

RESOLUTION NO. 73479

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE PENITENCIA CREEK TRAIL REACH 1 MASTER PLAN PROJECT, FOR WHICH AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, in April 2000, the City Council of the City of San Jose ("City Council") approved the Greenprint; the City's 20-year strategic plan for development of parks, community facilities and programs, and generally described trail development comprised of thirty two unique systems and resulting in a 100-mile network; and

WHEREAS, in January 2004 a funding agreement with the Santa Clara Valley Open Space Authority was executed, which provided \$400,000 for the master planning of the Penitencia Creek Reach 1 Trail Project ("Project") and acquisition of the property necessary for future trail development; and

WHEREAS, in July 2005 the City Council approved a service order with the landscape architectural firm to develop a master plan for the Project, which master plan was completed and defines a future trail alignment that is bordered by Penitencia Creek and Penitencia Creek Road and connects the existing Reach 2 Trail near Noble Avenue to Alum Rock Park with the system of trails; and

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of San Jose prepared an Initial Study and adopted a Mitigated Negative Declaration for the Project (Planning File No. PP06-111) in accordance with the requirements of the California Environmental Quality Act of 1970, as amended ("CEQA"), and state and local guidelines implementing CEQA; and

WHEREAS, the Project analyzed under the Initial Study/Mitigated Negative Declaration consisted of the development of a .5 mile raised concrete path along the north side of Penitencia Creek Road for pedestrian use, located along Penitencia Creek between Noble Avenue and the entrance to Alum Rock Park, in San José, California; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in a number of significant effects on the environment and identified mitigation measures that would reduce the significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an Initial Study/Mitigated Negative Declaration that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environment effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation; and

WHEREAS, the City of San Jose is the lead agency on the Project, and the City Council is the decision-making body for the proposed Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the Project are, by this reference, incorporated into this Resolution as if fully set forth herein; and

WHEREAS, the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

THAT THE CITY COUNCIL does hereby approve the Penitencia Creek Trail Reach 1 Master Plan.

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and consistent with state and local guidelines implementing CEQA, and (3) the Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City of San Jose as lead agency for the Project. The City Council designates the Director of Public Works at the Director's Office at 200 East Santa Clara Street, 5th Floor Tower, San Jose, California 95113-1905, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby approve construction of the Project (Planning File No. 06-111) and adopt the Mitigation Monitoring and Reporting Program prepared for the Project. The Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San Jose, California 95113-1905 and (2) available for inspection by any interested person.

ADOPTED this 31st day of October, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS, YEAGER;
GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk