



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: December 10, 2010

Approved

Date

12/15/10

COUNCIL DISTRICT: 4
SNI AREA: N/A

SUBJECT: ADOPTION OF CEQA RESOLUTION OF FINDINGS FOR MONTAGUE EXPRESSWAY WIDENING PUBLIC IMPROVEMENT PROJECT

RECOMMENDATION

The Director of Planning recommends that the City Council adopt a resolution of California Environmental Quality Act (CEQA) findings that the Environmental Assessment/Initial Study/Negative Declaration¹ (ND) prepared by the County of Santa Clara for the Montague Expressway Improvement project was completed in compliance with CEQA, reflects the City's independent judgment and analysis, and includes the adoption of a mitigation monitoring and reporting program.

OUTCOME

Adoption of the CEQA resolution for the Negative Declaration will allow the City Director of Public Works to award a construction bid for the proposed construction improvements along the north side of a portion of Montague Expressway, a County-maintained roadway, from approximately 600 feet west of North 1st Street to Zanker Road, in conformance with a recent settlement agreement.

¹ * While the County refers to this document as a Negative Declaration, technically the correct term for this document is a Mitigated Negative Declaration. The County's document is referred to in this memo by the title it was given by the County but, in substance, remains a Mitigated Negative Declaration.

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BACKGROUND

On September 20, 2001, the Santa Clara County Roads and Airports Department circulated a Draft Environmental Assessment/Initial Study for the Montague Expressway widening improvement project, located on Montague Expressway from U.S. 101 to just east of I-680, within the public right-of-way and on private property in North San Jose, in conformance with the requirements of the California Environmental Quality Act (CEQA).

Fourteen comment letters were received by the County during the public review period from the U.S. Army Corps of Engineers, the Department of Toxic Substances Control (2), the California Department of Fish & Game, the State Clearinghouse, the Santa Clara Valley Transportation Authority, the Santa Clara Valley Water District, the City of Milpitas, Con-Way Western Express (3), Cadence Design Systems, Inc., Belle Barrera and Napredak Hall. The comments pertained to access, traffic analysis and transportation impacts, potential soil contamination procedures, work within waterways and bridge widenings, stormwater regulations, project design, replacement parking, tree replacements, land acquisition, Santa Clara Valley Water District permit requirements and project alternatives. No significant environmental issues were raised that were not already adequately addressed in the Environmental Assessment/Initial Study.

The County held a public hearing on November 7, 2001, with noticing in conformance with the requirements of CEQA. On October 8, 2002, the Director of Santa Clara County Roads and Airports Department approved the Negative Declaration (ND) for the Montague Expressway Improvement project and provided responses to all comments received. On December 10, 2002, the Santa Clara County Board of Supervisors adopted the Negative Declaration and Mitigation Monitoring and Reporting Program and approved the project.

In November 2010, the City prepared an Addendum to the Initial Study/Mitigated Negative Declaration specifically for greenhouse gas emission supplemental analysis for that portion of the project to be constructed by the City, which concluded that implementation of that portion of the project to be constructed by the City would not result in a significant effect on the environment due to greenhouse gas emissions.

The full reports referenced above are available on the City's website for the January 11, 2011, Council Agenda or can be viewed at the City Clerk's office.

With this memo, the Director of Planning, Building and Code Enforcement recommends adoption of the CEQA resolution of findings to enable the future construction of that portion of the Montague Expressway Widening Improvement project to be constructed by the City, which consists of a short segment of the larger project for which the ND was adopted by the County. The San Jose City Council must adopt the CEQA resolution of findings before property acquisition can occur and the construction bid can be awarded by the City of San Jose.

ANALYSIS

The CEQA resolution of findings must be adopted by the City of San Jose, as a responsible agency, before property acquisition can occur or a construction bid can be awarded by the San Jose Director of Public Works for that portion of the Montague Expressway project to be constructed by the City. The Environmental Assessment/Initial Study/ND for the project was prepared and processed by Santa Clara County in compliance with the requirements of CEQA, which process included consultation with City as a responsible agency. In addition, the City of San Jose prepared a greenhouse gas emission analysis for that portion of the Montague Expressway project to be constructed by the City, which concluded no significant impact.

The Director of Planning, pursuant to the requirements of Title 21 of the San José Municipal Code, reports that there is no substantial evidence in the public record received to date that the current project will have a significant effect on the environment not already adequately analyzed in the County's Environmental Assessment/Initial Study/ND and as supplemented by the City and with the County's identified mitigation measures included in the project. The ND was prepared and processed by the County in a manner that comports with CEQA and reflects the City's independent judgment and analysis, as Responsible Agency. Council adoption of the CEQA resolution of findings related to the proposed project will allow the Director of Public Works to proceed with property acquisition and award the construction bid.

EVALUATION AND FOLLOW-UP

If the Council approves the CEQA resolution, then property acquisition and award of the construction bid may proceed. The City of San Jose Director of Public Works is required to adhere to the mitigation measures identified in the County's Environmental Assessment/Initial Study/ND, including the mitigation monitoring and reporting program, in order to implement and construct that portion of the Montague Expressway project to be constructed by the City. An encroachment permit from the County of Santa Clara may also be required prior to working in the public right of way.

POLICY ALTERNATIVES

Not Applicable

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)**

While this does not meet any of the above criteria, the environmental document was distributed per the County's process. The public had an opportunity to review and comment on the County's environmental document.

COORDINATION

This project was coordinated with the City Attorney's Office, Departments of Public Works and General Services.

CEQA

The environmental impacts of the Montague Expressway Widening Improvement project were addressed by a Negative Declaration approved by the Santa Clara County Board of Supervisors on December 10, 2002. CEQA resolution of findings are recommended for adoption by City Council.

/s/
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Darryl Boyd, Principal Planner at 408-535-7898.