

## RESOLUTION NO. 73575

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE CONSIDERING AND MAKING CERTAIN FINDINGS CONCERNING THAT CERTAIN ENVIRONMENTAL IMPACT REPORT AND RELATED FINDINGS PREPARED BY THE VALLEY TRANSPORTATION AUTHORITY FOR THE DOWNTOWN EAST VALLEY CAPITOL EXPRESSWAY CORRIDOR LIGHT RAIL PROJECT

**Whereas**, the Valley Transportation Authority (“VTA”) was the Lead Agency under the California Environmental Quality Act of 1970, as amended (“CEQA”) for the Downtown East Valley Capitol Expressway Corridor Light Rail Project (the “Project”) and prepared a Final Environmental Impact Report for the Project; and

**Whereas**, the VTA Board of Directors on May 5, 2005 adopted findings, facts in support of findings, and a statement of overriding considerations, all under the requirements of CEQA, in connection with its decision to approve the Downtown East Valley Capitol Expressway Corridor Light Rail Project (which findings, facts in support of findings and statement of overriding considerations is attached hereto as Exhibit "A" and incorporated into this Resolution by reference as though fully set forth herein, and is hereinafter referred to as the “VTA Findings”); and

**Whereas**, the City of San Jose is considering assumption of jurisdiction from the County of Santa Clara (“County”) over that certain portion of the Capitol Expressway that runs from San Antonio Street (near Highway 680) to Highway 87 and upon which the Project would be constructed and operated; and

**Whereas**, to inform the City of San Jose’s decision-making process related to the potential environmental impacts that could reasonably be presumed to result from assumption of jurisdiction from the County over the above-described portion of Capitol Expressway, the City, as a Responsible Agency pursuant to CEQA Guidelines Section 15096(f) has considered the VTA’s Final EIR prepared for the Project, as well as VTA’s Findings; and

**Whereas**, the City Council of the City of San Jose acknowledges the construction and operation of the Project by the VTA under VTA’s jurisdiction would result in the significant environmental impacts as identified in the Final EIR for the Project and VTA’s Findings adopted May 5, 2005; and

**Whereas**, the City Council of the City of San Jose is not the jurisdiction constructing or operating the Project, but is considering an action for the City to assume jurisdiction from the County over the above-described portion of Capitol Expressway and finds that this assumption of jurisdiction action would not result in any direct or reasonably

foreseeable indirect physical changes to the Capitol Expressway itself or to the environment; and

**Whereas**, the City Council of the City of San Jose further understands and recognizes that significant adverse environmental impacts associated with the Project will result from the VTA's construction and operation of the Project, for which VTA adopted the attached VTA's Findings , and that those impacts result from VTA's implementation of the Project under VTA's jurisdiction and not from a decision by the City and County regarding which jurisdiction shall be responsible for the above-described, underlying portion of Capitol Expressway right-of-way upon which the Project will exist.

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

In recognition of the foregoing information set forth in this Resolution, the City Council does hereby further find all of the following:

- A. The City Council hereby acknowledges that it has reviewed and considered the Final EIR prepared by the VTA for the Project, together with the VTA's Findings – which VTA's findings, attached hereto as Exhibit "A" are incorporated by reference into this section of this Resolution as though fully set forth herein -- and acknowledges and finds that it is a responsible agency for the Project under CEQA and CEQA Guidelines Section 15096(g) and that the significant effects of implementation of the Project by VTA, together with mitigation measures to be implemented, are as set forth in the Final EIR for the Project and the VTA's Findings; and
- B. The City of San Jose is not implementing the Project, VTA is the public entity with jurisdiction over the Project, and City of San José may contemplate assuming jurisdiction from the County for a portion of Capitol Expressway over which the Project would operate, but which assumption action by City will not result in any direct or reasonably foreseeable indirect physical changes or impacts to Capitol Expressway itself or to the environment; and
- C. Based upon the foregoing, it is not necessary for the City of San Jose as a Responsible Agency under CEQA to consider, pursuant to CEQA Guidelines Section 15096(g), the adoption of further alternatives or mitigation measures related to the Project as a part of City's assumption of that certain portion of Capitol Expressway described in this Resolution (from San Antonio Street near Highway 680 to Highway 87).

**ADOPTED** this 12<sup>th</sup> day of December, 2006, by the following vote:

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

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

VACANT: DISTRICT 6

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RON GONZALES  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk