhere to collections schedule as specified.</li> </ul>

<p>for collecting outstanding A/R including bill messages, letters, late payment charges, phone calls and notice of intent to lien.</p>	
<p><b>Lien Processing</b></p> <ul style="list-style-type: none"> <li>• Transfer control to City for the pursuit of outstanding A/R through a lien after normal collection processing has been exhausted.</li> </ul>	<ul style="list-style-type: none"> <li>• Must provide City with accurate customer information that complies with County's records.</li> </ul>
<p><b>Financial &amp; Operational Compliance</b></p> <ul style="list-style-type: none"> <li>• Comply with City's financial regulations and policy and permit auditing to determine compliance;</li> <li>• Comply with Municipal Code and Federal &amp; State laws, particularly relating to data security.</li> </ul>	<ul style="list-style-type: none"> <li>• Must comply with Municipal Code</li> <li>• Must comply with data security and privacy laws.</li> </ul>
<p><b>Reporting &amp; City Access to Data</b></p> <ul style="list-style-type: none"> <li>• Provide reporting and access to data and systems to City to support the measurement of service levels and the appropriate financial and operational reporting.</li> </ul>	<ul style="list-style-type: none"> <li>• Read only access to all data granted to City staff, supported by reporting and technical support.</li> </ul>

The terms also address services that may be required of the contractor upon contract termination.



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Robert L. Davis  
Darryl Von Raesfeld  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** June 1, 2010

Approved

*Deana Gutierrez*

Date

*6/7/10*

**COUNCIL DISTRICT:** City-Wide

**SUBJECT: AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH THE CITY AND COUNTY OF SAN FRANCISCO TO ALLOCATE 2009 URBAN AREAS SECURITY INITIATIVE (UASI) GRANT FUNDS TO THE CITY OF SAN JOSE IN THE TOTAL AMOUNT OF \$2,000,000 AND ADOPT 2010-2011 APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTIONS IN THE AMOUNT OF \$2,000,000 FOR THE 2009 UASI GRANT.**

## RECOMMENDATION

It is recommended the City Council approve the following actions:

1. Adopt a resolution authorizing the City Manager to negotiate and execute a joint Memorandum of Understanding (Funding MOU) between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area UASI, to accept the 2009 UASI grant allocation in the amount of \$2,000,000 and to execute additional amendments and related documents without further Council action; and
2. Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund for Fiscal Year 2010-2011:
  - a. Establish a City-wide appropriation to the Police Department for the 2009 Urban Areas Security Initiative (UASI) Grant in the amount of \$950,000;
  - b. Establish a City-wide appropriation to the Fire Department for the 2009 Urban Areas Security Initiative (UASI) Grant in the amount of \$1,050,000; and,
  - c. Increase the Revenue Estimate from the Federal Government by \$2,000,000.

## **OUTCOME**

Participation in the 2009 UASI grant enables the City of San José to continue to prepare for, respond to and recover from potential terrorism incidents and other hazards through a regional collaboration of local jurisdictions around the San Francisco Bay.

## **BACKGROUND**

In January 2006, the federal Department of Homeland Security announced the separate Urban Areas Security Initiative cities of Oakland, San Francisco and San José be combined into a single Bay Area UASI region. This regional organization includes the ten counties in the San Francisco Bay: Alameda, Contra Costa, Marin, Napa, Santa Clara, Santa Cruz, San Francisco, San Mateo, Solano, and Sonoma.

The Governor's Office of Homeland Security approved a governing body called the UASI Approval Authority. The voting members of the Approval Authority consist of the emergency managers for the three UASI cities (Oakland, San Francisco and San José) and the counties in which they are located (Alameda, San Francisco and Santa Clara). The City and County of San Francisco acts as the fiscal agent for the UASI grant.

On June 16, 2009, the federal Department of Homeland Security announced the UASI final award allocations for Fiscal Year 2009. The San Francisco Bay Area received a total of \$40,638,250 for the region. As allowed by the grant program, the Governor's Office of Homeland Security retained 20% of this total, reducing the amount the region received to approximately \$32,510,600. From the 2009 grant, the City of San José is being awarded \$2,000,000 of the region's UASI grant funding. Of this amount, the San José Police Department will receive \$950,000 and the San José Fire Department will receive \$1,050,000.

The Governor's Office of Homeland Security approved the region's spending plan with the caveat that reimbursements could not be made from the grant until the elected officials from each jurisdiction represented on the Approval Authority approved a governing body resolution. According to the Governor's Office of Homeland Security, a Memorandum of Understanding (MOU), signed by representatives from each of the Approval Authority agencies, will meet this requirement. An MOU was signed by the City and four other Bay Area governmental agencies in 2007 to meet this requirement. The MOU is a multi-year agreement that remains in effect through December 31, 2010.

## **ANALYSIS**

Execution of the Funding MOU, which has been reviewed by attorneys for each of the signatories, will provide a \$2,000,000 grant allocation that the City of San José will receive from the City and County of San Francisco, acting as the Bay Area UASI's fiscal agent. Funds will be used to support the planning activities, trainings and equipment purchases. The term of the agreement is from October 1, 2009 through December 30, 2011.



The following list provides information on 2009 UASI projects and their estimated portion of the grant funding to the City of San José. These estimates are subject to reallocation and/or change over the course of the grant term. However, the total grant amount to the City will remain the same.

1. Reimbursement to the City of San José's Police Department for installation and implementation costs for the Automated Field Reporting/Records Management System (AFR/RMS). The Police Department plans to use multiple grants to complete the AFR/RMS project. Ongoing costs for this system are not certain at this time, but the Department does have funding for maintenance of the current RMS and ongoing costs will be evaluated before implementation. Once the product and vendor selection process is complete, the City will be in a better position to determine the ongoing resources required to maintain and operate the system. (\$700,000)
2. Reimbursement to the City of San José's Police Department for salary and benefit costs for one temporary employee to provide implementation of AFR/RMS, access protocols, and coordination for regional interoperability and long-range planning. (\$150,000)
3. Reimbursement to the City of San José's Police Department for funding to support Anti-Terrorism Training classroom-based courses. (\$100,000)
4. Reimbursement to the City of San José's Fire Department for funding to hire personnel to manage and develop the following: an exercise plan; Emergency Operations Center (EOC) readiness protocols; EOC operations procedures updates; and Emergency Operations Plan (EOP) updates (Basic, Annex A and Annex B). (\$294,500)
5. Reimbursement to the City of San José's Fire Department for temporary staffing to plan for and coordinate efforts in developing the Fire Department's multiple records systems into a unified intelligence system with field access. (\$200,000)
6. Reimbursement to the City of San José's Fire Department for funding of contract personnel to develop a strategic emergency communications plan. (\$55,000)
7. Reimbursement to the City of San José's Fire Department for contract personnel to address the City's soft story structures and relationship to potential City building code changes. (\$75,000)
8. Reimbursement to the City of San José's Fire Department for San José staff travel expenses in June 2010 to New Orleans, LA for the National UASI Conference. (\$5,500)
9. Reimbursement to the City of San José's Fire Department for funding of training courses including backfill/overtime or other grant-eligible expenses. (\$200,000)
10. Reimbursement to the City of San José's Fire Department for purchase of Tamiflu medical equipment. (\$102,000)
11. Reimbursement to the City of San José's Fire Department for the purchase of thermal imaging cameras. (\$118,000)

### EVALUATION AND FOLLOW-UP

Not applicable.

### POLICY ALTERNATIVES

No additional City Council action is expected for this grant.

### PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action meets Criterion 1, and has been posted on the City's website for the June 22, 2010 Council Agenda.

### COORDINATION

This report was coordinated with the City Attorney's Office and the Department of Planning, Building and Code Enforcement.

### FISCAL/POLICY ALIGNMENT

This action is consistent with the following General Budget Principles:

San José must focus on protecting its vital core city services for both the short- and long-term.

San José must continue to streamline, innovate, and simplify its operations so that the City can deliver services at a higher quality level and with better flexibility.

June 1, 2010

Subject: 2009 UASI MOU

Page 5

**COST SUMMARY/IMPLICATIONS**

According to the terms and conditions of the 2009 UASI grant, the City of San José will be reimbursed by the City and County of San Francisco, the fiscal agent for the Bay Area UASI, for grant-related purchases of equipment, supplies, training, and planning expenditures not to exceed \$2,000,000. No matching funds are required for this grant.

**CEQA**

Not a Project, File No. PP10-066 (a), 2009 UASI Grant MOU.

/s/

ROBERT L. DAVIS  
Chief of Police

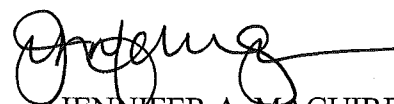
/s/

DARRYL VON RAESFELD  
Fire Chief



JENNIFER A. MAGUIRE  
Budget Director

I hereby certify that there will be available for appropriation in the General Fund in the Fiscal Year 2010-2011 moneys in excess of those heretofore appropriated wherefrom, said excess being at least \$2,000,000



JENNIFER A. MAGUIRE  
Budget Director

For questions please contact Melanie Jimenez, UASI Project Planner, at 408.277.2286.