

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of San Diego for Authority to modify the Park Boulevard At-Grade Crossing of three light rail vehicle tracks of the Metropolitan Transit System and two heavy rail tracks of the BNSF Railway Company in the City of San Diego, County of San Diego, California.

Application 14-12-003
(Filed December 3, 2014)

DECISION AUTHORIZING THE CITY OF SAN DIEGO TO CONSTRUCT PARK BOULEVARD AS A NEW AT-GRADE HIGHWAY-RAIL CROSSING OVER THE TRACKS OF THE METROPOLITAN TRANSIT SYSTEM AND BNSF RAILWAY COMPANY IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO

Summary

This decision grants the City of San Diego authorization, with conditions, to construct a new at-grade highway-rail crossing over the tracks of Metropolitan Transit System and BNSF Railway Company in the City of San Diego, County of San Diego. The City of San Diego filed Application 14-12-003 as a “compliance filing” in accordance with Decision 03-12-018. The new Park Boulevard at-grade crossing will be identified as California Public Utilities Commission Crossing Numbers 002-268.79 and 036-1.20, and United States Department of Transportation Number 967242T.

This proceeding is closed.

Discussion

In Decision (D.) 03-12-018, California Public Utilities Commission (Commission) granted the City of San Diego (City) authorization to permanently close the at-grade highway-rail crossing (crossing) at Eighth Avenue and to

construct, operate, monitor, and repair a new crossing at Park Boulevard over the tracks of the Metropolitan Transit System (MTS) and BNSF Railway Company (BNSF). D.03-12-018 imposed significant safety mitigation conditions.

The Eighth Avenue crossing was in the immediate vicinity of the proposed Park Boulevard location. The Eighth Avenue roadway and crossing no longer exist due to the construction of Petco Park (ballpark), which is a baseball stadium in downtown San Diego. The City permanently closed Eighth Avenue crossing to the public in 2004. The closed Eighth Avenue crossing was identified as California Public Utilities Commission Crossing Numbers (CPUC No.) 002-268.70 and 036-1.15, and United States Department of Transportation Numbers (DOT No.) 026879M and 661795R.

For the purposes of describing the Park Boulevard crossing in this decision, Park Boulevard runs north and south, and the tracks run east and west.

The proposed crossing construction will extend Park Boulevard to intersect with Harbor Drive. Construction of the Park Boulevard crossing is a component of a much larger development plan throughout the downtown San Diego ballpark and convention center area. The proposed crossing will be identified as CPUC No. 002-268.79 and DOT No. 967242T.

Daily train operations along the MTS tracks in this area include approximately seven railroad movements, at speeds up to 10 miles per hour (MPH), and approximately 166 light rail movements at speeds up to 25 MPH. Daily train operations along the BNSF tracks in this area include approximately 10 railroad movements at speeds up to 10 MPH. A BNSF rail yard is located 500 feet east of the proposed crossing.

Documentation submitted by the City in 2002 estimated approximately 29,000 vehicles at the crossing each day, seven-percent of which are heavy trucks.

Based on information provided during the meet-and-confer process in 2014, the expected vehicle speed is 25 MPH along Park Boulevard.

The City originally filed Application (A.) 01-09-012 on September 12, 2001. BNSF and CPUC staff protested A.01-09-012. The Commission held hearings in this proceeding, resulting in D.03-12-018, as modified by D.04-04-039. D.03-12-018 granted the City permission to construct the crossing of Park Boulevard in downtown San Diego, conditioned on the implementation of several safety measures.

The City filed A.06-04-003 on April 5, 2006, for authorization to construct a new grade-separated pedestrian crossing above the tracks (pedestrian bridge). The City submitted A.06-04-003 as a “compliance filing” to satisfy one of the safety conditions stated in D.03-12-018. The City opened the pedestrian bridge to the public in 2011. The pedestrian bridge is identified as CPUC No. 002-268.82-AD and DOT No. 924617J.

The City proposes to construct the at-grade Park Boulevard crossing for vehicular use only, while directing pedestrians to the pedestrian bridge over the tracks. The City has provided details regarding the proposed crossing in the submitted application and exhibits.

The City filed A.14-12-003 (application) as a “compliance filing,” as required by the Ordering Paragraphs (OP) of D.03-12-018, as modified by D.04-04-039. The following elements of the City’s proposal specifically address each OP in D.03-12-018:

- Permanently closing the Eighth Avenue at-grade crossing near Harbor Drive (OP 1). The City closed the crossing to the public in 2004 and it remains closed.

- Constructing Park Boulevard across the tracks at grade to connect with Harbor Drive (OP 1). The City proposes constructing Park Boulevard crossing to connect with Harbor Drive, which is the primary outcome of the application.
- Installing four-quadrant gates including vehicle detection systems (OP 2). The City proposes these elements in the application and exhibits.
- Installing interconnected traffic signals and pre-signals at nearby intersections that will be preempted by railroad warning devices (OP 3). The City proposes these elements in the application and exhibits.
- Constructing a pedestrian bridge across the tracks (OP 4). The City opened the pedestrian bridge to the public in 2011.
- Establishing an Event Transportation Management Plan to accommodate events at the ballpark (OP 4). The City established a draft Event Transportation Management Plan. Details are included in the application and exhibits, and further discussed below.
- Installing traffic signal heads and railroad flashing light signals that are aligned to be visible to approaching vehicular traffic (OP 5). The City included these elements in the application and exhibits.
- Maintaining landscaping so as not to impede the visibility of the signals (OP 5) and establishing a regular maintenance schedule for all safety devices at the crossing (OP 6). The proposed landscaping details are depicted in the City application and exhibits. The application states, “the City has developed a regular maintenance schedule for all the safety devices at this crossing” and “The City meets with BNSF at each crossing within the City every 6 months to review the crossing equipment.” This decision will require the City to submit to CPUC’s Rail Crossings and

Engineering Branch (RCEB) details of the maintenance agreement with BNSF and MTS.

- Meeting and conferring with BNSF, MTS, and RCEB regarding the specific details for all safety systems to be installed at the crossing (OP 7). BNSF, MTS, and RCEB held meetings in 2014 and the City considered feedback from interested parties when developing the proposed configuration.
- Conferring and cooperating in proposing, evaluating, and implementing long-term safety enhancements to the rail corridor in San Diego (OP 9). The City, BNSF, MTS and RCEB have cooperated to implement long-term safety enhancements to the crossings along the railroad corridor in downtown San Diego. The City documented specific safety enhancements in the application and exhibits.
- Submitting a compliance filing with the details of each safety feature at least one year prior to the expiration of the authority (OP 8 and OP 10). On December 3, 2014, the City submitted the application to construct the Park Boulevard crossing. The City submitted the application as a compliance filing, and it includes details of each safety feature.

As mentioned above, the City, BNSF, MTS, RCEB, and other interested parties met and conferred regarding the safety of the proposed crossing configuration in 2014. A key reference during the meet-and-confer process was the "Third Amendment to the Application," submitted by the City on December 19, 2002, in A.01-09-012. Exhibit B-1 of that filing identified specific elements of the safety systems and was the final amendment prior to the Commission's authorization in D.03-12-018. The City's current proposal for the Park Boulevard crossing is generally consistent with the configuration documented in the 2002 amendment filing.

In 2014, during the meet-and-confer process, interested parties discussed the following concerns regarding the configuration authorized in A.01-09-012.

The first concern was the longer route that pedestrians near the tracks would be required to take by walking to Imperial Avenue, rather than crossing Park Boulevard mid-block. RCEB responded that the proposal to place a crosswalk and break in the median north of the tracks would be inconsistent with the configuration established as part of A.01-09-012. The potential safety impact of the discussed change is that a large number of pedestrians at a crosswalk north of the tracks could result in vehicles queueing and stopping on tracks.

There was discussion about closing both northbound and southbound lanes of Park Boulevard during events. However, there were concerns that if northbound lanes were closed along Park Boulevard, it would also make the driveway in the northeast quadrant of the proposed crossing inaccessible during events. This is identified as the "Parcel D Driveway" in plans submitted by the City. The proposal includes right-in and right-out access from the northbound lanes to the driveway, including the period during events. There were concerns that the alignment of the driveway may allow pedestrians to use it as a route toward the tracks, rather than following the designated pedestrian routes. The City updated the proposed configuration to channelize pedestrians away from the crossing to the extent feasible. The proposed configuration is generally consistent with the Commission authorizations in A.01-09-012 and A.06-04-003. The driveway is currently closed to vehicles because the development planned for Parcel D has not yet been constructed, but it is expected to be used by vehicles in the future.

Another concern was that the location of the pedestrian crosswalk across Tony Gwynn Way near the northwest quadrant of the crossing conflicts with ballpark operations. RCEB responded that the proposal to move the pedestrian crosswalk closer to the intersection of Tony Gwynn Way and Park Boulevard would be inconsistent with the configuration established as part of A.01-09-012. The potential safety impact of the discussed change is that pedestrians could more easily circumvent the pedestrian barriers to walk across the tracks or across Park Boulevard adjacent to the tracks; such movements might conflict with train movements or may cause vehicles to queue and stop on the tracks.

The following are elements of the proposed Park Boulevard crossing configuration, as submitted by the City in its application and/or exhibits.

1. The City closed the Eighth Avenue at-grade crossing at the tracks.
2. The City constructed a pedestrian bridge just east of Park Boulevard.
3. BNSF will construct one additional track between the existing BNSF and MTS tracks, resulting in a total of three BNSF tracks and three MTS tracks.
4. The Park Boulevard roadway across the tracks will include four southbound and two northbound vehicular lanes. Two of the lanes will be designated as shared bike lanes.
5. The City will eliminate all sidewalks on Park Boulevard in the immediate vicinity of the crossing.
6. The City will eliminate the existing pedestrian pathway located between Harbor Drive and the tracks along the segment from 5th Avenue to Park Boulevard.
7. The City will install pedestrian barriers in each crossing quadrant. The barriers include a combination of walls, fencing, rocks, and vegetation.

8. The City will eliminate pedestrian crosswalks at the intersection of Park Boulevard and Harbor Drive, except for the crosswalk on the south leg of the intersection.
9. The City will have pedestrians directed to the pedestrian bridge in order to cross the tracks near Park Boulevard.
10. Southbound Park Boulevard will be closed during major events at the ballpark, and for a period of time before and after any events. Details of the closure are in the draft Event Transportation and Parking Management Plan that is discussed further below.
11. The City will install raised medians and median fencing along Park Boulevard both north and south of the crossing. The medians will be continuous between the railroad and the nearest intersections.
12. Railroad warning devices shall include four-quadrant gates with vehicle presence detection systems, supplemented by overhead flashing light signals. The warning devices will consist of:
 - a. Two Commission Standard 9 (flashing light signal assembly with automatic gate) warning devices for northbound roadway users, in the southeast quadrant of the crossing.
 - b. Two Commission Standard 9-A (flashing light signal assembly with automatic gate and additional flashing light signals over the roadway on a cantilevered arm) warning devices for southbound roadway users, in the northwest quadrant of the crossing.
 - c. Three Commission Standard 9-E (a Standard 9 installed on the departure side of the at-grade crossing, also known as an exit gate) warning devices. This includes two Standard 9-E warning devices for southbound roadway users in the southwest quadrant, and one

Standard 9-E warning device for northbound roadway users in the northeast quadrant of the crossing.

- d. Each curb-mounted Commission Standard 9, 9-A, or 9-E assembly will include a bell or audible warning devices as required by Commission General Order 75-D.
13. The City will install traffic signals and pre-signals at the adjacent intersections and will be preempted by the crossing. This will include:
- a. Traffic signals for approaches to the intersection at Park Boulevard and Harbor Drive, located just south of the tracks.
 - b. Two blank-out symbolic No Right Turn (R3-1) signs for movements toward the tracks from Harbor Drive.
 - c. Traffic signals at the intersection of the southbound lanes of Park Boulevard and Tony Gwynn Way, located in the northwest quadrant of the crossing. This includes a pre-signal to stop southbound vehicles prior to the tracks.

The interested parties discussed the timing of the preempted traffic signals during the meet-and-confer process; however, the City did not fully document the timing in its application. This decision will require the City to submit to RCEB documentation of the final traffic signal preemption timing prior to opening the crossing.

The draft Event Transportation and Parking Management Plan (ETMP) describes how the City plans to control vehicle and pedestrian activity near the ballpark during major events. The draft ETMP submitted by the City, dated November 21, 2014, identifies a number of measures to prevent pedestrians and southbound vehicles from using the at-grade Park Boulevard crossing during the event period. The following are elements of the City's draft ETMP, which is

contained in Exhibit C of the application, regarding the Rail Safety Measures the City proposes to implement during event periods:

- The City will close southbound Park Boulevard to all private vehicle traffic at Imperial Avenue before, during, and after Petco Park events. Only authorized vehicles will be allowed access on southbound Park Boulevard as far as Tony Gwynn Drive.
- The City will prohibit vehicle access from southbound Park Boulevard across the rail tracks to Harbor Drive.
- The closure of southbound Park Boulevard will begin three hours prior to the start of an event and will continue through the event until approximately one hour post-game/event.
- Special Events Traffic Controllers will barricade all southbound traffic on Park Boulevard at Tony Gwynn Drive with 12 standing barricades spanning across the entire intersection of Tony Gwynn Drive.
- Behind the barricades, San Diego Police Department will utilize three black and white-marked police vehicles parked perpendicular to Park Boulevard deterring both vehicle traffic and pedestrians from crossing the tracks to Harbor Drive.
- There will be at least one uniformed Special Event Traffic Controller (SETC) posted at the barricades throughout the entire closure of the intersection to direct any pedestrian traffic to the pedestrian bridge or to Tony Gwynn Drive. In addition, there will be one SETC located at the Harbor Drive side of the crossing to prevent vehicles eastbound on Park Boulevard from stopping on the railroad and trolley tracks. A third SETC will be posted to prevent pedestrians from crossing from the south side of Park Boulevard.

- The San Diego Police Department reserves the right to supplement or modify the number of SETC staff as necessary to ensure public safety.
- Pedestrians moving between Petco Park and Harbor Drive will be directed to cross Park Boulevard via Imperial Avenue and then proceed over the pedestrian bridge.

The draft ETMP suggests that reduction of the number of SETC staff at the highway-rail crossing may be necessary “to ensure public safety.” This should not be interpreted to mean routine or permanent reductions in the number of SETC staff. Therefore, to ensure the safety of the crossing, this decision will require the City to maintain the SETC staff as described in Exhibit C of the application, except for temporary reductions due to an emergency.

This decision will require the City to submit the final ETMP to RCEB prior to opening the crossing and provide any updated versions.

Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 ((CEQA), as amended, Public Resources Code Section 21000, et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission has the exclusive authority to approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission

must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is either the public agency that carries out the project,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, the City is the lead agency for this project, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.³ Also, as a responsible agency, the Commission is responsible for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve.⁴

The project to construct the proposed Park Boulevard crossing of the BNSF and MTS tracks is part of the larger Ballpark and Ancillary Development Projects. Those projects follow previous CEQA documents for the Centre City Redevelopment Project.

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

² CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

³ CEQA Guidelines, Sections 15050(b) and 15096.

⁴ CEQA Guideline Section 15096(g).

The “Final Master Environmental Impact Report for the Centre City Redevelopment Project and Addressing the Centre City Community Plan and Related Documents” (MEIR) SCH 90010898 was published in April 1992.

The “Final Subsequent Environmental Impact Report to the Final Master Environmental Impact Report for the Centre City Redevelopment Project and Addressing the Centre City Community Plan and Related Documents for the proposed Ballpark and Ancillary Development Projects, and Associated Plan Amendments” (SEIR) SCH No. 98121003 was certified on October 26, 1999 by the San Diego City Council and the San Diego Redevelopment Agency.

The City prepared a Secondary Environmental Study (SES) dated February 20, 2002. This study was prepared specifically to address the potential environmental effects of modifying the Eighth Avenue crossing. The SES determined that the proposed activity would not have any significant effect on the environment other than as identified in the MEIR and the SEIR. The SES did not adopt any additional mitigation measures for the proposed activity.

In D.03-12-018, dated December 4, 2003, the Commission found that the City reasonably concluded that the proposed activity to construct the crossing of Park Boulevard and the railroad and trolley tracks would not have any significant effect on the environment. The Commission found the environmental documents adequate for the Commission’s decision-making purposes and adopted the findings for purposes of approval.

Following D.03-12-018, on August 8, 2005, the City issued a Final Addendum to the Final Subsequent Environmental Impact Report to the Final Master Environmental Impact Report for the Centre City Redevelopment Project and Addressing the Centre City Community Plan and Related Documents for the proposed Ballpark and Ancillary Development Projects, and Associated Plan

Amendments (FSEIR). The City submitted the FSEIR as Exhibit E of the current application. The FSEIR evaluates modifications to the Ballpark Village development, which primarily includes modifications to development intensity. This development includes Parcels D1 and D2, which are located adjacent to the MTS and BNSF tracks. The City stated in its FSEIR that “The proposed activity will have no significant effect on the environment, except as identified and considered in the MEIR/SEIR for the Centre City Redevelopment Project. No new or additional project-specific mitigation measures are required for this activity.”

Impacts identified under CEQA relating to the rail-crossing aspect of a project are within the scope of the Commission’s jurisdiction.

The only impacts identified in the FSEIR tangentially related to the rail-crossing are noise impacts. The FSEIR states that the previous CEQA documents identify railroad and trolley activities as potential sources of noise impacts. This includes noise from at-grade crossing bells and train horns. Due to changes in development intensity since D.03-12-018, “Parcel D1 and D2 buildings would be located within the 100-foot [noise] threshold defined in” prior CEQA documents for rail activity such as train horns. As such, “Implementation of noise attenuation measures” that were identified in the prior CEQA document are incorporated into the FSEIR to reduce potential noise impacts to below a level of significance.

Additionally, with regard to potential noise impacts related to the rail crossing bells and train horns, the FSEIR also finds that noise from crossing bells only have the potential to significantly impact residential uses up to a distance of 50 feet from the noise source. Even with the modified development intensity as discussed in the FSEIR, the nearest buildings will not be located within the 50-

foot threshold. As such, “there will be no significant impact and no mitigation required for associated trolley noise,” such as crossing bells.

With regard to noise impacts associated with train horns, the FSEIR provides that Parcel D1 and D2 buildings would be located within the 100-foot threshold previously identified in prior CEQA documents for this project. However, the City is adopting Mitigation Measures 9.1-1, 9.1-2, and 9.2-1 to address noise impacts. The FSEIR also notes that train horns are intermittent and thus not considered a significant noise hazard. The adopted noise mitigation measures for the overall development project include the following:

Mitigation Measure 9.1-1 states in pertinent part:

... all proposed residential units, hotels, and motels exposed to an exterior noise level of 60 dBA CNEL or greater are required to have an interior noise acoustical analysis and implement appropriate mitigation measures to ensure the building design would limit interior noise to 45 dBA CNEL or below. Similar measures may be necessary to provide professional office and commercial business land uses with exterior and interior noise levels at or below 70 and 50 dBA CNEL, respectively. Site-specific acoustical analyses would be required to identify exact mitigation measures.

Mitigation Measure 9.1-2 states:

Specific noise mitigation measures, as required by City Ordinances, shall be incorporated into the development design as part of the conditions of approval on an activity-specific basis. These measures may include the construction of attenuation walls and/or landscaped berms, the positioning of buildings so that outdoor open space areas are buffered from excessive noise sources, physical setbacks from noise sources, and building design measures to reduce interior noise levels. All activities shall comply with existing City noise ordinance.

Mitigation Measure 9.2-1 states:

A detailed acoustic study shall be conducted to confirm the predictions of the long-term noise levels at noise sensitive uses within a two-block radius

of the ballpark, which have been made in this SEIR. The study shall be used to determine noise attenuation measures to achieve the following interior noise levels: hotels (35 dBA), residences (35 dBA) and theaters (40 dBA). Attenuation measures at the ballpark shall include, but not be limited to, distributed speakers for the public address system and limitations placed on sound levels associated with various activities. Measures taken, with property owner's consent, at receptor locations may include, but are not limited, to dual-pane windows, ventilation improvements, sound walls and improved ceiling and wall insulation. In determining noise attenuation measures, emphasis shall be placed on reducing noise impacts at the ballpark rather than the receiver.

Commission staff has reviewed the City's environmental documents as they relate to the rail-crossing. We find that the City's CEQA findings are adequate for our decision-making purposes. Noise impacts from crossing bells are not within the 50-foot threshold of residential or other developments to be considered significant. Noise impacts from train horns will be intermittent. Moreover, the previously identified mitigation measures will reduce noise impacts in general and thus reduce impacts from train horns. We find that the City reasonably concluded that the proposed rail crossing would not have any significant effect on the environment. Accordingly, we adopt that finding for purposes of our approval.

Filing Requirements and Staff Recommendation

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of the Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Safety and Enforcement Division - Rail Crossings and Engineering Branch has inspected the site of the crossing, reviewed and analyzed the plans submitted with the application, and recommends that the requested authority to modify the subject crossing be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3348, dated December 18, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Elizaveta Malashenko is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on December 5, 2014.
2. The application is being filed as a "compliance filing," in accordance with D.03-12-018.
3. The City requests authority, under Public Utilities Code Sections 1201-1205, to modify the Park Boulevard at-grade crossing. The application and exhibits show that the proposal is to permanently close the Eighth Avenue crossing and construct, operate, monitor, and repair an at-grade crossing of Park Boulevard over the BNSF and MTS tracks in the City of San Diego, San Diego County. The crossing will be identified as CPUC Crossing Nos. 002-268.79 and 036-1.20, and U.S. DOT No. 967242T.

4. The application requests thirty-six (36) months from the date of the Commission Order within which to complete the work requested.
5. The City is the lead agency for this project under CEQA, as amended.
6. The City prepared an FSEIR, titled *Final Addendum to the Final Subsequent Environmental Impact Report to the Final Master Environmental Impact Report for the Centre City Redevelopment Project and Addressing the Centre City Community Plan and Related Documents for the proposed Ballpark and Ancillary Development Projects, and Associated Plan Amendments* (FSEIR) for this project.
7. The City adopted the FSEIR for the project on August 8, 2005.
8. The FSEIR found that the proposed crossing would not have a significant impact on the environment.
9. The City found that noise impacts associated with crossing bells and train horns have a less-than-significant impact.
10. The City adopted mitigation measures to reduce the impact from rail noise in general. Mitigation measures require that all proposed residential units, hotels, and motels exposed to an exterior noise level of 60 dBA Community Noise Equivalent Level (CNEL) or greater are required to have an interior noise acoustical analysis and implement appropriate mitigation measures to ensure the building design limits interior noise to 45 dBA CNEL or below. Additionally, the City shall incorporate specific noise mitigation measures, as required by City ordinances, into the development design as part of the conditions of approval on an activity-specific basis, including the construction of attenuation walls, landscaped berms, or other measures. Finally, the City shall conduct a detailed acoustic study to confirm the predictions of the long-term noise levels at noise sensitive uses.

11. The Commission finds the mitigation measures adopted in the FSEIR reasonable and feasible.

Conclusions of Law

1. Safety, traffic, noise, and other impacts related to the highway-rail crossing are areas within the scope of the Commission's permitting process.

2. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's FSEIR.

3. The FSEIR reflects the Commission's independent judgment and analysis.

4. The FSEIR is adequate for our decision-making purposes.

5. The FSEIR was completed in compliance with CEQA.

6. The proposed crossing construction described in the application and exhibits is in compliance with D.03-12-018, OPs 1 through 10, as modified by D.04-04-039. Conditions related to OP 3, OP 4, and OP 6 remain to be met.

7. In D.03-12-018, OP 3 stated, "The Park Boulevard crossing shall include interconnected traffic signals and presignals at nearby intersections, which shall be preempted by the railroad warning devices. The City shall submit its plans for approval by Staff..."

8. The application does not include documentation of the railroad preemption timing at the interconnected traffic signals.

9. In D.03-12-018, OP 4 stated, "The Park Boulevard crossing shall also include ... an Events Management Plan to accommodate events at the new ballpark."

10. The application does not include an adopted version of the Event Transportation and Parking Management Plan.

11. In D.03-12-018, OP 6 stated "The City shall develop a regular maintenance schedule for all the safety devices at this crossing ..."

12. The application does not include details of the maintenance schedule or related maintenance agreements for all the safety devices at this crossing.

13. The application is uncontested and a public hearing is not necessary.

14. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of San Diego is authorized to construct a new public at-grade highway rail crossing at Park Boulevard in City of San Diego, County of San Diego.

2. The new Park Boulevard crossing shall have the crossing treatments and configuration described above and specified in the application and its exhibits. The new Park Boulevard crossing shall be identified as California Public Utilities Commission Crossing Numbers 002-268.79 and 036-1.20 and United States Department of Transportation Number 967242T.

3. The City of San Diego shall comply with all applicable rules, including California Public Utilities Commission General Orders, the United States Department of Transportation's Americans with Disabilities Act Standards for Transportation Facilities and the California Manual on Uniform Traffic Control Devices.

4. BNSF Railway Company and San Diego Metropolitan Transit System shall ensure that Emergency Notification Signs are installed to comply with Title 49, Code of Federal Regulation Section 234.309.

5. The City of San Diego shall ensure that pedestrians are directed away from the at-grade highway-rail crossing and directed toward the pedestrian bridge in order to cross the tracks near Park Boulevard.

6. The City of San Diego shall close southbound Park Boulevard during major events at the ballpark, and for a period of time before and after events.

7. The City of San Diego shall implement railroad preemption of the traffic signals with sufficient track clearance duration, and limited service operation during the preemption hold phase.

8. The City of San Diego shall adopt a regular maintenance schedule for all the safety devices at this crossing in coordination with the railroads and the transit agency.

9. The City of San Diego shall notify the California Public Utilities Commission's Safety Enforcement Division - Rail Crossings and Engineering Branch at least five business days prior to opening of the crossing for public use. Notification should be made to rceb@cpuc.ca.gov.

10. The City of San Diego shall submit to the California Public Utilities Commission's Safety Enforcement Division - Rail Crossings and Engineering Branch (RCEB) documentation of the railroad preemption timing at the interconnected traffic signals at least thirty days prior to opening of the crossing for public use. The City shall not open the crossing until RCEB reviews and approves the preemption.

11. The City of San Diego shall submit to the California Public Utilities Commission's Safety Enforcement Division - Rail Crossings and Engineering Branch details of the maintenance schedule for the safety devices at this crossing, as specified in the maintenance agreements with BNSF Railway Company and San Diego Metropolitan Transit System, at least thirty days prior to opening of the crossing for public use.

12. The City of San Diego shall provide at least three (3) uniformed Special Event Traffic Controllers near the highway-rail crossing, performing the

functions described in Exhibit C of the application, during major events at the ballpark, except for temporary reductions due to an emergency.

13. The City of San Diego (City) shall submit to the California Public Utilities Commission's Safety Enforcement Division – Rail Crossings and Engineering Branch (RCEB) the adopted version of the Event Transportation and Parking Management (ETMP) Plan at least thirty days prior to opening of the crossing for public use. The City shall not open the crossing until RCEB reviews and approves the ETMP Plan. The City shall submit subsequent updates by notification to rceb@cpuc.ca.gov.

14. Within 30 days after completion of the work under this order, the City of San Diego shall notify the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings and Engineering Branch in writing, by submitting a completed California Public Utilities Commission Standard Form G (*Report of Changes at Highway Grade Crossings and Separations*), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at <http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formg.htm>. This report may be submitted electronically to rceb@cpuc.ca.gov as outlined on the web page.

15. Within 30 days after completion of the work under this order, BNSF Railway Company shall notify the Federal Railroad Administration of the existence of the crossings by submitting an updated United States Department of Transportation CROSSING INVENTORY FORM, form FRA F6180.71. A copy shall be provided concurrently to the California Public Utilities Commission's

Safety and Enforcement Division – Rail Crossings and Engineering Branch. This copy of the form may be submitted electronically to rceb@cpuc.ca.gov .

16. This authorization shall expire in three years if the above conditions specified in Ordering Paragraphs 2 to 10 are not satisfied, unless time is extended. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so requires.

17. A request for extension of the three-year authorization period must be submitted to the California Public Utilities Commission’s Safety and Enforcement Division – Rail Crossings and Engineering Branch at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

18. The application is granted as set forth above.

19. Application 14-12-003 is closed.

This order is effective today.

Dated _____, at San Francisco, California.