

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA FINDING THE ACCEPTANCE OF AN EASEMENT FROM ALAMEDA UNIFIED SCHOOL DISTRICT RELATED TO A ROUNDABOUT ON CENTRAL AVENUE AT THIRD STREET TO BE IN CONFORMANCE WITH THE GENERAL PLAN

WHEREAS, as part of the Central Avenue Safety Improvement Project, in association with a new roundabout at Central Avenue and Third Street, the City of Alameda (City) will accept an easement from Alameda Unified School District (AUSD) for a sidewalk, bikeway and landscaped bioretention area on a portion of the Encinal Junior & Senior High School property; and

WHEREAS, California Government Code Section 65402 requires the location, purpose and extent of an acquisition of real property be submitted to, and reported upon by, the Planning Board whenever a governmental entity proposes to acquire real property for public purposes.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds the General Plan conformity finding exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301 (operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing streets, sidewalks, gutters, bicycle and pedestrian trails and similar facilities involving negligible or no expansion of use), 15304 (minor alterations to land), 15061(b)(3) (because it can be seen with certainty that there is no possibility that the proposed acquisition will have a significant effect on the environment), and 15183 (projects consistent with a community plan, general plan, or zoning), each as a separate and independent basis, and none of the exceptions in CEQA Guidelines section 15300.2 apply; and

BE IT FURTHER RESOLVED, in accordance with Government Code Section 65402, the Planning Board finds that the location, purpose and extent of the easement as described in the exhibits to the accompanying staff report is in conformance with the Alameda 2040 General Plan and is consistent with the Alameda 2040 General Plan Mobility Element. The easement facilitates construction of a roundabout and improvements to the Central/Third Avenue intersection that would address safety for pedestrians and students of the nearby schools. Mobility Element Policy ME-7 specifically calls out the use of roundabouts as a traffic calming measure.

HOLD HARMLESS. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul

an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney's fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys' fees.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Planning, Building and Transportation Department a written notice of appeal stating the basis of appeal and paying the required fees.

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