

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE MAKING CERTAIN FINDINGS AS THE
RESPONSIBLE AGENCY 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 AND OPERATION OF THE
EASTRIDGE TO BART REGIONAL CONNECTOR
PROJECT AND ADOPTING THE RELATED MITIGATION
MONITORING AND REPORTING PROGRAM**

File No. ER22-268

WHEREAS, the Santa Clara Valley Transportation Authority (the “Authority”) desires to construct the Eastridge to BART Regional Connector, which extends light rail from the existing Alum Rock Light Rail Station to the Eastridge Transit Center with an elevated guideway primarily in the center of Capitol Expressway (the “Project”); and

WHEREAS, the Authority has approved a Final Environmental Impact Report, Final Supplemental Environmental Impact Report, and Second Supplemental Environmental Impact Report for the Project and addenda thereto; and

WHEREAS, the City of San José (“City”) desires to support the Authority with the design and construction of the Project; and

WHEREAS, 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 establishing operation and maintenance responsibilities in connection with the Project; and

WHEREAS, the Authority, as the lead agency under the California Environmental Quality Act of 1970, together with the implementing guidelines promulgated thereunder, all as amended to date (collective “CEQA”) prepared a Supplemental Environmental Impact Report under CEQA for the Project, which documents describe the Project including all components that pertain to City-owned infrastructure and rights-of-way; and

WHEREAS, the Final Environmental Impact Report (“2005 FEIR”) was prepared for the Project and certified by the Board of the Authority on May 5, 2005, the Final Supplemental Environmental Impact Report (“2007 FSEIR”) was prepared for the Project and certified by the Board of the Authority on August 2, 2007, and the Second Final Supplemental Environmental Impact Report (“2019 FSER-2”) was prepared for the Project and was certified by the Board of the Authority on June 6, 2019 (collectively referred to herein as the “FEIR”); and

WHEREAS, on May 5, 2005, August 2, 2007, and June 6, 2019, 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 and on-going operation of the Project within its jurisdiction, the City Council, as a responsible agency under CEQA, desires to make certain findings pursuant to CEQA Guidelines Sections 15091 and 15096 related to reasonably foreseeable discretionary actions to be considered and taken by the City in connection with the implementation of the Project in the City’s jurisdiction;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

1. That the above recitals are incorporated herein by reference.

2. The City has reviewed the information contained in the FEIR that is relevant to its approval of discretionary actions within the City's jurisdiction and necessary for City support of the design and construction of the Project, as described in the FEIR.
3. The City has reviewed the CEQA findings, and the City Council hereby determines and concludes:
 - a. The Authority has already identified, disclosed, and adopted the mitigation measures recommended in the FEIR; and
 - b. The Authority has the right to implement those mitigation measures, or to seek any required approvals for those mitigation measures identified in the CEQA findings; and the City has no direct authority to implement the mitigation measures identified in the FEIR provided the City shall review all applicable documentation, records, and coordination prior to deeming mitigation measures are satisfied by the Lead Agency for any applicable permits or work within the City's jurisdiction; 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 was finalized, there have been no substantial changes to the Project and no substantial changes in 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. The City has not identified any feasible alternatives 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.
4. Based on the foregoing, the 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 and that said CEQA findings are relevant to the City's decision to approve discretionary actions necessary to implement the Project within the City's jurisdiction.

5. 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 on public transit to minimize auto use and reduce vehicle miles traveled. The construction of the Project would further General Plan goals focusing growth around transit, creating Urban Villages, and creating multi-modal streetscapes for the public.
6. The Director of Planning, Building and Code Enforcement is hereby directed to prepare a Notice of Determination under CEQA and cause the same to be filed with the County Clerk of the County of Santa Clara promptly following the City's approval of any discretionary action related to the Project. The City Council designates the Director of Planning, Building and Code Enforcement at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California 95113, as the custodian of document and records of proceedings on which this decision is based.

ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk