SUBJECT: Approval of a Cooperative Agreement with the City of Santa Clara for Replacement of the Old Mountain View-Alviso Road Bridge over Calabazas Creek and Authorization for the City Manager to Execute the Agreement

BACKGROUND

Old Mountain View-Alviso Road is an arterial street in Sunnyvale and Santa Clara; city joint boundaries meet at the centerline of Calabazas Creek, which is under the jurisdiction of the Santa Clara Valley Water District (SCVWD). The Old Mountain View-Alviso Road Bridge over Calabazas Creek is jointly shared between the cities of Sunnyvale and Santa Clara. The bridge is scheduled to be replaced, and funding has been obligated to start the design.

The original construction date of the bridge spanning the creek is unknown; however, it was widened in 1974 to its present two lane structure with no sidewalks or lighting. In 1993, the City of Sunnyvale constructed seismic restraints on the bridge under the Mandatory Seismic Retrofit Program (emergency legislation SB 36X, established after the 1989 Loma Prieta Earthquake).

The April 2005 Caltrans Bridge Inspection Report indicated a bridge sufficiency rating of 52.5, with a “structurally deficient” determination, after which the bridge was placed on the Federal Highway Administration (FHWA) Eligible Bridge List, making improvements/replacement eligible for grant funding.

The vision for the replacement bridge is one that is wider, to allow sidewalks and bicycle lanes across both sides of the bridge along with street lighting. In addition, the bridge deck will be raised to satisfy the SCVWD requirements for freeboard above the high water flow elevation of the creek.

As of March 16, 2012, a funding commitment from Caltrans in the amount of $1,188,958 was received for Preliminary Engineering (design level) for the replacement bridge. Additional discussion as to the amounts of federal aid available and each city’s associated costs are discussed in more detail under the Fiscal Impact section of this report.
EXISTING POLICY

Replacing the bridge will support several of the existing policies:

- Land Use and Transportation Element LT-5.7: Pursue Local, State, and Federal transportation funding sources to finance City transportation Capital Improvement Projects consistent with City priorities
- Land Use and Transportation Element LT-5.8: Provide a safe and comfortable system of pedestrian and bicycle pathways
- Land Use and Transportation Element LT-5.9: Appropriate accommodations for motor vehicles, bicyclists, and pedestrians shall be determined for City streets to increase the use of bicycles for transportation and to enhance the safety and efficiency of the overall street network for bicyclists, pedestrians, and motor vehicles

DISCUSSION

A cooperative agreement has been prepared which outlines the cost sharing responsibilities of each agency and payment terms. The agreement also discusses shared responsibilities with respect to right-of-way acquisition and states that Sunnyvale will be lead agency for design and construction of the replacement bridge.

The cooperative agreement has been reviewed by staff and the attorney’s offices of both cities. As of the date of preparation of this report, Santa Clara is presenting this item for their council approval on July 10, 2012. Santa Clara staff is anticipating their council to approve the document. Santa Clara has programmed their cost share and funds are available as of July 1, 2012. A copy of the draft final agreement is included with this report as Attachment A.

The Highway Bridge Program grant funds will cover the majority of the replacement bridge costs. In anticipation of full bridge replacement, Caltrans has allocated the maximum amount of grant funding of 88.53%, as outlined in the Fiscal Impact section of the report.

FISCAL IMPACT

Preliminary estimates for replacement of the bridge are $9,863,000. Of this amount, 88.53% will be grant funded, and 11.47% will be local match funds. Each city’s initial total share will be $565,643. Each city will provide the funds at the design, right-of-way acquisition, and construction stages, as shown below. In addition, the language in the agreement states that each city will equally share in costs not covered by the grant. Specific requests by individual cities benefitting that city exclusively will be paid for 100% by the requesting city.
The figures in the table above are preliminary figures. At the end of the design phase, a more specific estimate for right-of-way and construction costs will be determined.

Costs for the design phase cover engineering design and environmental review. The anticipated costs for right of way acquisition are for procurement of easements and right of entry from the four parcels adjoining each bridge embankment (two parcels within each jurisdiction both northerly and southerly of Old Mountain View-Alviso Road). Preliminary construction figures include the construction contract, contingency, and construction engineering.

Budgeted funds in the amount of $9,863,000, which include federal grant funds and the required local match from Sunnyvale and Santa Clara, are currently budgeted in Project 826850 – Calabazas Creek Bridge at Old Mountain View-Alviso Road. Sunnyvale’s share of expenditures will be funded by a transfer from the Gas Tax Fund. Should updated estimates for right-of-way and construction exceed current estimates, staff will return to Council with a funding plan for the additional costs.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

Additionally, Sunnyvale staff has worked with the City of Santa Clara staff on the attached agreement.

ALTERNATIVES

1. Approve the cooperative agreement with the City of Santa Clara for the Old Mountain View-Alviso Road Bridge over Calabazas Creek and authorize the City Manager to execute the agreement.

2. The City could elect to not proceed with replacement of the bridge.
RECOMMENDATION

Staff recommends Alternative No. 1: Approve the cooperative agreement with the City of Santa Clara for the Old Mountain View-Alviso Road Bridge over Calabazas Creek and authorize the City Manager to execute the agreement.

Replacement of the bridge will eliminate the structurally deficient rating; and provide sidewalk, bike lanes and raise the bridge above the required freeboard for Calabazas Creek. Should Council approve the agreement, staff's next steps would be to proceed with a Request for Proposals to select a design engineer.

Reviewed by:

Kent Steffens, Director, Public Works Department
Prepared by: Jennifer Ng, Senior Civil Engineer

Approved by:

Gary M. Luebbers
City Manager

Attachments

A. Draft: Cooperative Agreement between the City Of Sunnyvale and The City of Santa Clara for The Old Mountain View – Alviso Road Bridge Replacement at Calabazas Creek
COOPERATIVE AGREEMENT
BETWEEN THE CITY OF SUNNYVALE AND
THE CITY OF SANTA CLARA
FOR THE
OLD MOUNTAIN VIEW - ALVISO ROAD BRIDGE REPLACEMENT
AT CALABAZAS CREEK

THIS AGREEMENT, is made and entered into on this _____ day of __________, 2012, (“Effective Date”), is between the CITY OF SUNNYVALE, a Chartered California municipal corporation of the State of California, referred to herein as “SUNNYVALE”, and the CITY OF SANTA CLARA, a Chartered California municipal corporation referred to herein as “SANTA CLARA”. SUNNYVALE and SANTA CLARA may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement”.

RECITALS

1. SUNNYVALE and SANTA CLARA contemplate construction of a new Bridge at Old Mountain View - Alviso Road crossing Calabazas Creek to replace the existing structurally deficient bridge.

2. Improvements shall include the replacement of the existing bridge with a new bridge. The project consists of demolition of the existing bridge and construction of a new bridge in compliance with the latest applicable structural standards and Santa Clara Valley Water District (SCVWD) freeboard requirements. The new bridge shall be sixty feet (60’) wide to accommodate two twelve-foot traffic lanes, two five-foot bicycle lanes, two eight-foot shoulders, and two-five foot sidewalks. Other improvements may involve changes to adjacent infrastructures such as, but not limited to, streets, levees, floodwalls, utilities, etc. All constructions/improvements shall herein be referred to as the “PROJECT.” The PROJECT spans across Calabazas Creek, property controlled by SCVWD, and shall include obtaining all permits required by the SCVWD and other agencies. The PROJECT shall achieve the objectives of both Parties with maximum cooperation and efficiency for the benefit of the public.

3. SUNNYVALE is acting as the lead agency for the PROJECT and shall be the awarding agency. SUNNYVALE is responsible for the administration, design, and construction of the PROJECT. The PROJECT is funded by a Federal Highway Bridge Program grant administered through the State of California Department of Transportation (Caltrans). The grant funding covers 88.53% of the project costs with the remainder being divided between the Parties to this Agreement. The Project includes all work necessary to comply with the federal grant administration through Caltrans.

4. SUNNYVALE and SANTA CLARA recognize that there is a local share requirement of the grant and there may be expenses (necessary to the PROJECT), that are not eligible for the grant reimbursement. SUNNYVALE and SANTA CLARA intend to share equally all costs not paid by the federal grant as specified in this AGREEMENT.
5. The attached cost estimate, Attachment “A” is the most current cost estimate which is subject to change attached hereto and incorporated by reference.

6. SUNNYVALE and SANTA CLARA do mutually desire to set forth the terms and conditions of the design, construction, and management of the PROJECT, and its funding to be accomplished within the scope of this AGREEMENT.

SECTION 1

SANTA CLARA AGREES:

1. To pay SUNNYVALE a total amount not-to-exceed $565,643 at the following PROJECT stages:
   a. After consultant selection and prior to award of design consultant contract by SUNNYVALE.
   b. After determination of right-of-way requirements and prior to execution of right-of-way agreements with private property owners by SUNNYVALE and SANTA CLARA.
   c. After determination of the lowest responsive and responsible bidder and prior to execution of construction agreement with CONTRACTOR by SUNNYVALE.

2. To pay fifty percent (50%) of all costs not paid by the grant, provided SUNNYVALE agrees to provide the other 50% of costs. If SANTA CLARA requests improvements that are not eligible for grant payment for the benefit of SANTA CLARA, one hundred percent (100%) of these costs will be borne by SANTA CLARA.

3. To provide timely review of PROJECT documents during development of the PROJECT, as necessary.

4. That all comments related to PROJECT will be provided to SUNNYVALE in writing.

5. To participate throughout the PROJECTs duration, and to provide necessary and appropriate coordination with all departments within SANTA CLARA.

6. To provide staffing adequate to support in processing Right-of-Way acquisition, as needed on the SANTA CLARA side. Right-of-Way acquisition includes: temporary or permanent easements, street dedication, and/or fee acquisition as needed. If fee acquisition is required to complete the PROJECT, the Parties shall meet and confer pursuant to Section III, Paragraph 3 concerning funding, timing and process.

7. To provide staffing adequate to support in addressing issues of utilities relocation within SANTA CLARA as applicable.
8. To provide staffing adequate to support in timely processing any Encroachment Permit(s) within SANTA CLARA.

9. To provide staffing adequate to support in coordinating public meeting(s) with SANTA CLARA residents.

10. To provide staffing adequate to support in coordinating with SCVWD and other agencies for permits.

11. To provide staffing adequate to support the California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) processing.

12. To sign the PROJECT plans and specifications indicating that SANTA CLARA approves the documents for bidding.

SECTION II

SUNNYVALE AGREES:

1. To budget and deposit into an interest-bearing account initial funding totaling $565,643 at the following stages:
   a. After consultant selection and prior to award of design consultant contract by SUNNYVALE.
   b. After determination of right-of-way requirements and prior to execution of right-of-way agreements with private property owners by SUNNYVALE and SANTA CLARA.
   c. After determination of the lowest responsive and responsible bidder and prior to execution of construction agreement with CONTRACTOR by SUNNYVALE.

   The deposit amounts for each of these phases is included as Exhibit A to this agreement. Additional costs beyond specified in this section shall be handled per Section III, Paragraph 3 of this AGREEMENT.

2. To pay fifty percent (50%) of all costs not paid by the grant, provided SANTA CLARA agrees to provide the other 50% of costs. If SUNNYVALE requests improvements that are not eligible for grant payment, for the benefit of SUNNYVALE, one hundred percent (100%) of these costs will be borne by SUNNYVALE.

3. To provide timely review of PROJECT documents during development of the PROJECT, as necessary. Additionally, SUNNYVALE will be the lead agency for procurement and administration of design and construction contracts.

4. To provide staffing adequate to support in processing Right-of-Way acquisition, as needed on the SUNNYVALE side. Right-of-Way acquisition includes: temporary or permanent easements, street dedication, and/or fee acquisition as needed. If fee acquisition is required to complete the PROJECT, the Parties shall meet and confer pursuant to Section III, Paragraph 3 concerning funding, timing and process.
5. To provide staffing adequate to support in addressing issues of utilities relocation within SUNNYVALE as applicable.

6. To provide staffing adequate to support in timely processing any Encroachment Permit(s) within SUNNYVALE.

7. To take the lead in coordinating public meeting(s) and to provide support in coordinating with SUNNYVALE residents.

8. To take the lead in coordinating with SCVWD and other agencies for permits.

9. To take the lead in compliance with the California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA).

10. To sign the PROJECT plans and specifications indicating that SUNNYVALE approves the documents for bidding.

11. To invoice SANTA CLARA under the terms of this agreement. SUNNYVALE will process requests for reimbursement for the grant funds and account for project expenditures, and shall provide a copy to SANTA CLARA upon request. SUNNYVALE shall provide a quarterly accounting of the cost share under this AGREEMENT, and provide a quarterly statement to SANTA CLARA. SUNNYVALE will draw upon funds provided by SANTA CLARA as PROJECT expenses are incurred.

12. SUNNYVALE shall revise the PROJECT cost estimates periodically and submit revised payment letters to Caltrans, with a copy to SANTA CLARA.

13. To set aside funds deposited by SANTA CLARA into an interest bearing account. Interest earned on these funds shall accrue to the SANTA CLARA share of the PROJECT.

14. To manage and complete the preliminary engineering, environmental compliance, design, right-of-way engineering/acquisition, construction, Project close-out, and Record Drawing phases for the PROJECT, to the extent that funds are available.

15. To manage and secure all approvals needed to proceed with the PROJECT as required by the grant.

16. During the environmental phase of the PROJECT, SUNNYVALE will prepare or cause to be prepared the appropriate technical studies necessary to develop the environmental document(s) needed to obtain all environmental clearances for the PROJECT. During the design phase of the PROJECT, SUNNYVALE will perform or cause to be performed, all necessary PROJECT design and right-of-way engineering, including permit acquisitions, preparation of Plans, Specifications, and Estimates (PS&E) consistent with standard SUNNYVALE practices, and Standard Specifications, Design Criteria, Standard Details and applicable requirements. All non-bridge construction within the City of Santa Clara shall be performed in accordance with SANTA CLARA practices, standards, design criteria, and
Standard Details. In addition, SUNNYVALE will perform or cause to be performed all necessary survey work and document preparation for the right-of-way acquisition and relocation of any utilities related to the PROJECT. SUNNYVALE will perform all construction and procurement related activities.

17. Include the City of SANTA CLARA, its City Council, commissions, officers, employees, volunteers, and agents as additional insureds in consultant’s and construction contractor’s insurance requirements.

18. To provide SANTA CLARA with quarterly progress updates through applicable meeting minutes, quarterly cost report showing expenditures (invoice payments) and the following specific deliverables:

   a. All necessary environmental and right-of-way documents.
   b. The 30% PROJECT design report and preliminary plans.
   c. Plans, Specifications, & Estimates at 60%, 90%, 99%
   d. Complete set of Award Contract documents (100% PS&E)
   e. Construction/Inspections reports.
   f. Progress payments.
   g. Record Drawings (As-Builts) (24” x 36”): provide SANTA CLARA one complete set of reproducible As-Builts plans and a CD containing copies of all drawings on AutoCAD 2009 or earlier.

19. That SANTA CLARA has the right to review, comment on each of the above-mentioned deliverables for the PROJECT. SUNNYVALE shall take into consideration written comments from SANTA CLARA and resolve any SANTA CLARA concerns.

20. To process the PS&E for the PROJECT, to facilitate delivery of the PROJECT, and to take the lead in coordinating all review and approval of any documents or plans needed to construct the PROJECT on a timely basis.

21. To incorporate SANTA CLARA within SUNNYVALE’S project management process as an active participant, and to hold periodic meetings for assessing the progress of the development of the PROJECT and address issues as they arise.

22. To submit a final report of expenditures to SANTA CLARA within 120 days after completion of all work associated with the PROJECT. Along with said final report, SUNNYVALE shall return any unspent SANTA CLARA funds in the account (including interest) to SANTA CLARA.

23. To use its best efforts to complete the construction of the PROJECT within the grant specified deadlines, or any officially mutually approved sequential extension thereof.
SECTION III

IT IS MUTUALLY AGREED:

1. SUNNYVALE is the lead agency for the PROJECT, and upon execution of this AGREEMENT will meet with SANTA CLARA and form Project Teams consisting of SUNNYVALE and SANTA CLARA staff in order to maintain close coordination and interaction between the agencies throughout PROJECT development.

2. In accomplishing SUNNYVALE responsibilities, SUNNYVALE may retain consultants, to perform all aspects of the PROJECT including, but necessarily limited to: preliminary engineering, environmental compliance, design, right-of-way engineering/acquisition, construction, and project management for the PROJECT as SUNNYVALE determines to be necessary. SUNNYVALE agrees to coordinate communication with SANTA CLARA regarding consultant and contractor selection.

3. SANTA CLARA and SUNNYVALE shall not be required to pay, other than the contributions noted in Section I Article 1 and Section II Article 1, respectively, with their own funds any costs incurred in carrying out the duties outlined in this AGREEMENT. If an amount exceeding the current estimate is required to complete the PROJECT, SUNNYVALE shall notify SANTA CLARA in writing that additional funds are needed and SUNNYVALE shall not perform any work beyond the amount of funds provided in the last approved PROJECT estimate until an amendment to this AGREEMENT is executed adding funds to cover the current PROJECT cost estimate. The Parties shall meet and confer if change order(s) is/are required that affect the schedule and division or allocation of joint funding for the PROJECT which require an amendment(s) to this AGREEMENT.

4. In the event that the PROJECT does not proceed, SUNNYVALE will promptly refund to SANTA CLARA any unused funds provided by SANTA CLARA (including interest) after all expenditures incurred have been paid. In this case, SUNNYVALE and SANTA CLARA will meet to determine further course of action.

5. SANTA CLARA reserves the right to audit the expenses incurred in the performance of this AGREEMENT. SUNNYVALE shall retain all records related to the PROJECT for three (3) years after the completion of the PROJECT. During this period, SUNNYVALE shall make these records available to SANTA CLARA or its agent for inspection within ten (10) working days from SANTA CLARA’s request.

6. The City Engineer of SUNNYVALE or his designee is hereby made the representative of SUNNYVALE for all purposes under this AGREEMENT.

7. The Public Works Director/City Engineer of SANTA CLARA or his designee is hereby made the representative of SANTA CLARA for all purposes under this AGREEMENT.

8. SANTA CLARA and SUNNYVALE will work together to execute a maintenance agreement for the maintenance of the new facilities. This maintenance agreement shall be finalized prior
to the completion of the one year warranty following the completion and acceptance of the PROJECT.

9. In lieu of Government Code 895.6 which might be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred shall not be shared pro rata but instead the Parties agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify, defend and hold the other party, its officers, employees and agents, harmless from any damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with any work, authority or jurisdiction delegated to such party under this AGREEMENT. Neither party, nor any officers, employees or agents, under or in connection with any work, authority or jurisdiction are delegated to such other party under this AGREEMENT.

10. The failure of either Party to insist upon the strict performance of any of the terms, covenant and conditions of this AGREEMENT shall not be deemed a waiver of their right to require strict performance of all of the terms, covenants, and conditions thereafter.

11. Any notice required to be given by either party, or which either party may wish to give, shall be in writing and served either by personal delivery or sent by certified or registered mail, postage prepaid, addressed as follows:

TO SUNNYVALE:
Mark Rogge, Assistant Public Works Director / City Engineer
City of Sunnyvale, Public Works Department
PO Box 3707
Sunnyvale, CA 94088-3707

TO SANTA CLARA:
Rajeev Batra, Public Works Director / City Engineer
City of Santa Clara, Public Works Department
1500 Warburton Avenue
Santa Clara, CA 95050

12. If a question arises regarding interpretation of this AGREEMENT or its performance, or the alleged failure of a party to perform, the party raising the question or making the allegation shall give written notice thereof to the other party. The parties shall promptly meet in an effort to resolve the issues. If the parties fail to resolve the issues raised, alternative forms of dispute resolution, including mediation or binding arbitration, may be pursued by mutual agreement. It is the express intent of the parties that litigation be avoided as a method of dispute resolution.

13. This AGREEMENT constitutes the entire AGREEMENT between the Parties pertaining to the subject matter contained therein and supersedes all prior or contemporaneous agreements, representations and understandings of the Parties relative thereto.
14. Future amendments to this AGREEMENT shall be processed by written mutual agreement of the Parties. Mutual consent shall be reached through negotiations. Notice to amend this AGREEMENT shall be provided thirty (30) calendar days prior to the desired effective date of such amendment.

15. This AGREEMENT shall be effective until the completion of the one year warranty following the completion and acceptance of the Project.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.

“SANTA CLARA”  
City of Santa Clara  
a municipal corporation  
By: ____________________________  
Ron Garratt  
Interim City Manager

“SUNNYVALE”  
City of Sunnyvale  
a municipal corporation  
By: ____________________________  
Gary Luebbers  
City Manager

Attest:  
By: ____________________________  
Rod Diridon, Jr.  
City Clerk

Attest:  
By: ____________________________  
Kathleen Franco Simmons  
City Clerk

APPROVED AS TO FORM:  
By: ____________________________  
Richard E. Nosky, Jr.  
City Attorney

APPROVED AS TO FORM:  
By: ____________________________  
City Attorney

APPROVED AS TO CONTENT:  
By: ____________________________  
Kent Steffens  
Director of Public Works

Exhibits:  
A:  Current PROJECT estimate, dated 3/20/12
# EXHIBIT A

City of Sunnyvale, Department of Public Works  
Calabazas Creek Bridge at Old Mountain View - Alviso Road  
826850

ESTIMATE SHEET, revision date: 3/20/12

## CONTACTS

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<th>Agency</th>
<th>Title</th>
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<tr>
<td>Jennifer Ng</td>
<td>City of Sunnyvale</td>
<td>Senior Civil Engineer</td>
<td>408-730-7430</td>
</tr>
<tr>
<td>Mark Rogge</td>
<td>City of Sunnyvale</td>
<td>City Engineer/Assistant Director</td>
<td>408-730-7426</td>
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<td>Jack Witthaus</td>
<td>City of Sunnyvale</td>
<td>Transportation &amp; Traffic Manager</td>
<td>408-730-7330</td>
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<td>Jim Craig</td>
<td>City of Sunnyvale</td>
<td>Superintendent of Field Services</td>
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<tr>
<td>Xi Zhang</td>
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<td>Transportation Engineer</td>
<td>510-622-5929</td>
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<td>Rajeev Batra</td>
<td>City of Santa Clara</td>
<td>Public Works Director</td>
<td>408-615-3000</td>
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<td>Gustavo Gomez</td>
<td>City of Santa Clara</td>
<td>Principal Engineer</td>
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<td>Lorenzo Lopez</td>
<td>City of Santa Clara</td>
<td>Senior Civil Engineer</td>
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## Project Estimate

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<td>Federal Share Construction</td>
<td>$6,657,456</td>
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<tr>
<td>Local Share - Sunnyvale</td>
<td>$431,272</td>
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<tr>
<td>Local Share - Santa Clara</td>
<td>$431,272</td>
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## TOTAL PROJECT COST

<p>| | |</p>
<table>
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<tr>
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<tbody>
<tr>
<td>Federal Share</td>
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<td>$565,643</td>
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<td>Local Share - Santa Clara</td>
<td>$565,643</td>
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<tbody>
<tr>
<td>TOTAL PROJECT COST</td>
<td><strong>$9,863,000</strong></td>
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