

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
STACK TRADE ZONE PARK PROJECT AND ADOPTING
THE RELATED MITIGATION MONITORING AND
REPORTING PROGRAM**

WHEREAS, the California Energy Commission (CEC) approved a Final Environmental Impact Report (EIR) to evaluate the potential environmental effects of the development of the Trade Zone Boulevard Technology Park (STACK Trade Zone Park or project), in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, the Warren-Alquist Act, and California Code of Regulations, Title 20 (Small Power Plant Exemptions); and

WHEREAS, the STACK Trade Zone Park would be located on two parcels of land encompassing approximately 9.8 acres at the corner of Trade Zone Boulevard and Ringwood Avenue (2400 Ringwood Avenue and 1849 Fortune Drive) in the city of San José, and includes one approximately 136,573-square-foot four-story advanced manufacturing building (AMB), two four-story data center buildings (approximately 522,194 square feet), a parking garage, related utility infrastructure, and a 91 MW backup generating facility, which together constitute the “project” under CEQA; and

WHEREAS, the City of San José (“City”) desires to support the CEC 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 a rezoning ordinance including development standards, tentative and final subdivision maps, and a planned development permit for the Project; and

WHEREAS, approval of the Project would constitute a project under the provisions of the California Environmental Quality Act of 1970, together with related State and local implementation guidelines and policies promulgated thereunder, all as amended to date (collectively, "CEQA"); and

WHEREAS, the EIR concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce those significant effects to a less-than-significant level; and

WHEREAS, the CEC is the lead agency for the Project, and certified the Final Environmental Impact Report ("FEIR") on April 12, 2023 for the Project, pursuant to and in accordance with CEQA; and

WHEREAS, the City of San José is a responsible agency for the Project pursuant to CEQA; and

WHEREAS, whenever a Responsible Agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a Responsible Agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during Project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as the Responsible Agency for the Project (the "Mitigation Monitoring and Reporting Program"); and

WHEREAS, on April 26, 2022, the Planning Commission of the City of San José reviewed the EIR prepared for the Project and recommended to the City Council that it finds that the EIR was completed in accordance with the requirements of CEQA and further recommended the City Council adopt this Resolution; 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 Title 14 of the 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 within the City's jurisdiction;

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

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 CEC has identified, disclosed and adopted the mitigation measures recommended in the FEIR; and
 - b) The CEC 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 retains its responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the Project which the City decides to implement, finance, or approve; and
 - d) 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

- e) Approvals of the discretionary actions within the City are within the scope of the activities described and evaluated in the FEIR; and
 - f) Since the FEIR 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 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
 - g) 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, 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 that said CEQA findings are relevant to City's decision to approve discretionary actions necessary to implement the Project within its jurisdiction.

BE IT FURTHER RESOLVED that 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.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

Matt Mahan
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk