

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE ADOPTING FINDINGS FOR PURPOSES OF AND PURSUANT TO THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 IN CONNECTION WITH THE APPROVAL OF DISCRETIONARY ACTIONS BY THE CITY NECESSARY FOR THE CONSTRUCTION OF THE BART EXTENSION TO BERRYESSA PROJECT

WHEREAS, the Santa Clara Valley Transportation Authority (the "Authority") has approved the extension of the Bay Area Rapid Transit ("BART") system to Berryessa (the "Project"); and

WHEREAS, the City of San Jose ("City") desires to support the Authority with the design and construction of the Project; and

WHEREAS, it is reasonably foreseeable that the City will be considering proposed discretionary actions necessary to support the implementation of the Project within its jurisdiction, including but not limited to the approval of cooperative agreements and the issuance of encroachment permits, for work in connection with the Project affecting City-owned infrastructure; and

WHEREAS, the Authority, as a lead agency under the California Environmental Quality Act of 1970, together with implementing guidelines promulgated thereunder, all as amended to date (collectively, "CEQA"), prepared an environmental impact report, including two supplements, under CEQA for the Project, which documents describe the Project including all components that pertain to City-owned infrastructure; and

WHEREAS, the final environmental impact report prepared for the Project (the "Final EIR") was certified by the Board of the Authority on December 9, 2004, the final supplemental environmental impact report prepared for the Project (the "Final SEIR") was certified by the Board of the Authority on June 7, 2007, and the final supplemental environmental impact report #2 prepared for the Project (the "Final SEIR2") was certified by the Board of the Authority on March 3, 2011 (collectively, the Final EIR, the Final SEIR and the Final SEIR2, taken together, are referred to herein as the "FEIR"); and

WHEREAS, on December 9, 2004, June 7, 2007, and March 3, 2011, the Board of the Authority adopted findings as required by CEQA, each together with a mitigation monitoring and reporting program and a statement of overriding considerations (collectively, the "CEQA Findings"), and also approved the implementation of the Project; and

WHEREAS, prior to approving discretionary actions necessary to support the implementation of the Project within its jurisdiction, the City Council, as a responsible agency under CEQA, desires to make certain findings pursuant to 14 California Code of Regulations, Sections 15091 and 15096, promulgated under CEQA in connection with the reasonably foreseeable discretionary actions to be considered and taken by the City in connection with the implementation of the Project in City's jurisdiction.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San José as follows:

1. City has reviewed the information contained in the FEIR that is relevant to its approval of discretionary actions within City's jurisdiction necessary for City support of the design and construction of the Project as described in the FEIR; and
2. City has reviewed the CEQA Findings, and the City Council hereby determines and concludes all of the following:
 - a) The Authority has already identified, disclosed and adopted the mitigation measures recommended in the FEIR; and
 - b) The Authority has authority to implement those mitigation measures or to seek any required approvals for those mitigation measures identified in the CEQA Findings, and City has no direct authority to implement the mitigation measures identified in the FEIR and related CEQA Findings; and
 - c) The City Council has reviewed and considered the FEIR together with the related CEQA Findings and determines that the information and analyses contained in the FEIR, together with the related CEQA Findings, are adequate for its use as a decision-making body for a responsible agency and for its consideration of discretionary actions necessary to implement the Project within its jurisdiction; and
 - d) Approvals of the discretionary actions within the City are within the scope of the activities described and evaluated in the FEIR; and
 - e) Since the FEIR were finalized, there have been no substantial changes to the Project and no substantial changes in Project circumstances that would require major revisions to the FEIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of

substantial importance that would change the conclusions set forth in the FEIR; and

- f) City has not identified any feasible alternative or additional feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect that the Project would have on the environment; and

3. Therefore, based upon all of the foregoing, City as a responsible agency under CEQA hereby adopts the Authority's CEQA findings for the Project as its own findings under CEQA to the fullest possible extent that said CEQA findings are relevant to City's decision to approve discretionary actions necessary to implement the Project within its jurisdiction.

The City, as a responsible agency, also adopts the Valley Transportation Authority's Statement of Overriding Considerations, and reiterates the benefits of the project, including improving public transit options, enhancing regional connectivity, reducing congestion on highways and supporting road networks, improving regional air quality, and supporting the City's General Plan, which relies heavily on public transit to help minimize auto use and reduce vehicle miles traveled. The construction of BART would also help to further the General Plan goals of focusing growth around transit, creating Urban Villages, and creating streetscapes for people.

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