

RESOLUTION NO. 74426

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE APPROVING THE LOS GATOS CREEK TRAIL REACH 5 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, 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 Los Gatos Creek Trail Reach 5 Master Plan Project, Planning File No. PP06-112 (the "MND"), in accordance with the requirements of the California Environmental Quality Act of 1970 and state and local guidelines and processes promulgated thereunder, all as amended to date (collectively "CEQA"), which MND adoption has not been protested or appealed to City Council; and

WHEREAS, the Los Gatos Creek Trail Reach 5 Master Plan Project ("Project") analyzed under the Initial Study/MND consisted of the development of a multi-use trail along Los Gatos Creek to accommodate bicyclists and pedestrians, consisting of a 8 to 12-foot wide paved path, except along portions that would utilize existing sidewalks and Class III bike routes, generally extending along an approximately 0.75-mile stretch of Los Gatos Creek, between Auzerais Avenue and W. Santa Clara Street; and

WHEREAS, the Initial Study/MND 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/MND and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA; and

WHEREAS, the Initial Study/MND and the Mitigation Monitoring and Reporting Program for the Project are available for review at the address set forth below and are, by this reference, incorporated into this Resolution as if fully set forth herein.

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

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/MND 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/MND prepared for the Project has been completed in compliance with CEQA, and (3) the Initial Study/MND represents the independent judgment and analysis of the City as lead agency for the Project. The City Council designates the Director of Public Works at the Director's Office at 801 North First Street, Room 320, San Jose, California 95110, 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 in accordance with the MND (Planning File No. PP06-112) and does hereby adopt the Mitigation Monitoring and Reporting Program prepared for the Project (the "MMRP"), which MMRP is attached hereto as "Attachment 1" and incorporated herein by reference. The Initial Study/MNDeclaration and MMRP also are: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street Tower 3, San Jose CA 95113 and (2) available for inspection by any interested person at that location.

ADOPTED this 17th day of June, 2008, by the following vote:

AYES:	CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE, LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS, REED.
NOES:	NONE.
ABSENT:	NONE.
DISQUALIFIED:	NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk