

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 14-15, 2011

Reference No.: 2.2c.(2)  
Action

  
From: BIMLA G. RHINEHART  
Executive Director

Subject: **APPROVAL OF PROJECT FOR FUTURE CONSIDERATION OF FUNDING  
FINAL ENVIRONMENTAL IMPACT REPORT FOR THE STATE ROUTE 4 BYPASS  
PROJECT (RESOLUTION E-11-89)**

## **ISSUE:**

Should the Commission, as a Responsible Agency, accept the Final Environmental Impact Report (FEIR), Supplemental Environmental Impact Report (SEIR), Addenda 6-9, Findings of Fact and Statement of Overriding Considerations for the State Route 4 Bypass Project (Project) in Contra Costa County and approve the project for future consideration of funding?

## **RECOMMENDATION:**

Staff recommends that the Commission accept the FEIR, SEIR, Addenda 6-9, Findings of Fact and Statement of Overriding Considerations and approve the project for future consideration of funding.

## **BACKGROUND:**

The State Route 4 Bypass Authority (Authority) is the CEQA lead agency for the project. The project consists of a 9.3 mile limited access highway. The project will widen the State Route Bypass (SR4 Bypass) from two lanes to four lanes from south of the completed interchange at Laurel Road in Antioch to Sand Creek Road in Brentwood. The project will also construct the Sand Creek Road Interchange, including the extension of Sand Creek Road to west of the SR4 Bypass intersection.

The overall project for which the FEIR covers will result in significant unavoidable impacts to land use, noise, biological resources, cultural resources, traffic/transportation, and air quality. Findings of Fact were developed which provide that mitigation measures and/or alternatives to the proposed project that would substantially reduce or avoid these significant unavoidable impacts are infeasible. Specifically, the overall project would result in removal and relocation of existing residential and commercial land uses; loss of prime agricultural land along the length of the right-of-way currently in agricultural production; substantially increase noise in the vicinity of the Bypass right-of-way and along Marsh Creek Road; possibly impact adjacent structures that have the potential to qualify for the National Register of Historic Places; and induce growth in East Contra Costa County.

On October 14, 2004, the Authority found that there were several benefits that outweigh the unavoidable adverse environmental effects of the project. These benefits include, but are not limited to, achieving the planned and approved development in East County by adding additional transportation capacity; adding additional jobs and housing through proposed developments in unincorporated Contra Costa County; providing transportation improvements to accommodate the needs identified in the individual general plans that guide the County and Cities of Antioch; providing a well-balanced and planned transportation network that will accommodate anticipated employment and residential growth and help relieve congested roadways; and balance land uses by providing a new route for SR 4 that bypasses the communities of Antioch, Oakley, and Brentwood in order to alleviate traffic-related noise and congestion on local streets pursuant to the adopted general plans for Antioch, Brentwood, and Contra Costa County and Caltrans adopted Route Concept Report for SR 4.

The Authority established a Mitigation Monitoring Program to ensure that the mitigation measures specified for the project are implemented. On November 1, 2011 the Authority provided written confirmation that the preferred alternative set forth in the final environmental document is consistent with the project programmed by the Commission. A concurrent CMIA Baseline will add this project into the scope of the existing SR 4-East (Somersville to 160) Widening project thereby establishing this as the fifth segment of the Baseline Agreement.

The project is estimated to cost \$41.162 million and is programmed with State (\$33 million) funds and Local (\$8.162 million) funds. Construction is estimated to begin in fiscal year 2011/12.

#### Attachment

- Resolution E-11-89
- Findings of Fact & Statement of Overriding Considerations
- Project Location

## CALIFORNIA TRANSPORTATION COMMISSION

### Resolution for Future Consideration of Funding 04 – Contra Costa County Resolution E-11-89

- 1.1.1 **WHEREAS**, the State Route 4 Bypass Authority (Authority) has completed a Final Environmental Impact Report pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines for the following project:
- State Route 4 Bypass Project
- 1.2 **WHEREAS**, the Authority has certified that the Final Environmental Impact Report has been completed pursuant to CEQA and the State CEQA Guidelines for its implementation; and
- 1.3 **WHEREAS**, the project will construct a 9.3 mile limited access highway. The project will widen the State Route 4 Bypass from two lanes to four lanes and construct the Sand Creek Road Interchange in the Cities of Antioch and Brentwood, Contra Costa County; and
- 1.4 **WHEREAS**, the California Transportation Commission, as a Responsible Agency, has considered the information contained in the Final Environmental Impact Report; and
- 1.5 **WHEREAS**, Findings of Fact made pursuant to CEQA guidelines indicate that specific unavoidable significant impacts related to land use, noise, biological resources, cultural resources, traffic/transportation, and air quality make it infeasible to avoid or fully mitigate to a less than significant level the effects associated with the project; and
- 1.6 **WHEREAS**, the Authority adopted a Statement of Overriding Considerations for the project; and
- 1.7 **WHEREAS**, the Authority adopted a Mitigation Monitoring Program for the project; and
- 1.8 **WHEREAS**, the above significant effects are acceptable when balanced against the facts as set forth in the Statement of Overriding Considerations.
- 2.1 **NOW, THEREFORE, BE IT RESOLVED** that the California Transportation Commission does hereby accept the Final Environmental Impact Report, Findings of Fact and Statement of Overriding Considerations and approve the above referenced project to allow for future consideration of funding.



**ENVIRONMENTAL IMPACT REPORT**  
**STATE ROUTE 4 BYPASS PROJECT**

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**EXHIBIT A: FINDINGS OF FACT**

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**STATE ROUTE 4 BYPASS AUTHORITY**

**OCTOBER 14, 2004**

## **EXHIBIT A: FINDINGS OF FACT**

### **SECTION A: INTRODUCTION**

The California Environmental Quality Act (CEQA), Public Resources Code section 21000, *et seq.*, and the CEQA Guidelines, Cal. Code of Regulations, title 14, section 15000, *et seq.* state that a public agency must prepare an environmental impact report (EIR) if a proposed project would have a significant effect on the environment. When an EIR has been prepared for a project, the agency does not need to prepare a subsequent or supplemental EIR unless one or more of the following events occurs:

1. Substantial changes are proposed in the project which will require major revisions of the EIR,
2. Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the EIR, or
3. New information, which was not known and could not have been known at the time the EIR was certified as complete, becomes available.

(Pub. Res. Code §§ 21002.1, 21166 and 21166; CEQA Guidelines §§ 15080-15081.5 and 15162(a).)

The Agency may choose to prepare a supplement to an EIR (SEIR) rather than a subsequent EIR if:

1. Any of the conditions described in section 15162 of the CEQA Guidelines would require the preparation of a subsequent EIR, and
2. Only minor changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

(Pub. Res. Code §§ 21083, 21087 and 21166; CEQA Guidelines § 15163.)

Under CEQA, if a project will have a significant effect on the environment, the agency cannot approve the project unless it adopts mitigation measures that would substantially lessen the significant effects. However, an agency may refuse to adopt proposed mitigation measures where specific economic, social or other considerations make such mitigation infeasible. (Pub. Res. Code §§ 21002, 21081; CEQA Guidelines § 15091.) In such a case, the agency must adopt a Statement of Overriding Considerations that provides that specific overriding economic, social or other considerations outweigh the project's significant, unmitigated impacts. (Pub. Res. Code § 21081; CEQA Guidelines § 15093.)

This document presents the Findings of Fact (Findings) for the State Route 4 Bypass Authority's (Authority) approval of the Final SEIR and Statement of Overriding Considerations.

Pursuant to CEQA, the Authority determined that there is no feasible mitigation measure for the highway project's environmental impacts on agricultural lands.

## **SECTION B: PROJECT DESCRIPTION**

The State Route 4 (SR4) Bypass Project (Bypass) is located in the cities of Antioch, Brentwood and Oakley, California and in unincorporated areas of eastern Contra Costa County. The Bypass is being constructed in three segments. Construction of Segment 1, which extends from SR4/160 to Lone Tree Way, is scheduled to start in spring 2005. Construction of Segment 2, which extends from Lone Tree Way to Balfour Road, was completed in 2002. Segment 3 (the "project") extends from Balfour Road to an intersection with Marsh Creek Road, where the project splits into two sections. A two-lane expressway facility (i.e., Vasco Road Extension) will continue southward from the intersection, connecting with Vasco Road. The Bypass will continue eastward on Marsh Creek Road and will connect with existing SR4 at Byron Highway. The proposed design of Segment 3 is the subject of these Findings of Fact.

Eastern Contra Costa County is experiencing significant residential growth due to the availability of land, proximity to job centers, and the need for affordable housing. This growth has been acknowledged in the Contra Costa County General Plan and the General Plans of each of the cities in eastern Contra Costa County. The result of this projected growth will be increasing traffic demands on SR4 and the local roadway network.

SR4 is a regional route connecting the San Francisco Bay Area with California's Central Valley. The existing portion of SR4 through Brentwood and Oakley is an at-grade, limited-capacity highway located adjacent to schools, shopping centers, and residences with direct access to the highway. Due to its current alignment and the proximity of many residences and businesses, it is impractical and not economically feasible to widen the existing SR4 roadway.

The primary purpose of the Bypass, as described in the 1994 Final EIR (FEIR), is to relocate the existing SR4 as a regional route outside of the urban areas of Brentwood and Oakley. The construction of a limited-access Bypass with improved east-west connections to SR4 would improve regional circulation through eastern Contra Costa County and provide a more balanced distribution of current and future traffic over the local road network in this area. The primary purpose and need for the project has not changed since 1994.

These Findings of Fact are in response to the potential environmental impacts associated with changes to the design of Segment 3 of the proposed project. The proposed changes would not result in any substantial increases in the severity of previously identified significant impacts. Consequently, major revisions to the 1994 FEIR are not required. However, new information that was not known and could not have been known at the time the EIR was certified as complete, became available. Therefore, the appropriate level of analysis for the changes being proposed is a

supplement to the 1994 FEIR. This conclusion is based on the information provided in the 1994 FEIR and the SEIR.

## PROJECT LOCATION

Segment 3 of the Bypass would extend from Balfour Road southward to Marsh Creek Road where it would proceed eastward along Marsh Creek Road and rejoin the existing SR4 at Byron Highway. A two-lane expressway facility will also be constructed thereby extending Vasco Road from its current terminus at Walnut Avenue northward to the proposed Bypass/Marsh Creek Road intersection.

## PROPOSED ACTION

The 1993 Draft EIR (DEIR) and 1994 FEIR stated that the project would be constructed in two phases. For Segment 3, Phase I would construct a two-lane limited access expressway from Balfour Road to a modified intersection at Marsh Creek Road, including at-grade intersections. Phase I would also upgrade Marsh Creek Road so that it could function as an east-west connector to existing SR4. Under Phase II, the portion of the Bypass south of Balfour Road would remain a two-lane facility, and no additional improvements beyond those identified under Phase I would be made along Marsh Creek Road or at the intersections of Balfour Road, Marsh Creek Road, Walnut Boulevard and Byron Highway (SR4).

The basic design of the Bypass south of Balfour Road has not changed and still includes a two-lane facility with improvements to Marsh Creek Road as described above. Intersections at Balfour Road, Marsh Creek Road, Walnut Boulevard and Byron Highway will also be improved as originally proposed. Modifications to the project that were not included as part of the previous environmental analysis include:

1. **Modification of precise alignment.** Subsequent to the completion of the 1994 FEIR, a precise alignment was adopted for the mainline of the Bypass. The Authority now proposes to modify the location and alignment of the Marsh Creek Road intersection with the Bypass. Consequently, there is a need to acquire a right-of-way (ROW) outside of the original identified ROW corridor. As a result, some of the land previously identified for acquisition will no longer be acquired. The Authority intends to adopt a new precise alignment for the entire Bypass following certification of the SEIR.
2. **Marsh Creek Road.** The 1994 FEIR analyzed a 110-foot straight corridor along Marsh Creek Road. The Authority proposes to refine the alignment of Marsh Creek Road, adding gentle radius curves as part of the proposed upgrades to reduce impacts to utilities and properties. Portions of the proposed 110-foot corridor would curve outside of the area analyzed in the 1994 FEIR.

Additionally, the Authority proposes for acquisition new areas for intersection improvements, detention basins and drainage facilities beyond the 110-foot corridor analyzed in 1994. The proposed refinements are:

- Modifications to the Marsh Creek Road/Orchard Lane intersection;
- Improvements to the Marsh Creek Road/Bypass intersection;
- Improvements to the Marsh Creek Road/Walnut Boulevard intersection;
- Improvements to the Marsh Creek Road/Sellers Avenue intersection;
- Improvements near the Marsh Creek Road/Union Pacific Railroad intersection;
- Improvements near the intersection of Marsh Creek Road and the Byron-Bethany Irrigation District Canal;
- Improvements to the Marsh Creek Road/Byron Highway intersection; and
- Three detention basins located between Walnut Boulevard and Byron Highway.

Following improvements, a typical section of Marsh Creek Road will consist of two borders up to 33 feet, two 10-foot shoulders and two 12-foot travel lanes.

3. **Orchard Lane.** The 1994 FEIR anticipated that Orchard lane would continue to connect to Marsh Creek Road at its current location. The Authority now proposes to modify the Bypass alignment and location of the Marsh Creek Road/Bypass intersection farther east to a location where access to Marsh Creek Road from Orchard Lane can no longer be provided in its current location. The Authority, which proposed two alternatives for Orchard Lane, now adopts Alternative A:

- Alternative A: Elimination of Orchard Lane connection to Marsh Creek Road and the construction of a cul-de-sac design at the southern terminus of Orchard Lane.
- Alternative B: A re-alignment of Orchard Lane along the northern property line of the five parcels that front Marsh Creek Road to the east of the existing intersection with Orchard Lane.

4. **PG&E.** The Authority proposed the relocation of many utilities as discussed in the 1994 FEIR. The Authority now proposes to relocate two PG&E 60Kv utilities and other utilities as required through coordination with respective utility companies. Action pursuant to California Public Utilities Commission GO-131D filing requirements is required prior to relocation.

#### **PROJECT LIFESPAN**

The proposed changes to the Bypass would operate indefinitely.

#### **SECTION C: PROJECT HISTORY**

The Bypass is under the jurisdiction of the Authority. The Authority has served as the CEQA lead agency for previous Bypass projects and is the lead agency for the currently proposed project involving Segment 3 (Project).

In October 1993, the Authority released the Bypass DEIR for public review. A 60-day public review period began on November 2, 1993, and closed on January 3, 1994. An FEIR was prepared in November 1994 and on December 8, 1994, the Authority held public hearings on the Bypass and supporting environmental documents. The Authority approved the project and certified the FEIR on December 3, 1994. Since that time five Addenda have been prepared and adopted by the Authority.

An addendum adopted on December 13, 1994, addressed a proposed modification to the connection from Marsh Creek Road to existing SR4. The proposed modification that was addressed by this addendum is no longer being pursued. In November 1997, the Authority certified an addendum to consider the effects of a variety of long-range area planning projects on the preferred alternative alignment for Segment 3. In December 1998, the Authority approved an addendum to address the modified construction phasing plan which involved construction of Segment 2 as a first phase. In January 2003, a fourth addendum addressed modifications to the Lone Tree Way Interchange. In November 2003, a fifth addendum was prepared to address modifications to Segment 1 of the Bypass.

#### **SECTION D: THE RECORD**

For purposes of CEQA and the Findings hereinafter set forth, the administrative record for the Project consists of the following:

- (a) All non-privileged relevant staff reports, memoranda, maps, minutes and other planning documents prepared by or for the Authority relating to the Project and which are available to the public in accordance with the California Public Records Act;

- (b) The Initial Study prepared for the Bypass, all subsequent CEQA documents prepared for the Project and all documents on which the CEQA documents rely by reference, including all documents collectively representing the SEIR;
- (c) All written comments, inquiries, responses and testimony concerning the CEQA documents received by the Authority from public agencies and interested members of the public concerning the Project, up to the end of the period to provide comments, and any written comments and responses from the Authority;
- (d) Testimony, including comments on the Authority and SEIR, received by the Authority at all noticed public hearings;
- (e) Documents submitted in association with the Project, describing the Project and/or related development projects and supporting or augmenting the environmental documents prepared pursuant to CEQA for the Project and/or related development projects;
- (f) Any documents embodying any action by the Authority on the Project, including staff reports, statements of decision and resolutions and the minutes of public hearings, meetings and workshops on the Project;
- (g) These Findings of Fact adopted in connection with the Project;
- (h) All other information including documents or testimony developed by or submitted to the Authority, consultants for the Authority, or other agencies supporting or augmenting the environmental documents prepared pursuant to CEQA.

**SECTION E: DISCRETIONARY ACTIONS**

The discretionary actions for the Project involve the following approvals by the Authority:

- (a) Adoption of SEIR;
- (b) Adoption of these Findings of Fact and Statement of Overriding Considerations;
- (c) Modify the location and alignment of the Marsh Creek Road Intersection with the Bypass and acquire a ROW outside of the original identified ROW corridor;
- (d) Refine the alignment of Marsh Creek Road;
- (e) Modify Orchard Lane; and

- (f) Relocate two PG&E 60Kv utilities and other utilities are required through coordination with respective utility companies.

These findings are made by the Authority pursuant to sections 15091 and 15096 of the California Code of Regulations, Title 14 (i.e., CEQA Guidelines). The Authority finds that where more than one reason exists for any finding, each reason independently supports these findings.

#### **SECTION F: THE SUPPLEMENT TO THE 1994 FEIR**

Pursuant to section 15163(b) of the CEQA Guidelines, an SEIR need contain only the information necessary to make the previous EIR adequate for the project as revised. Pursuant to section 15163(e), when the agency decides whether to approve the project, the decision-making body shall consider the previous EIR as revised by the SEIR. A finding under section 15091 shall be made for each significant impact shown in the previous EIR as revised.

#### **SECTION G: TERMINOLOGY OF FINDINGS**

Section 15091 of the CEQA Guidelines requires that for each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three allowable conclusions. The first is that “[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” The second potential finding is that “[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.” The third permissible conclusion is that “[s]pecific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.”

For purposes of these findings the term “mitigation measures” shall constitute the “changes or alterations” discussed above. The term “avoid or substantially lessen” will refer to the effectiveness of one or more of the mitigation measures or alternatives to reduce an otherwise significant environmental effect to a less than significant level. Although section 15091, read literally, does not require findings to address environmental effects that an EIR identifies as merely “potentially significant,” these findings will nevertheless fully account for all such effects identified in the EIR for the Project.

In the process of adopting mitigation, the Authority also will decide whether the mitigation proposed in the EIR is “infeasible.” Pursuant to the CEQA Guidelines, “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”

**SECTION H: LEGAL EFFECT OF FINDINGS**

All feasible mitigation measures that avoid or substantially lessen the significant effects of the Project and that are adopted are binding on the Authority and its assigns or successors in interest at the time of approval of the Project.

**SECTION I: MONITORING PROGRAM**

As required by Public Resources Code section 21081.6, the Authority, in adopting the 1994 Findings, also adopted a monitoring and reporting program designed to ensure that during implementation of the Project, all responsible parties implement the adopted mitigation measures. The Authority finds that the 1994 monitoring program applies to the Project.

Certain of the mitigation measures being adopted by the Authority must be implemented by either the Authority, the Cities of Antioch, Brentwood or Oakley or other agencies, and other agencies have primary responsibility for monitoring compliance with certain mitigation measures. (See Appendix B.) The Authority will monitor compliance with all mitigation measures, including those that are the responsibility of other agencies. In the event that the Authority determines that other agencies are not fulfilling their monitoring responsibilities, the Authority will, to the extent legally feasible, ensure that monitoring and reporting obligations are otherwise fulfilled.

**SECTION J: FINDINGS ON SIGNIFICANT EFFECTS AND MITIGATION MEASURES**

**1. Findings Concerning Land Use Impacts:**

**Impact III.B.1:** Remove or relocate existing residential and commercial land uses. The current design would require removing/relocating fruit/vegetable stands and a shed elsewhere within the same properties. As currently proposed, the Project will not impact existing residences.

**Significance of the Impact:** As set forth in the Final SEIR at pages 8 and 9, this impact is considered potentially significant. The following mitigation measure would not reduce the adverse effects of the impact to below the level of significance.

**Mitigation Measure III.B.1:** The measures identified in the 1994 FEIR at III.B.1 (see Appendix B) apply. In addition, the current design would require removing/relocating fruit/vegetable stands and a shed elsewhere within the same properties. The property owners will be compensated as part of the acquisition process to cover the cost associated with the removal/relocation of the three stands and the shed.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measure is incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Unavoidably significant.

**Impact III.B.2:** Convert prime farmland, unique farmland or farmland of statewide importance to non-agricultural use.

**Significance of the Impact:** As set forth in the Final SEIR at pages 11 and 12, this impact is considered potentially significant. The following mitigation measure would not reduce the adverse effects of the impact to below the level of significance.

**Mitigation Measure III.B.2:** The Authority will provide mitigation for farmland impacts through the acquisition of agricultural easements to confirm the property stays in agriculture, or through the payment of an agricultural mitigation fee to the Brentwood Agricultural Land Trust or the Contra Costa County Resource Conservation District for a total contribution not to exceed \$500,000.

The mitigation for farmland impacts shall be implemented prior to the completion of the Project.

All other mitigation measures from the 1994 FEIR that are related to land use remain unchanged.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measure is incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Unavoidably significant.

**Impact III.B.4:** Future addition of trails or other amenities at Cowell Ranch State Park.

**Significance of the Impact:** As set forth in the Final SEIR at page 11, this impact is considered less than significant, and no additional mitigation measures are required.

## **2. Findings Concerning Noise Impacts:**

**Impact III.F.1:** Increase construction-noise in the vicinity of the Project.

**Significance of the Impact:** As set forth in the Final SEIR at pages 12 and 13, construction-noise was considered potentially significant in the 1994 FEIR, and

the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, and there are no increases in the significance of previously identified impacts. However, the *State Route 4 Bypass, Segment 3 Noise Impact Study* that was completed for in March 2004 (noise study) identifies additional measures to mitigate construction-noise impacts to below the level of significance.

**Mitigation Measure III.F.1:** Each of the following measures, which were identified in the 2004 noise study, provide additional or more specific mitigation related to construction-noise impacts as compared to the 1994 FEIR:

- Noise-generating activities at the construction site or in areas adjacent to the construction site associated with the project in any way should be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturdays. No construction activities should occur on Sundays or holidays.
- Equip all internal combustion engine -driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Avoid staging of construction equipment within 200 feet of residences and locate all stationary noise-generating construction equipment, such as air compressors and portable power generators, as far as practical from existing noise sensitive receptors. Construct temporary barriers to screen stationary noise generating equipment when located in areas adjoining noise sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Route all construction traffic to and from the project site via designated truck routes. Prohibit construction related heavy truck traffic in residential areas where feasible. Prohibit construction truck traffic in the project vicinity during non-allowed hours.
- Notify adjacent residents to the project site of the construction schedule in writing.
- Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would require that

reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. (The City of Brentwood should be responsible for designating a noise disturbance coordinator and the individual project sponsor should be responsible for posting the phone number and providing construction schedule notices).

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measure is incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Less than significant.

**Impact III.F.2: Increase long-term noise in the vicinity of the Project.**

**Significance of the Impact:** As set forth in the Final SEIR at pages 12 and 13, long-term noise impacts were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, and there are no increases in the significance of previously identified impacts. Additional mitigation measures will not reduce the impact to a level below significance.

**Mitigation Measure III.F.2:** The measures identified in the 1994 FEIR at III.F.2 (see Appendix B) apply.

In addition, rubberized asphalt will be used to alleviate noise impacts as much as possible. Dual-paned glass windows could also be installed at these residences to reduce the level of noise impacts, but this impact would remain significant and unavoidable, as disclosed in the 1994 FEIR.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Unavoidably significant, as disclosed in the 1994 FEIR.

**Impact III.F.3: Generate noise levels that exceed compatibility guidelines for residential uses.**

**Significance of the Impact:** As set forth in the Final SEIR at page 12 and 13, noise impacts exceeding compatibility guidelines were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the

roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and additional mitigation measures will contribute to reducing the impact to a level below significance.

**Mitigation Measure III.F.3:** The measures identified in the 1994 FEIR at III.F.3 (see Appendix B) apply.

In addition, a residential subdivision located east of the Segment 3 ROW was divided into three sections because varying noise level projections warrant different noise barrier heights at different locations. In each case, a resulting exterior noise level of 60 dBA or less at residential receptors would be considered acceptable according to City and County standards. However, Policies 1.1 of the Brentwood General Plan and 11-2 of the Contra Costa County General Plan allow for slightly increased noise levels. The mitigation measures for each section area as follows:

Section 1. Based on the results of the noise modeling, a 14-foot noise barrier shall be constructed at the northbound SR4 Bypass edge-of-pavement to reduce future noise levels.<sup>1</sup> A 14-foot barrier would yield noise levels ranging from about 60 dBA to 62 dBA  $L_{dn}$  at the nearest receivers to the Bypass. The approximate length of the proposed barrier would be 2,760 feet. The Authority would need to fund the construction of this barrier because the development application for the adjacent subdivision preceded the 1994 EIR.

Section 2. At the time when the City of Brentwood considered the application for this development, the City approved construction of an eight-foot barrier based on a noise study prepared for the development. This existing eight-foot barrier would be maintained. With the operation of the project, the future noise levels are projected to be 63 dBA to 64 dBA  $L_{dn}$ .

Section 3. The developer of the adjacent subdivision put aside funding for construction of a sound wall at the Bypass edge-of-pavement. Two barrier alternatives were tested for Location 3. Alternative A tested a barrier that followed the edge of the pavement for its entire length. Under this alternative, it was assumed that the existing right-of-way barrier would remain, but possibly be heightened. Alternative A would construct a 14-foot barrier, yielding future noise levels of about 61 dBA to 63 dBA  $L_{dn}$  at the closest residential receptors. Alternative B tested a barrier at the right-of-way for a portion of the section and the edge-of-pavement for the remainder of the section. A similar level of noise reductions would be achieved with the implementation of Alternative B. A 14-foot barrier would yield noise levels of about 59 dBA to 64 dBA  $L_{dn}$ . The Authority, in conjunction with the City of Brentwood, has selected Alternative A for implementation.

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<sup>1</sup> Caltrans design guidelines limit the height of barriers within 15 feet of the nearest travel lane to 14 feet. This guideline typically applies to barriers at the edge of shoulder, which must also be placed on safety shape barriers.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Less than significant, as disclosed in the 1994 FEIR.

3. Findings Concerning Biological Impacts:

**Impact III.J.1:** Seasonal pond located along the tributary to Kellogg Creek. As a result of more detailed project design and subsequent wetland delineations, it was found that the previously identified seasonal pond located along the tributary to Kellogg Creek is located outside the project ROW and is not categorized as Waters of the U.S. As a result, the pond will not be affected by the Project.

**Significance of the Impact:** As set forth in the Final SEIR at page 18, there is no impact, and no mitigation measures are required.

**Impact III.J.2:** Burrowing owl.

**Significance of the Impact:** As set forth in the Final SEIR at page 19, this impact is considered potentially significant. The following mitigation measures would reduce the adverse effects of the impact to below a level of significance. Measure III.J.2 is modified as follows.

**Mitigation Measure III.J.2:** State Section 1602 Agreement will provide safeguards to ensure avoidance of direct impacts and mitigation for loss of breeding habitat in accordance with section 3 of the Biological Resources Addendum (May 11, 2004).

Mitigation for potential impacts to wildlife habitat areas will be based upon the mitigation guidance already developed in the 1999 Biological Opinion and will involve fee contributions to the East Contra Costa HCP. The required mitigation will be formalized in an updated Biological Opinion to be issued by the U.S. Fish and Wildlife Service in response to the current COE application.

According to mitigation ratios presented in the previous 2003 Biological Resources Analysis, implementation of Orchard Lane Alternative B would involve 3.0 acres of replacement habitat, if secured separately from the HCP. Alternatively, as endorsed by the Authority and provided for in the 1999 Biological Assessment, a supplemental contribution, in an amount to be determined in consultation with the U.S. Fish and Wildlife Service, to the HCP for both direct and indirect impacts would be called for if Alternative B is adopted. This supplemental contribution will be included in the new Biological Opinion for Segment 3, if Alternative B is selected by the Authority.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Less than significant.

**Impact III.J.3: California tiger salamanders.**

**Significance of the Impact:** As set forth in the Final SEIR at pages 16 and 18, the impact on the habitat of the California tiger salamander was considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and an additional mitigation measure will contribute to reducing the impact to a level below significance.

**Mitigation Measure III.J.3:** Mitigation for potential impacts to wildlife habitat areas will be based upon the mitigation guidance already developed in the 1999 Biological Opinion and will involve fee contributions to the East Contra Costa Habitat Conservation Plan Program (HCP). The required mitigation will be formalized in an updated Biological Opinion to be issued by the U.S. Fish and Wildlife Service in response to the current U.S. Army Corps of Engineers (COE) application.

According to mitigation ratios presented in the previous 2003 Biological Resources Analysis, implementation of Orchard Lane Alternative B would involve 3.0 acres of replacement habitat, if secured separately from the HCP. Alternatively, as endorsed by the Authority and provided for in the 1999 Biological Assessment, a supplemental contribution, in an amount to be determined in consultation with the U.S. Fish and Wildlife Service, to the HCP for both direct and indirect impacts would be called for if Alternative B is adopted. This supplemental contribution will be included in the new Biological Opinion for Segment 3, if Alternative B is selected by the Authority.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measure is incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Less than significant.

**Impact III.J.4: California red-legged frog.**

**Significance of the Impact:** As set forth in the Final SEIR at pages 16 and 18, the impact on the habitat of the California red-legged frog was considered

potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and an additional mitigation measure will contribute to reducing the impact to a level below significance.

**Mitigation Measure III.J.4:** Mitigation for potential impacts to wildlife habitat areas will be based upon the mitigation guidance already developed in the 1999 Biological Opinion and will involve fee contributions to the East Contra Costa HCP. The required mitigation will be formalized in an updated Biological Opinion to be issued by the U.S. Fish and Wildlife Service in response to the current COE application.

According to mitigation ratios presented in the previous 2003 Biological Resources Analysis, implementation of Orchard Lane Alternative B would involve 3.0 acres of replacement habitat, if secured separately from the HCP. Alternatively, as endorsed by the Authority and provided for in the 1999 Biological Assessment, a supplemental contribution, in an amount to be determined in consultation with the U.S. Fish and Wildlife Service, to the HCP for both direct and indirect impacts would be called for if Alternative B is adopted. This supplemental contribution will be included in the new Biological Opinion for Segment 3, if Alternative B is selected by the Authority.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Less than significant.

**Impact III.J.5: Western spadefoot toad.**

**Significance of the Impact:** As set forth in the Final SEIR at page 18, this impact is considered less than significant, and no mitigation measures are required.

**Impact III.J.6: Northwestern pond turtle.**

**Significance of the Impact:** As set forth in the Final SEIR at pages 16-18, the impact on the habitat of the northwestern pond turtle was considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and an additional mitigation measure will contribute to reducing the impact to a level below significance.

**Mitigation Measure III.J.6:** Mitigation for potential impacts to wildlife habitat areas will be based upon the mitigation guidance already developed in the 1999 Biological Opinion and will involve fee contributions to the East Contra Costa HCP. The required mitigation will be formalized in an updated Biological Opinion to be issued by the U.S. Fish and Wildlife Service in response to the current COE application.

According to mitigation ratios presented in the previous 2003 Biological Resources Analysis, implementation of Orchard Lane Alternative B would involve 3.0 acres of replacement habitat, if secured separately from the HCP. Alternatively, as endorsed by the Authority and provided for in the 1999 Biological Assessment, a supplemental contribution, in an amount to be determined in consultation with the U.S. Fish and Wildlife Service, to the HCP for both direct and indirect impacts would be called for if Alternative B is adopted. This supplemental contribution will be included in the new Biological Opinion for Segment 3, if Alternative B is selected by the Authority.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Less than significant.

**Impact III.J.7: California horned lark.**

**Significance of the Impact:** As set forth in the Final SEIR at pages 17 and 18, the impact on the habitat of the California horned lark was considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and an additional mitigation measure will contribute to reducing the impact to a level below significance.

**Mitigation Measure III.J.7:** Mitigation for potential impacts to wildlife habitat areas will be based upon the mitigation guidance already developed in the 1999 Biological Opinion and will involve fee contributions to the East Contra Costa HCP. The required mitigation will be formalized in an updated Biological Opinion to be issued by the U.S. Fish and Wildlife Service in response to the current COE application.

According to mitigation ratios presented in the previous 2003 Biological Resources Analysis, implementation of Orchard Lane Alternative B would involve 3.0 acres of replacement habitat, if secured separately from the HCP. Alternatively, as endorsed by the Authority and provided for in the 1999 Biological Assessment, a supplemental contribution, in an amount to be

determined in consultation with the U.S. Fish and Wildlife Service, to the HCP for both direct and indirect impacts would be called for if Alternative B is adopted. This supplemental contribution will be included in the new Biological Opinion for Segment 3, if Alternative B is selected by the Authority.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Less than significant.

**Impact III.J.8: Bat species.**

**Significance of the Impact:** As set forth in the Final SEIR at page 18, this impact is considered less than significant, and no mitigation measures are required.

**Impact III.J.9: San Joaquin kit fox.**

**Significance of the Impact:** As set forth in the Final SEIR at pages 17 and 18, the impact on the habitat of the San Joaquin kit fox was considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and an additional mitigation measure will contribute to reducing the impact to a level below significance.

**Mitigation Measure III.J.9:** Mitigation for potential impacts to wildlife habitat areas will be based upon the mitigation guidance already developed in the 1999 Biological Opinion and will involve fee contributions to the East Contra Costa HCP. The required mitigation will be formalized in an updated Biological Opinion to be issued by the U.S. Fish and Wildlife Service in response to the current COE application.

According to mitigation ratios presented in the previous 2003 Biological Resources Analysis, implementation of Orchard Lane Alternative B would involve 3.0 acres of replacement habitat, if secured separately from the HCP. Alternatively, as endorsed by the Authority and provided for in the 1999 Biological Assessment, a supplemental contribution, in an amount to be determined in consultation with the U.S. Fish and Wildlife Service, to the HCP for both direct and indirect impacts would be called for if Alternative B is adopted. This supplemental contribution will be included in the new Biological Opinion for Segment 3, if Alternative B is selected by the Authority.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Less than significant.

**Impact III.J:** Valley Elderberry longhorn beetle.

**Significance of the Impact:** As set forth in the Final SEIR at page 18-19, this impact is considered less than significant, and no mitigation measures are required.

**Impact III.J.10:** Wetlands.

**Significance of the Impact:** As set forth in the Final SEIR at pages 17 and 19, the impact on wetlands was considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and an additional mitigation measure will not reduce the impact to a level below significance.

**Mitigation Measure III.J.10:** The measures identified in the 1994 FEIR at III.J.10 (see Appendix B) apply.

In addition, impacts to wetlands and waters of the U.S. within Segments 1 and 3 have been separately quantified and are to be mitigated through the improvement of a mitigation basin located between Neroly Road and the Bypass right-of way, north of the Contra Costa Canal in Segment 1. The details of this wetland mitigation proposal are summarized in the Mitigation and Monitoring Program, which is included as Exhibit "J" of the may 11, 2004 Corps application.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Unavoidably significant, as described in the 1994 FEIR.

**Impact III.J.13:** Non-native grasslands.

**Significance of the Impact:** As set forth in the Final SEIR at pages 17 and 19, the impact on non-native grasslands was considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously

identified impacts, and an additional mitigation measure will contribute to reducing the impact to a level below significance.

**Mitigation Measure III.J.13:** The measures identified in the 1994 FEIR at III.J.13 (see Appendix B) apply.

**Findings Concerning Adopted Mitigation Measures:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measures:** Less than significant.

**Impact III.J.16:** Facilitate increased population growth.

**Significance of the Impact:** As set forth in the Final SEIR at page 17 and 19, this impact was considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, there would not be any additional impacts beyond those identified in the 1994 FEIR, there are no increases in the significance of previously identified impacts, and no new mitigation is feasible.

**4. Findings Concerning Cultural Resources Impacts:**

**Impact III.K.1:** Archaeological resource, pursuant to section 15064.5.

**Significance of the Impact:** As set forth in the Final SEIR at pages 21-24, this impact is considered less than significant, and no additional mitigation measures are required.

**Impact III.K.2:** Architectural resource.

**Significance of the Impact:** As set forth in the Final SEIR at pages 21-24, this impact is considered less than significant, and no additional mitigation measures are required.

**5. Findings Concerning Utilities Impacts:**

**Impact III.M.1:** Existing water supply facilities.

**Significance of the Impact:** As set forth in the Final SEIR at page 25, this impact is considered less than significant, and no additional mitigation measures are feasible.

**Impact.M.2:** Electrical transmission lines.

**Significance of the Impact:** As set forth in the Final SEIR at pages 25-26, this impact is considered potentially significant as two PG&E 60Kv transmission lines, which were not specifically identified in the 1994 FEIR, will need to be relocated. The following mitigation measure is provided to reduce the adverse effects of the impact to below the level of significance.

**Mitigation Measure III.M.2:** The measures identified in the 1994 FEIR at III.J.3 (see Appendix B) apply.

In addition, compliance with the California Public Utilities Commission's GO-131 relocation requirements will ensure that any potential impacts (i.e. service interruptions) are below the level of significance.

**Findings Concerning Adopted Mitigation Measures:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measures:** Less than significant.

**Impacts III.M.3-5, 7-8:** Natural gas pipelines, oil pipelines, sewer lines and service interruption and facilitation of increased population growth.

**Significance of the Impact:** As set forth in the Final SEIR at page 26, in addition to the impacts discussed in the 1994 FEIR, the Project ROW would cross existing petroleum pipelines in three locations: Concord Avenue by the PG&E gas terminal, at the intersection of Marsh Creek Road and Orchard Lane and near the proposed intersection of the mainline with Walnut Vasco Intersection. There have not been any other changes since the completion of the 1994 FEIR. Other than the pipelines, the Project would not result in any new impacts to these utilities that were not disclosed in the 1994 FEIR. The mitigation measures identified in the 1994 FEIR (see Appendix B) are sufficient to reduce this impact to a level below significance.

**Mitigation Measures III.M.3-5, 7-8:** Beyond the measures identified in the 1994 FEIR (see Appendix B), no additional mitigation is feasible. The proposed relocations would take place within the Project ROW, and technical studies in the areas of biology and cultural resources have been completed which indicate that the proposed relocations would not result in any adverse impacts to these resources.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure: Less than significant.**

**6. Findings Concerning Traffic and Transportation Impacts:**

**Impact III.E.4: Level of Service.**

**Significance of the Impact:** A technical analysis completed in May 2004 concluded that the project would allow for Levels of Service D or better at three intersections in the project area in the year 2025.

The 1994 FEIR anticipated that Orchard Lane would continue to connect to Marsh Creek Road at its current location. The Authority now proposes to modify the Bypass alignment and location of the Marsh Creek Road/Bypass intersection farther east, to a location where access to Marsh Creek Road from Orchard Lane can no longer be provided in its current location. The Authority, in conjunction with the City of Brentwood and the local community, proposed two alternatives for Orchard Lane as set forth in the Draft SEIR at page 27. The Authority now adopts Alternative A.

Alternative A would alter circulation patterns. If selected, Alternative A would include an overlay of Orchard Lane, shoulder improvements to Orchard Lane and the installation of a signal at the intersection of Concord Avenue and Walnut Boulevard.

**Mitigation Measure III.E.4:** Beyond the measures identified in the 1994 FEIR (see Appendix B), no additional mitigation is feasible.

**7. Findings Concerning Air Quality Impacts:**

**Impact III.G:** Air quality in the vicinity of the project and state or federal carbon monoxide standards.

**Significance of the Impact:** As set forth in the Final SEIR at pages 28-29, this impact is considered less than significant, and no additional mitigation measures are feasible. However, temporary air impacts during the construction-period would be mitigated to a less than significant level through implementation of Caltrans' Special Provisions and Standard Specifications.

**Mitigation Measure III.G:** The measures identified in the 1994 FEIR at III.G (see Appendix B) apply. Moreover, no additional mitigation is feasible beyond Caltrans' Special Provisions and Standard Specifications, which require the civil contractor to minimize or eliminate dust through the application of water or dust palliatives during project construction.

**Findings Concerning Adopted Mitigation Measure:** The Authority finds that the above-stated mitigation measures are incorporated in the conditions of approval for the Project.

**Level of Significance After Adoption of Mitigation Measure:** Less than significant, as disclosed in the 1994 FEIR.

**8. Findings Concerning Visual Resources Impacts:**

**Impact III.D:** Visual impact.

**Significance of the Impact:** As set forth in the Final SEIR at page 29, visual impacts were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, there would not be any additional impacts beyond those identified in the 1994 FEIR, there are no increases in the significance of previously identified impacts, and no additional mitigation is feasible.

**9. Findings Concerning Geological, Seismicity, and Soils Impacts:**

**Impact III.H:** Geology, seismicity or soils.

**Significance of the Impact:** As set forth in the Final SEIR at page 29, geologic impacts were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and no additional mitigation is feasible.

**10. Findings Concerning Hazardous and Toxic Wastes Impacts:**

**Impact III.O:** Hazardous materials.

**Significance of the Impact:** As set forth in the Final SEIR at page 29, impacts related to hazardous materials were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and no additional mitigation is feasible.

**11. Findings Concerning Existing Plans and Policies Impacts:**

**Impact III.A:** Existing plans and policies, such as the Antioch General Plan or the Association of Bay Area Governments' "Land Use Policy Framework for the San Francisco Bay Area" (Policy Framework).

**Significance of the Impact:** As set forth in the Final SEIR at pages 30-31, impacts related to existing plans and policies were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new inconsistencies. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and no additional mitigation is feasible.

12. Findings Concerning Socioeconomic Impacts:

**Impact III.C:** Socioeconomic impact.

**Significance of the Impact:** As set forth in the Final SEIR at page 30, socioeconomic impacts were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and no additional mitigation is feasible.

13. Findings Concerning Hydrological, Drainage and Floodplains Impacts:

**Impact III.I:** Hydrologic impact.

**Significance of the Impact:** As set forth in the Final SEIR at page 30, hydrologic impacts were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and no additional mitigation is feasible.

14. Findings Concerning Energy Impacts:

**Impact III.L:** Direct or indirect expenditures of energy.

**Significance of the Impact:** As set forth in the Final SEIR at page 30, impacts related to energy were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in a new expenditure of energy. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified impacts, and no additional mitigation is feasible.

15. Findings Concerning Public Services Impacts:

**Impact III.N:** Public services.

**Significance of the Impact:** As set forth in the Final SEIR at page 30, impacts to public services were considered potentially significant in the 1994 FEIR, and the adopted changes to the design of the roadway will not result in new impacts. Consequently, no impacts in addition to those identified in the 1994 FEIR would occur, there are no increases in the significance of previously identified or expanded impacts, and no additional mitigation is feasible.

## **SECTION K: CONCLUSION**

The Authority finds that the proposed Project has the potential to result in significant impacts to the environment. Most of the potentially significant impacts have been mitigated to less than significant levels through adoption of mitigation measures identified in these Findings and adopted as conditions of Project approval. However, the potential to result in the removal or relocation of existing commercial uses and the potential to convert prime, unique or statewide-important farmland are newly identified impacts that remain unavoidably significant.

The Authority finds that the primary purpose of the Project is to relocate the existing SR4 as a regional route outside of the urban areas of Brentwood and Oakley. The Authority finds that the relocation is necessary to improve regional circulation through eastern Contra Costa County and to provide a more balanced distribution of current and future traffic over the local road network in this area. The primary purpose and need for the project has not changed since 1994.

**ENVIRONMENTAL IMPACT REPORT**  
**STATE ROUTE 4 BYPASS PROJECT**



**EXHIBIT B: STATEMENT OF OVERRIDING CONSIDERATIONS**

**STATE ROUTE 4 BYPASS AUTHORITY**

**OCTOBER 14, 2004**

## **EXHIBIT B: STATEMENT OF OVERRIDING CONSIDERATIONS**

### **SECTION A: GENERAL INTRODUCTION**

In approving Segment 3 of the State Route 4 Bypass Project (Project), which is the subject of the Supplemental Environmental Impact Report (SEIR), the Authority makes the following Statement of Overriding Considerations in support of its findings on the SEIR. The Authority has considered the information contained in the SEIR and has fully reviewed and considered the public testimony and record in this proceeding.

The Authority has carefully balanced the benefits of the proposed Project against the unavoidable adverse impacts identified in the SEIR. Notwithstanding the disclosure of impacts identified in the SEIR as significant and potentially significant, and which have not been eliminated or mitigated to a level below significance, the Authority, acting pursuant to section 15093 of CEQA Guidelines, hereby determines that the benefits of the Project outweigh the significant unmitigated adverse environmental impacts.

The SEIR identifies each of the potential adverse impacts that cannot be mitigated to a level below significance if the project is implemented with adopted mitigation measures. These impacts, listed by impact number, include the following: III.B.1 and III.B.2.

Although the Authority believes that many of the unavoidable and irreversible environmental effects identified in the SEIR and many of the environmental effects that have not been mitigated to a point of insignificance will be substantially lessened by the mitigation measures incorporated in the proposed Project, it recognizes that implementation of the Project introduces certain unavoidable and irreversible impacts.

### **SECTION B: SPECIFIC FINDINGS**

#### **1. Project Benefits Outweigh Unavoidable Impacts**

The remaining unavoidable and irreversible impacts of the Project are acceptable in light of the economic, fiscal, social, planning, land use and other considerations set forth herein because the benefits of the Project outweigh any significant and unavoidable or irreversible adverse environmental impacts of the Project.

#### **2. Balance of Competing Goals**

The Authority finds that it is imperative to balance competing goals in approving the Project and the environmental documentation for the Project. Not every policy or environmental concern has been fully satisfied because of the need to satisfy competing concerns to a certain extent. Accordingly, in some instances, the Authority has chosen to accept certain environmental impacts because to eliminate them would unduly compromise some other important economic, social or other goals. The Authority finds

and determines that the text of the Project and the supporting environmental documentation provide for a positive balance of the competing goals and that the economic, fiscal, social, planning, land use and other benefits to be obtained by the Project outweigh the environmental and related potential detriment of the Project.

## **SECTION C: OVERRIDING CONSIDERATIONS**

The Authority specifically finds that to the extent the identified adverse or potentially adverse impacts have not been mitigated to less than significant levels, there are specific economic, social, planning, land use and other considerations that support approval of the proposed Project. Moreover, the Authority finds that where more than one reason exists for any finding, each reason independently supports these findings.

### **1. Economic Considerations**

Substantial evidence demonstrating the economic benefits that would result from the implementation of the Project is included in the record of these proceedings and in the relevant jurisdictional planning documents for the region. These benefits include the enhancement of the free flow of traffic, including commercial and industrial traffic that provide an economic base for the County and cities. In addition, the project will enable commuters to more easily access employment centers throughout the County, thereby maintaining job viability and enhancing job growth.

The Authority has balanced these economic considerations against the unavoidable and irreversible environmental risks identified in the SEIR and, consequently, has concluded that those impacts are outweighed by the economic and other benefits. The impacts are addressed in the Authority's Findings of Fact. In particular, the Authority considered those impacts relating to land use, noise, biological resources, cultural resources, utilities, traffic and transportation, air quality, visual resources, geologic resources and seismicity, hazardous and toxic waste, existing plans and policies, socioeconomics, energy, public services, and hydrology, drainage and floodplains. Upon balancing the environmental risks and countervailing benefits, the Authority concludes that the economic benefits that will result from implementation of the Project outweigh those environmental risks.

#### **(a) Balance of Land Uses**

One of the fastest growing commuter routes in the Bay Area has been from East Contra Costa County across the Diablo Range into and through the Central County. The primary commute route is State Route 4, a four-lane freeway from Central County across Willow Pass to the City of Antioch (Antioch) and a two-lane highway from Antioch through the City of Brentwood (Brentwood) to San Joaquin County. To achieve the planned and approved development in East County, especially in the east Antioch, City of Oakley (Oakley), and Brentwood areas, additional transportation capacity is needed. In the preliminary draft of the Contra Costa County Comprehensive Transportation Plan of July 20, 1994, officials in the East County ranked a bypass to Highway 4 from Antioch

past Brentwood as one of two facilities having the highest transportation priority in the area.

In attempting to provide for travel demand forecasts, certain goals and policies were identified in individual general plans to guide the County, Antioch, Brentwood and Oakley in their future facilities construction. Among those various goals and policies has been the identified need to provide for transportation improvements to accommodate the 1.5 million person trips per weekday projected to occur by 2005. (Contra Costa General Plan, page 5-10)

Although transportation design is only one component of a development, conservation and economic blueprint for a local jurisdiction, a well-balanced and planned transportation network provides for and accommodates anticipated employment and residential growth and helps to relieve existing congested roadways. State Route 4 has been recognized in all of the region's general plans as part of a refined transportation network, which gives public and private interests a vision of needed improvements and an opportunity to assess costs and develop funding well in advance of actual growth.

The existing State Route 4 is an at-grade limited-capacity highway with direct access to the roadway from adjacent schools, shopping centers and residences. Under this existing situation, regional traffic (particularly truck traffic) is mixed with local traffic. Because of slow speeds on local roads and heavy cross traffic, lane capacity on existing State Route 4 is limited and opportunities to improve capacity are limited due to the proximity of the existing adjacent land uses. Major disruptions and relocations would result if the existing State Route 4 were to be improved, and the increase to capacity would not be adequate to serve both local and regional traffic.

The Project will balance land uses by providing a new route for State Route 4 that bypasses Antioch, Oakley and Brentwood in order to alleviate traffic-related noise and congestion on local streets pursuant to the adopted general plans for Antioch, Oakley and Brentwood. The Project is also consistent with Caltrans' adopted Route Concept Report for State Route 4.

The land use and transportation policies in the Contra Costa General Plan that support the development of the Project include Policies 3-50 and 3-51. Goals 5-A, 5-C, 5-E, 5-F and 5-H of the Transportation and Circulation Element also support the development of the Project as do Policies 5-1, 5-3 and 5-5. Moreover, Policies 5-10 and 5-11 encourage development of a secondary road system to minimize the use of freeways for community circulation. The Project will fulfill these goals by reducing cumulative regional traffic impacts of development through participation in cooperative multi-jurisdictional planning processes that designate State Route 4 as a transit way.

Buildout of the Brentwood General Plan will result in an estimated population of 76,226 and employment of more than 43,000. This growth will result in daily travel in Brentwood growing to approximately 463,000 trips by buildout. The State Route 4 is identified in the Brentwood Roadway Circulation Plan as the most significant feature of

Brentwood's street and highway system. (Page III.3-1.) Moreover, Policy 3.1.1 encourages intergovernmental coordination with Contra Costa County, Antioch, Oakley, and Caltrans to improve circulation in locations with high level of congestion.

The Project will implement the goal in the Antioch General Plan to improve present traffic flows and reduce regional traffic by developing the State Route 4 Bypass. (Pages 7-5 through 7-8.) In addition, the Project satisfies Goal 3.6 in the Oakley General Plan, which states that the City is to participate in regional transportation planning "to promote and protect the interests and objectives of Oakley residents and workers." Policy 3.6.4 of Goal 3.6 requires the City to obtain "its fair share of regional improvements (such as the State Route 4 Bypass) that are funded from impact fees collected within Oakley."

In sum, the Project is directly tied to the balance of land use patterns that have been approved and continue to evolve in Contra Costa County, Brentwood, Antioch and Oakley. These, in turn, provide the necessary infrastructure to accommodate transportation needs for commercial and residential land uses and associated employment opportunities in the region.

**(b) Positive Fiscal Impacts**

The Project provides for economic development by providing access to lands designated in the General Plans for commercial and office uses. This affords a balance for a significant number of homes already allowed under the general plans and eliminates or reduces out-commuting in some areas. (Antioch, Brentwood, Oakley and Contra Costa County General Plans.)

For example, the Brentwood General Plan recognizes that employment centers along the Project are anticipated to provide for more employment and regional retail opportunities. Moreover, Brentwood anticipates that the Project would function as a window to the community and that along its alignment should reflect the community's high quality development standards. (Pages II.1-6 and II.1-7.) The Project supports Goals 3.2.1 and 4.3.2 and Policies 3.2 and 4.2 of the Land Use element.

Likewise, Oakley recognizes a need to enhance its downtown and create a more vital community center. The City's general plan recognizes that that the Project is key in accomplishing this goal. (Page 1-4).

Implementation of the Project will ensure that the economic growth is realized, thereby resulting in positive fiscal impacts to the region.

**(c) Economic Benefits from Construction**

There are several economic benefits that will come from the construction of the Project. These benefits will accrue to the Project region and will last throughout the buildout of the Project. The costs of the Project construction, combined with costs of

construction of associated proposed or assumed new development, will contribute construction income to the region by creating temporary construction jobs and permanent maintenance jobs.

The entire Bypass project of State Route 4 is to be implemented in two phases. Phase II includes the portion of the Bypass south of Balfour Road, or the subject of this Statement of Overriding Considerations. Both phases of the Project would create construction jobs and call for the purchase of materials from local suppliers. The estimated total cost for both phases is \$175 million assuming right-of-way dedication and \$195 million assuming right-of-way acquisition. (Technical Advisory Committee Staff Report, January 26, 1993; DEIR, Volume III, page I.2; and Draft 1993 Contra Costa Congestion Management Program, page E.1.) Both Phase I and Phase II involve development of a portion of Segment 3. However, only Phase II of Segment 3 is the subject of this Statement of Overriding Considerations.

## **2. Social Considerations**

These proceedings contain substantial evidence that the implementation of the proposed Project provides a mechanism to further social goals that have been adopted by the Authority. In an attempt to retain and enhance the region's quality of life, while comprehensively addressing future development issues on the basis of regional needs, the Project would provide various social benefits including, but not limited to, the following:

### **(a) Permanent Job Creation**

The Project will provide access to facilitate the creation of an employment base in the region. The need for job creation has been heralded by the general plans of Antioch, Brentwood, Oakley and Contra Costa County.

For example, Objective 3.8.1 and Policy 3.8.2.a of the Antioch General Plan strive to strike a balance between housing and employment needs by calling for maintenance of employment-generating lands and the creation of office-based, industrial and commercial employment opportunities. Goal 2 and Policy 2.1 of the Brentwood General Plan also call for the creation of jobs. The Oakley General Plan states that the City has more employable persons than it has jobs, but that it expects to encourage job growth by as much as 260% by the year 2020.

The Project will ensure that the necessary transportation facilities will be available to job-creating businesses. Moreover, the Project will eliminate regional traffic from the downtown areas of Brentwood and Oakley to allow for development of local businesses and redevelopment.

The Authority finds that adoption and implementation of the Project will best promote the transportation needs of the region in the face of growth pressures.

**(b) Planning and Land Use Consideration**

It has become increasingly apparent that regional growth influences have required the Authority to take affirmative planning steps that will handle increased traffic and limited capacity of the existing State Route 4 by enhancing transportation capabilities to provide for future development. The Project reaffirms this pre-existing accommodation policy and, with mitigation, establishes detailed implementation programs that will both preserve and promote the balance of community interests addressed in the General Plans.

The Project is a fundamental local transportation improvement necessary for accommodating local and regional growth. It would implement important local and regional development plans and circulation policies, such as those previously discussed.

The Project is consistent with Policy 5-33 of the Contra Costa County General Plan, which requires installation of appropriate buffers adjacent to noise sensitive land uses located along major transportation facilities. The Project is also compatible with the Contra Costa County Roadwork Network Plan, Scenic Routes Plan and Roadway Transit Network Plans.

The Project is consistent with transportation and circulation policies and overall implementation measures that establish a framework for implementation of a regional roadway network. (Contra Costa County General Plan, Goals 5-A, 5-B, 5-E, 5-F, 5-G and 5-H and Policies 5-1, 5-3 and 5-5.)

The enhancement of transportation facilities as furthered by the Project is consistent with Circulation Objective 7.3.1 and Policy 7.3.2 of the Antioch General Plan, which provide for adequate roadway capacity to meet the roadway performance standards as set forth in the Growth and Management Element. The Project is also compatible with the General Plan in that a transportation corridor has been approved on the General Plan's Land Use Map and identified as a freeway or expressway.

The Project recognizes a growing number of truck and other traffic generated by the existing State Route 4 and that this is great concern to Brentwood. The Project addresses this concern by proposing a circulation system to accommodate traffic generated by development within the region. (Brentwood General Plan, Circulation Goals 1 and 3.)

The Authority has carefully considered the evidence received in the lengthy planning process in arriving at its decision to adopt the proposed Project. The Authority has concluded that such a decision renews, revitalizes and takes affirmative steps to implement efforts to control and plan for urban development and the resulting increases in traffic. Furthermore, the Authority has concluded that adoption of the Project is the most logical and feasible method of assuring that adequate transportation facilities in the region will be provided.

The Authority believes that existing natural resources and community attributes can only be protected and enhanced by recognizing the inadequacy of the existing State Route 4 in handling existing and projected transportation. Approval of the Project avoids a piece-meal approach to transportation planning for the region. The adoption and implementation of the Project with mitigation will result in implementation of the goals and policies for the development of facilities and the means to finance such improvements in a timely fashion to meet the demand for such facilities.

The most significant "unavoidable" and "irreversible" environmental impacts identified in the SEIR relate to the potential to require removal or relocation of existing commercial uses and the potential to convert prime, unique or statewide-important farmland. The Authority has considered these environmental impacts, which were identified in the SEIR as unavoidable and irreversible, as well as those impacts that may only be lessened or substantially lessened. It has concluded that with all environmental trade-offs of the Project taken into account, the net positive fiscal impacts and the achievement of a balanced and orderly growth and transportation network that will result from the implementation of the Project outweigh the potential irreversible impacts.

The Authority believes that the above-described social benefits that will be derived from implementation of the Project with mitigation, when weighed against the inherent uncertainties affecting the future growth without the Project, override the significant, unavoidable and irreversible environmental impacts of the Project.

The Authority has balanced these social considerations against the unavoidable environmental risk identified in the Project, and the Authority has concluded that the social benefits that will be derived from implementation of the Project outweigh those unavoidable environmental risks.

#### **SECTION D: CONCLUSION**

In conclusion, the Authority has determined that each of the Project's remaining effects on the environment that are found to be unavoidable in the preceding Findings of Fact, are acceptable due to the overriding concerns set forth in this Statement of Overriding Considerations. The Authority has concluded that with all of the environmental trade-offs, the Project with mitigation should be adopted.