

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 IMPROVEMENTS AT SR-17/I-280/I-880 INTERCHANGE AND I-880/STEVENS CREEK BOULEVARD INTERCHANGE PROJECT

WHEREAS, the State of California Department of Transportation (“Caltrans”) has approved certain Improvements at the SR-17/I-280/I-880 Interchange and the I-880/Stevens Creek Boulevard Interchange (collectively, the “Project”); and

WHEREAS, the City of San Jose (“City”) desires to support Caltrans 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 City’s 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, Caltrans, as the lead agency for the implementation of the Project 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/environmental assessment, under CEQA for the Project, which documents, describes, discloses and analyzes the environmental impacts of the Project including all components that pertain to City-owned infrastructure; and

WHEREAS, the final environmental impact report/environmental assessment prepared for the Project was duly certified by the District Director of Caltrans on July 8, 2011 (the “Final EIR”); and

WHEREAS, on July 8, 2011, the District Director of Caltrans adopted findings as required by CEQA, each together with a mitigation monitoring and reporting program (collectively, the “CEQA Findings”), and also approved the implementation of the Project; and

WHEREAS, prior to taking discretionary approval actions necessary to support the implementation of the Project within its jurisdiction, the City Council, as a

decision-making body for a responsible agency for the Project 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 as a responsible agency in connection with the implementation of the Project in City's jurisdiction.

A. FINDINGS REGARDING ENVIRONMENTAL IMPACTS

In accordance with CEQA, the City as a responsible agency for the Project hereby adopts the findings and conclusions set forth in the Final EIR regarding the environmental impacts that will result from the Project and also adopts the findings and conclusions regarding the effect of mitigation measures in reducing or avoiding such impacts. The City hereby ratifies, adopts and incorporates the analyses, explanations, findings, responses to comments, and conclusions of the Final EIR as they may be augmented or specifically modified by these findings. These findings recognize, affirm and incorporate herein, but do not repeat, the full discussions of environmental impacts contained in the Final EIR; the Final EIR's discussions and the potential environmental impacts of the Project, the significance of those impacts prior to mitigation, the mitigation measures for those impacts, and the significance of the environmental impact with mitigation are summarized hereinbelow.

As set forth herein, all environmental impacts of the Project are less-than-significant, or will be mitigated to a less-than-significant level by the mitigation measures adopted as conditions of approval. Unless expressly otherwise specified, the Project proponent shall be responsible for undertaking, timely completing, and otherwise maintaining and ensuring compliance with all of the mitigation measures adopted as conditions of approval of Project.

SIGNIFICANT ENVIRONMENTAL IMPACTS

Aesthetics

Impact: The Project will result in the following significant environmental effect: The Build Alternative will result in a significant visual impact at the single-family homes located near Parkmoor Avenue and at the single-family homes located on Pioneer Avenue near Hodges Avenue. Mitigation and/or avoidance measures for these impacts are included in the Project and are described below (**Significant Impact**).

Mitigation: A metal beam guardrail (or similar barrier) will be installed along the easterly edge of the ramp and collector-distributor road adjacent to the Pioneer Avenue/Hodges Avenue neighborhood. Trees will be preserved between the guardrail and the right-of-way line where feasible.

At the location where the three single-family homes will be removed, a dense grove of fast growing evergreen trees such as redwood trees will be planted between the edge of Parkmoor Avenue and the soundwall and between the soundwall and the ramps to provide a dense visual screen. With maturity, the trees will screen both the soundwalls at the ground level with their broad lower branches and screen the ramps with their tall growth characteristics.

Fast growing vines will be planted at the bases of the new soundwalls to grow up and cover the uniform surfaces of the walls to soften their appearance.

Metal beam guardrails (or similar barrier) will be installed, where feasible, to preserve desirable trees and vegetation located within 30 feet of the edge of the outside traffic lanes of the freeways, such vegetation that would otherwise need to be removed to comply with requirements for an object free safety/recovery zone.

Finding: Implementation of the adopted mitigation measures for visual impacts would reduce the Project's visual impacts to a **less than significant level**.

Facts in Support of Finding: Implementation of the mitigation measures would reduce the Project's visual impacts by creating a vegetative screen between the existing neighborhood and the proposed improvements.

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

1. City has reviewed and considered the information contained in the Final EIR that is relevant to City's approval of discretionary actions within City's jurisdiction necessary for City support of the design and construction of the Project as described in the Final EIR; and

2. City has reviewed and considered the CEQA Findings, and the City Council hereby determines and concludes all of the following:
 - a) Caltrans has already identified, analyzed, disclosed and adopted the mitigation measures recommended in the Final EIR; and
 - b) Caltrans 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 Final EIR and related CEQA Findings; and
 - c) The City Council has reviewed and considered the Final EIR together with the related CEQA Findings and determines that the information and analyses contained in the Final EIR, together with the related CEQA Findings, are adequate for City's use as a decision-making body for a responsible agency and for City's consideration of discretionary actions necessary to implement the Project within the jurisdiction of the City of San José; and
 - d) Approvals of the discretionary actions within the City are within the scope of the activities described and evaluated in the Final EIR; and
 - e) Since the Final EIR was finalized, there have been no substantial changes to the Project and no substantial changes in Project circumstances that would require major revisions to the Final EIR 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 Final EIR; 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 Caltrans' CEQA Findings for the Final EIR 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.

