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Memorandum to File: California Environmental Quality Act (CEQA) Supplemental Response Memorandum for the Soto Street Roadway Widening Project from Multnomah Street to Mission Road

The Bureau of Engineering received a comment letter by Bryan Diaz Law on behalf of residents on Indiana Avenue dated July 30, 2018 ("Letter") regarding the City's Initial Study and Mitigated Negative Declaration ("IS/MND") for the Soto Street Roadway Widening Project from Multnomah Street to Mission Road ("Project"). The comment letter was received during the public review comment period (July 5 to August 6, 2018). The Diaz Law Letter claims that there will be a "significant negative impact caused by the project to the community and property owners subject to mitigation." The Letter claims that the City failed to address the following screening criteria: "Would the project include features such as a highway, aboveground infrastructure, or an easement through an established neighborhood community that could cause a permanent disruption in the physical arrangement of that established community or otherwise isolate an existing land use?" The Letter then claims that the project "would isolate parcels . . . and prevent future subdivision of parcels" and that this "would constitute a Land Use change and Negative Impact to the community and property owners subject to mitigation."

The IS/MND, at Page 115, addresses this particular criterion, concluding that there would be no impact from the project physically dividing an established community. It also notes that the project improvements are on an existing roadway, and that the project would not create a barrier that impedes community cohesion. As further explained below, this conclusion does not change, and no impact will result from the project.

Rather than identifying any disruption to or isolation of the community, the Letter solely implicates alleged impacts to a few, particular, privately-owned parcels adjacent to the project. There is no evidence showing that a substantial number of persons in the neighborhood around the project would be significantly impacted other than these few particular parcels. The ability to subdivide a parcel and obtain access to a right of way for developing a property are unique matters to each parcel. While this may be a potential economic concern for that particular property owner, it is not an environmental concern affecting the neighborhood and public at large, which is the relevant inquiry under CEQA. Therefore, the Letter's allegations do not implicate any impact to the environment of persons in general, as relevant to CEQA review, and there would be no



impact pursuant to CEQA since the project would not disrupt the social or physical interaction between land uses comprising the neighborhood or community.

The types of impacts involving disruption and isolation of communities occur where there is a potential to divide an existing community and impact the public's normal access within a neighborhood, such as where a new freeway or new railway project might block the entire community's normal access. Here, however, the Project's placement of the retaining wall on the existing, steep, privately-owned hillside along Soto Street would not cause a significant impact because it would not cause disruption to the community. Soto Street already exists as a main thoroughfare in the area that forms an existing delineation and barrier to the areas in the neighborhood. The east side of Soto Street has an existing steep hillside along these privately-owned parcels, which currently also acts as existing barrier to public access, as well as a barrier to accessing each of those properties. The properties along Soto Street are not developed along the Soto Street side, but are rather only currently developed along Indiana Avenue, which is located over a ridgetop away from Soto Street. Additionally, there are only a few privately-owned parcels along Soto Street adjacent to the project area, and changes along those few parcels would not affect public access or impact the community since they are privately owned. Based on this description of the setting for existing normal access of the public within the neighborhood, no evidence has been shown that constructing a retaining wall as part of the project would cause a significant impact that disrupts the community's physical arrangement or isolates existing land uses. (Additional site photographs, diagrams, and a topographic map of the Project's plans are attached at the end of this memo)

Contrary to the Letter's claims, the project would improve public access and improve connectivity of the neighborhood community by addressing local circulation issues around the project area. The community, in general, has been vocally supportive of the project because it improves connectivity within the existing community. Under existing conditions, the community's pedestrian and bicycle access along Soto Street is very limited due to the narrowness of Soto Street and inaccessibility along the abutting hillside along the east side of Soto Street. There is currently no sidewalk on the east side of Soto Street next to the steep hillside, and during prior rain events, debris from the hillsides has washed onto Soto Street and caused further impediments to local movement patterns. The Project would improve access by adding needed bicycle lanes and expanding and adding pedestrian sidewalks along both sides of Soto Street, as well as adding one additional lane of vehicular travel, and adding protection from erosion along the roadway. These facilities would improve connectivity between the existing publicly accessible areas of the community, rather than causing significant impacts disrupting interaction within an established neighborhood community.

Even if the impact to a private property's access was considered a CEQA concern, the impact of this project still would be less than significant because it is too speculative to conclude that the project would impact access or subdivision of the parcels along Soto Street. The comment letter asserts that a few parcels would be isolated and future subdivision would be prevented by the project, and that the parcels have street numbers assigned on Soto Street. The existence of a street number on Soto Street does not necessarily mean that a parcel is accessed from Soto Street. No evidence shows that access exists or is possible under the existing conditions from Soto Street. On the contrary, none of these properties have been developed to access Soto Street, and access is only obtained by the property owners from the Indiana Avenue side of their

properties, where access has been established. Access to the parcels from Soto Street would require an application to the City and designing substantial engineering controls for the existing steep hillside along Soto Street. It is not possible to speculate what would or could be proposed at this time. Access for future subdivided parcels might instead be proposed from Indiana Avenue, rather than from Soto Street. No prior or current proposals are known to exist for constructing access from Soto Street. Based on this, any impacts related to accessing those properties from Soto Street are too speculative for analysis at this time, which is in addition to the fact that they are non-CEQA concerns related to a few privately owned parcels.

Any development of access or subdivision of the parcels additionally would be complicated by the parcels along Soto Street beginning approximately 35-feet into the existing hillside, above and beyond the current Soto Street alignment, which is where the boundary for the City's right of way ends. Most of the hillside varies from flat to 1:1, with a few areas in which the slope is approaching near-vertical. The portions of this project that involve excavating soil and erecting the retaining wall along Soto Street would be located within this existing right of way along Soto Street. The parcels in question do not currently abut the existing alignment of Soto Street, and under the existing conditions, any proposal to access or subdivide the parcels along Soto Street would need to consider and avoid impeding the City's use of its right of way into the hillside. Based on this, no impact would occur from the City's use of its right of way as proposed for this project.

Finally, the Letter demands that the City build an access road to the east, along the top of the planned retaining wall for the project as a mitigation measure addressing the alleged impacts to the parcels. In order to build such a road, the City would need to acquire through eminent domain or negotiation additional rights for the access road area. Adding the access road on the hillside would require additional grading, excavation, and stabilization of the hillside, including further retaining measures. The result would probably be another retaining wall, constructed along the uphill edge of the proposed access road, all with the same alleged impact as the currently proposed project. Based on this condition, the existing hillside is the apparent cause of the alleged lack of access, rather than the project itself, and no impact would occur as a result of the project. Additionally, the proposed mitigation measure would not be effective in mitigating or substantially reducing the alleged adverse impact. Also, the mitigation measure would be infeasible because it raises potential additional environmental, economic, legal, and social concerns related to acquiring property rights from each of the properties along Soto Street and developing additional parcels on the hillside. This is all in addition to the mitigation measure being unnecessary since the alleged impacts do not raise a CEQA concern.

Based on the above-noted considerations, the comments in the Letter do not implicate CEQA concerns, and more particularly, there is no evidence showing that the project would cause significant impacts by disrupting a community's physical arrangement or isolating existing land uses.

Attachments:





