

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: June 27-28, 2012

Reference No.: 2.2c.(9)
Action

From: BIMLA G. RHINEHART
Executive Director

Subject: **APPROVAL OF PROJECT FOR FUTURE CONSIDERATION OF FUNDING
FINAL ENVIRONMENTAL IMPACT REPORT FOR THE ELK GROVE BOULEVARD/SR 99
INTERCHANGE MODIFICATION PROJECT (RESOLUTION E-12-42)**

ISSUE:

Should the Commission, as a Responsible Agency, accept the Final Environmental Impact Report (FEIR), Addenda, and Findings of Fact and Statement of Overriding Considerations for the Elk Grove Boulevard/SR 99 Interchange Modification Project (project) in Sacramento County and approve project for future consideration of funding?

RECOMMENDATION:

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

BACKGROUND:

The City of Elk Grove (City) is the CEQA lead agency for the Elk Grove Boulevard/SR 99 Interchange Modification Project. The project is located in the city of Elk Grove. The project will modify the existing Elk Grove Boulevard/SR 99 Interchange by adding a northbound on-ramp to State Route 99 from East Stockton Boulevard through Caltrans right-of-way, eliminating left turns and the traffic signal on Elk Grove Boulevard at the existing northbound on-ramp, adding a traffic signal at the northbound ramp intersection on East Stockton Boulevard, and modifying the southbound on-ramp intersection.

The project for which the FEIR covers will result in significant unavoidable impacts to transportation and circulation. Specifically, the project would decrease the level of service and increase delay at the Elk Grove Boulevard/East Stockton Boulevard and increase the delay by year 2030 at the Elk Grove Boulevard/Southbound SR 99 Off-Ramp intersections. Mitigation measures and/or alternatives to the proposed project that would substantially reduce or avoid these significant unavoidable impacts are infeasible.

The city adopted the FEIR, Addenda, Findings of Fact and a Statement of Overriding Considerations for the project on December 9, 2009. The city found that there were several benefits that outweigh the unavoidable adverse environmental effects of the project. These benefits include, but are not limited to, reducing delay along the Elk Grove Boulevard corridor, improving overall traffic circulation and improved air quality. The city established a Mitigation Monitoring Program to ensure that the mitigation measures specified for the project are implemented.

On May 15, 2012 the city provided written confirmation that the preferred alternative set forth in the final environmental document is consistent with the project programmed by the Commission. The city also provided written confirmation of its commitment to all of the mitigation measures stipulated in the FEIR and Mitigation Monitoring Program.

The project is estimated to cost \$8.8 million. The project is currently funded with Local (\$8.8 million) funds. Due to local fund revenue shortfalls construction is estimated to start in fiscal year 2015/16. The project is a potential candidate for future bond savings. Construction will begin in fiscal year 2012/13 if bond savings are granted.

Attachment

- Resolution E-12-42
- Findings of Fact and Statement of Overriding Considerations
- Project Location

CALIFORNIA TRANSPORTATION COMMISSION

Resolution for Future Consideration of Funding 03 – Sacramento County Resolution E-12-42

- 1.1 **WHEREAS**, the City of Elk Grove (City) has completed a Final Environmental Impact Report pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines for the following project:
 - Elk Grove Boulevard/SR 99 Interchange Modification Project
- 1.2 **WHEREAS**, the City 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 modify the existing Elk Grove Boulevard/State Route 99 Interchange; 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 traffic and circulation 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 City adopted a Statement of Overriding Considerations for the project; and
- 1.7 **WHEREAS**, the City adopted a Mitigation Monitoring Program for the project; and
- 2.1 **NOW, THEREFORE, BE IT RESOLVED** that the California Transportation Commission does hereby accept the Final Environmental Impact Report, Addenda, and Findings of Fact and approve the above referenced project to allow for future consideration of funding.

EXHIBIT A

THE CITY OF ELK GROVE FINDINGS REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (Public Resources Code, Section 21000 et seq.)

For The Elk Grove Boulevard/State Route 99 Interchange Modification Project

I. Introduction

Environmental Document. The City of Elk Grove ("City") prepared a Draft and Final Environmental Impact Report ("Final EIR") for the proposed Elk Grove Boulevard/State Route 99 (SR 99) Interchange Modification project ("project"). The proposed project would modify the existing northbound access to SR 99 from Elk Grove Boulevard. The Elk Grove Boulevard/SR 99 interchange traffic signal on Elk Grove Boulevard at the existing northbound on-ramp would be removed and replaced with a new northbound hook on-ramp from East Stockton Boulevard to northbound SR 99. The left turn from eastbound Elk Grove Boulevard to the northbound on-ramp would be closed with a raised median across the ramp intersection, thereby lengthening the southbound left turn lane on westbound Elk Grove Boulevard.

Project Location. The Elk Grove Boulevard/SR 99 interchange is located in the south central region of Elk Grove, California. Elk Grove is approximately 14 miles southeast of downtown Sacramento and approximately 12 miles north of the Sacramento County/San Joaquin County boundary. The proposed modifications would take place in the area of the existing Elk Grove Boulevard/SR 99 interchange.

Findings and Statement of Overriding Considerations. The Findings of Fact and Statement of Overriding Considerations set forth below ("Findings") are made and recommended for adoption by the City Council, as the City's findings under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, §21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of the City Council regarding the project's environmental impacts, mitigation measures, alternatives to the project, and the overriding considerations, which in the City Council's view, justify approval of the Elk Grove Boulevard/SR 99 Interchange Modification project, despite its environmental effects.

II. General Findings and Overview

A. Relationship to the City of Elk Grove General Plan

The City adopted its General Plan (General Plan) in November 2003. The Elk Grove Boulevard/SR 99 Interchange Modification project is subject to the City's General Plan. The General Plan provides a broad framework for planning the future of the City of Elk Grove. It is the official policy statement of the City Council to guide the private and public development of the City in a manner to gain the maximum social and economic benefit to the citizens. All subsequent land use approvals are required to be consistent with the goals, objectives, and policies embodied in the General Plan. The project is consistent with the General Plan and its goal of providing a balanced and efficient transportation system.

B. Procedural Background

In accordance with Section 15082 of the CEQA Guidelines, the City, acting as lead agency, prepared a Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND) for the proposed Elk Grove Boulevard/SR 99 Interchange Modification project, which was released for circulation

and public comment from April 18, 2007 through May 18, 2007. During the 30-day review period, City staff discovered that the project's impacts related to traffic and circulation were potentially significant, thus triggering preparation of an EIR instead of an MND.

The City prepared and circulated a Notice of Preparation (NOP) which focused the environmental analysis of the Draft EIR to impacts that were identified as potentially significant in the Initial Study. The NOP was circulated to the public and local, state, and federal agencies, as well as to other interested parties, from July 11, 2008 through August 11, 2008, to solicit comments on the proposed project. Concerns raised in response to the NOP were considered during preparation of the Draft EIR.

The Draft EIR was then prepared and circulated for a 45-day public review period as required by state law beginning on April 3, 2009. The 45-day public review period for the Draft EIR ended on May 18, 2009. A public hearing was not required nor held for the project.

The City received four comments regarding the Draft EIR. Of those comments, no new significant environmental impacts, beyond those already covered in the Draft EIR, were identified and no changes to the Draft EIR text resulted. As such, the City directed that a Final EIR be prepared.

C. Project History

The continued expansion of the City of Elk Grove and south Sacramento County has precipitated the need for the Elk Grove Boulevard/SR 99 Interchange Modification project. Many new businesses, communities, and schools have been developed in various parts of the City, which has resulted in increased traffic and road wear.

The City of Elk Grove Transportation Capital Improvement Program 2005–2010 (TCIP) describes transportation capital improvements planned by the City for the five-year period from fiscal year 2005/06 through fiscal year 2009/10 and sets forth a funding strategy for their implementation. The Elk Grove Boulevard/SR 99 Interchange Modification project is included in the City's TCIP.

D. Record of Proceedings and Custodian of Record

For purposes of CEQA and these Findings, the Record of Proceedings for the project consists of the following documents, at a minimum:

- Draft Initial Study/Mitigated Negative Declaration, prepared by the City of Elk Grove (April 2007);
- Notice of Preparation and all other public notices issued by the City in conjunction with the project (July 11, 2008);
- Draft Environmental Impact Report for the Elk Grove Boulevard/SR 99 Interchange Modification Project, prepared by the City of Elk Grove (April 2009);
- Arborist Report, prepared by the City of Elk Grove (January 2006);
- Elk Grove Boulevard/SR 99 Interchange Modification Project Community Impact Analysis, prepared by the City of Elk Grove (May 2006);
- Initial Site Assessment Elk Grove Boulevard at SR 99 Interchange Improvements, prepared by Kleinfelder, Inc. (November 2005);

- Historical Resources Compliance Report, prepared by the City of Elk Grove (January 2006);
- Archaeological Survey Report, prepared by the City of Elk Grove (January 2006);
- Traffic Report for the SR 99/Elk Grove Boulevard Interchange Northbound Loop On-Ramp, prepared by Fehr & Peers (May 2008);
- Air Quality Impact Assessment for the Elk Grove Boulevard/SR 99 Interchange Improvement Project, prepared by Ambient Air Quality & Noise Consulting (March 2006);
- Noise and Vibration Impact Assessment for the Elk Grove Boulevard/SR 99 Interchange Improvement Project, prepared by Ambient Air Quality & Noise Consulting (March 2006);
- Preliminary Wetland Delineation Elk Grove Blvd/State Route 99 Interchange Reconstruction Project, prepared by the City of Elk Grove (February 2006);
- Minimal Impacts Natural Environmental Study, prepared by the City of Elk Grove (August 2006);
- All comments submitted by agencies or members of the public during the 45-day public comment period on the Draft EIR;
- All comments and correspondence submitted to the City with respect to the project, in addition to timely comments on the Draft EIR;
- The mitigation monitoring and reporting program for the project;
- All findings and resolutions adopted by City decision makers in connection with the project, and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and with respect to the City's actions on the project;
- City of Elk Grove General Plan 2005, adopted November 2003 and amended January 2005;
- City of Elk Grove Zoning Code, July 2003;
- Sacramento County General Plan Land Use Map, adopted December 1993; and
- Any other materials required for the record of proceedings by Public Resources Code Section 21167.6(e).

The custodian of the documents comprising the record of proceedings is the Environmental Planning Manager, City of Elk Grove, Development Services, Planning, whose office is located at 8401 Laguna Palms Way, Elk Grove, California 95758. Office hours are from 8:00 a.m. through 5:00 p.m. Monday through Friday. The City of Elk Grove Planning Department may be reached at 916-478-2265.

E. Consideration of the Environmental Impact Report

In recommending adoption of these Findings, this City Council finds that the Final EIR was presented to the City Council, which reviewed and considered the information in the Final EIR prior to recommending approval of the Elk Grove Boulevard/SR 99 Interchange Modification project. By these Findings, the City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the Final EIR. The Final EIR represents the independent judgment of the City.

F. Severability

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Elk Grove Boulevard/SR 99 Interchange Modification project, shall continue in full force and effect unless amended or modified by the City.

G. CEQA Findings

Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would *substantially lessen* the significant environmental effects of such projects[.]" (emphasis added.) The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or *substantially lessen* such significant effects." (emphasis added.) Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof."

The mandate and principles announced in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which an EIR has been certified which identifies one or more significant effects on the environment if the project was carried out (See Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).) 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 permissible conclusions. The first such finding 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." (CEQA Guidelines, § 15091, subd. (a)(1).) The second permissible 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." (CEQA Guidelines, § 15091, subd. (a)(2).) The third potential conclusion is that "[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR." (CEQA Guidelines, § 15091, subd. (a)(3).) Public Resources Code section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." CEQA Guidelines section 15364 adds another factor: "legal" considerations (see also *Citizens of Goleta Valley v. Board of Supervisors* ("Goleta II") (1990) 52 Cal.3d 553, 565.)

The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417). "'[F]easibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*Id.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.)

The CEQA Guidelines do not define the difference between "avoiding" a significant environmental effect and merely "substantially lessening" such an effect. The City must therefore glean the meaning of these terms from the other contexts in which the terms are used. Public Resources Code section 21081, on which CEQA Guidelines section 15091 is based, uses the term "mitigate" rather than "substantially lessen." The CEQA Guidelines therefore equate "mitigating" with "substantially lessening." Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." (Pub. Resources Code, § 21002.)

For purposes of these findings, the term "avoid" refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. In contrast, the term "substantially lessen" refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level. These interpretations appear to be mandated by the holding in *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 519-521, in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant effects by adopting numerous mitigation measures, not all of which rendered the significant impacts in question less than significant.

Although CEQA Guidelines section 15091 requires only that approving agencies specify that a particular significant effect is "avoid[ed] or substantially lessen[ed]," these findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less than significant level, or has simply been substantially lessened but remains significant.

Moreover, 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 Final EIR.

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (CEQA Guidelines, § 15091, subd. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated, "[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are

responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (*Goleta II*, 52 Cal.3d at p. 576.)

These findings constitute the City's best efforts to set forth the evidentiary and policy bases for its decision to approve the Project in a manner consistent with the requirements of CEQA. To the extent that these findings conclude that various proposed mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded or withdrawn, the City hereby binds itself to implement these measures. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations that will come into effect when the City adopts a resolution approving the Project.

III. Findings and Recommendations Regarding Significant and Unavoidable Impacts

A. TRANSPORTATION AND CIRCULATION

1. Intersection Operations – Elk Grove Boulevard/East Stockton Boulevard and Elk Grove Boulevard/Southbound SR 99 Off-Ramp (EIR Impact 4.7-1)

- (a) **Potential Impact.** Under 2010 project conditions, the Elk Grove Boulevard/East Stockton Boulevard intersection will change from LOS D to LOS E in the AM peak hour and from LOS E to LOS F in the PM peak hour due to increased volumes at the intersection. Under 2010 project conditions, traffic delays at this intersection will also exceed the 5-second delay criteria under the City of Elk Grove's Traffic Impact Analysis Guidelines in both the AM and PM peak hours compared to No Project conditions. Under 2030 conditions, because the project routes additional traffic through the Elk Grove Boulevard/East Stockton Boulevard intersection, operations at this intersection worsen from LOS E to LOS F conditions during both peak hours. Also, the Year 2030 AM peak hour delay at the Elk Grove Boulevard/southbound SR 99 off-ramp intersection would be greater than 5 seconds with the project. These decreases in level of service and increases in delay exceed the thresholds for significant impacts under the City of Elk Grove's Traffic Impact Analysis Guidelines.
- (b) **Mitigation Measures.** No feasible mitigation measures have been identified for this significant impact.
- (c) **Findings.** Based on the FEIR and the entire record before the City Council, the City Council adopts the following findings: specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Environmental Impact Report. No mitigation is available to render the effects less than significant. The effects (or some of the effects) therefore remain significant and unavoidable.
 - (1) **Significance of Mitigation:** No feasible mitigation measures have been identified for this significant impact. Project alternatives considered but rejected, as described in

Subsection 3.4 of Section 3.0, Project Description, of the Draft EIR were not able to provide design elements that would have mitigated the operational deficiencies at these intersections and presented potential additional operational deficiencies. Therefore, while implementation of the proposed project would result in substantial improvements to the operations of the project area and this segment of Elk Grove Boulevard as a whole, the impacts to two intersections from decreases in levels of service and increases in delay would remain significant and unavoidable.

- (2) **Overriding Considerations:** The environmental, economic, social and other benefits of the project override significant adverse impacts of the project associated with levels of service, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

IV. **Findings and Recommendations Regarding Significant Impacts Which Are Avoided or Mitigated to a Less than Significant Level**

A. **AESTHETICS/LIGHT AND GLARE**

1. **Damage Scenic Resources (EIR Impact 4.1-1)**

- (a) **Potential Impact.** Implementation of the project would remove trees from within the project site, thereby altering the existing visual character of the area.
- (b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.1-1a. The City shall retain, where feasible, all oak trees larger than 6 inches dbh and other large native and non-native trees. Where possible, the following measures shall be followed to protect trees identified for preservation:

- For trees within the project area that are designated for preservation, a temporary protective fencing shall be placed between the proposed road widening and the protected tree trunks. The protective fencing shall extend from the proposed road widening to the back of future sidewalk on the westbound lane. Protective fencing shall also be placed between the proposed road widening and both sides of the protected tree trunks for the trees in the proposed median. Protective fencing shall be adjusted when installing the sidewalk on the westbound lanes. Tree trunks shall be protected by trunk protection guards. The project improvement plans shall indicate the location of temporary protective fencing.

- Final Grading Plans shall show all protected trees, tree numbers, and protected dripline areas and shall show the location of the required protective temporary fencing.
- Any protected trees on the site that require pruning shall be pruned by a certified arborist prior to the start of construction work in the area. All pruning shall be in accordance with American National Standards Institute (ANSI) A300 pruning standards and the International Society of Arboriculture (ISA) "Tree Pruning Guidelines."
- No signs, ropes, cables (except those which may be installed by a certified arborist to provide limb support), or any other items shall be attached to the trees. Small metallic numbering tags for the purpose of preparing tree reports and inventories shall be allowed.
- Minimal grading (grade cuts or fills) shall be allowed within the driplines of any protected trees to construct walks and roadways.
- Where construction equipment must be operated within the dripline of any protected tree, resulting in a change of soil compaction, measures shall be taken to restore soil condition, aeration, and permeability to water.
- No trenching shall be allowed within the dripline of any protected trees. If it is absolutely necessary to install underground utilities within the dripline of any protected tree, the utility line shall be bored or jacked under the supervision of a certified arborist.
- No sprinkler or irrigation system shall be installed in such a manner that it sprays water or requires trenching within the driplines of any protected trees. An aboveground drip irrigation system is recommended.
- During construction, normal watering frequency shall be maintained around protected trees.
- Landscaping beneath protected trees may include non-plant materials such as bark mulch, wood chips, boulders, etc. The only plant species that shall be planted within the driplines of protected trees are those that are tolerant of the natural semi-arid environment of the trees, as discussed in the City Tree Preservation Ordinance. Limited drip irrigation approximately twice per summer is recommended for the understory plants.
- Weed control chemicals utilized prior to laying of new asphalt shall not be applied where they can leach into the dripline area of any protected tree.

- Clearing of weeds and debris from the protected dripline area shall be done by hand.
- Weedeaters shall be used to remove weeds and grasses so that the natural grades within the protected dripline area will not be disturbed.
- No storage of oil, fuel, concrete mix, or any deleterious substance within the dripline of any protected tree.

MM 4.1-1b. For trees that cannot be preserved in their current location, a qualified biologist or certified arborist shall evaluate each tree identified for removal to assess the tree's potential for successful relocation away from the project impact area. If the tree is a candidate for relocation, the City shall relocate the tree whenever feasible. From surveys completed to date, eight (8) trees have been identified as candidates for relocation. If feasible, the City shall relocate these trees as part of the project.

Monitoring for the success of relocated trees shall be conducted by a qualified biologist or certified arborist on a once-yearly basis for a period of five years after relocation. The survey shall assess the health and vigor of the tree and make a determination whether the tree is successfully establishing and growing. If a tree is found to be unsuccessful (i.e., dead or dying) at the end of the five-year period, the City shall compensate for the loss of the tree by planting replacement trees, either in or as near to the project area as possible, as required by Chapter 19.12 of the City of Elk Grove Municipal Code (Tree Preservation and Protection).

MM 4.1-1c. When relocation is not feasible, or if a tree is not a candidate for successful relocation, then trees removed by the project shall be compensated for by planting of replacement trees per the requirements of the City of Elk Grove Tree Mitigation Policy and fees. To reestablish the aesthetic value of the trees removed and to encourage native tree regeneration, replacement trees shall be planted within the project area to the extent feasible. When it is not feasible to plant replacement trees within the project area, the replacement trees shall be planted as close to the project area as possible. Preference shall be given for use of the largest replacement trees available when selecting replacement trees. These trees shall be placed strategically to provide immediate visual benefit.

Monitoring for the success of replacement trees shall occur on a once-yearly basis for a period of three years after planting. At the end of the three-year period, the replacement trees must demonstrate successful establishment to achieve a "no net loss" of trees (on a per-inch basis) from the project. If the success rate for the replacement trees is unacceptable, the City shall consult with a certified arborist to evaluate the mitigation plan and determine

appropriate remediation to achieve a "no net loss" of trees from the project.

(c) **Findings.** Based upon the FEIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR.

(1) **Effects of Mitigation.** Project impacts which would result from removal of trees from the project site thereby altering the existing visual character of the area will be mitigated to a less than significant level by the mitigation measures described above. The measures include provisions to preserve trees in place, where feasible, to relocate those that cannot be preserved in place, and guidance for replacement planting to mitigate for trees that cannot be preserved or relocated. These mitigation measures will reduce impacts to scenic resources to a less than significant level.

(2) **Remaining Impacts.** The project will be required to comply with the provisions of Chapter 19.04 and 19.12 of the Elk Municipal Code (Tree Preservation and Protection) designed to regulate the planting, maintaining, protecting and preserving of public trees and landscaping. Any remaining impacts related to the visual character of the site will not be significant.

B. AIR QUALITY

1. Short-term Increases of Criteria Air Pollutants (EIR Impact 4.2-1)

(a) **Potential Impact.** During development of the project's interchange improvements some construction activities could occur simultaneously, in which case, maximum daily emissions could potentially exceed Sacramento Metropolitan Air Quality Management District's (SMAQMD) significance threshold of 85 pounds per day (lbs/day) for nitrogen oxides (NO_x), resulting in potential short-term increases in criteria air pollutants during construction.

(b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.2-1a. The project construction contractor shall provide a plan to SMAQMD and the City of Elk Grove for approval by SMAQMD demonstrating that the heavy-duty (>50 horsepower) off-road vehicles to be used in the construction project, including

owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 20 percent NOx reduction¹ and 45 percent particulate reduction compared to the most recent CARB fleet average at time of construction.

MM 4.2-1b. The project construction contractor shall submit to SMAQMD and the City of Elk Grove a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that will be used an aggregate of 40 or more hours during any portion of the construction project. The inventory shall include the horsepower rating, engine production year, and projected hours of use or fuel throughput for each piece of equipment. The inventory shall be updated and submitted monthly throughout the duration of the project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs. At least 48 hours prior to the use of subject heavy-duty off-road equipment, the project representative shall provide SMAQMD with the anticipated construction timeline including start date, and name and phone number of the project manager and on-site foreman.

MM 4.2-1c. The project construction contractor shall ensure that emissions from all off-road diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately, and SMAQMD and the City of Elk Grove shall be notified within 48 hours of identification of non-compliant equipment. A visual survey of all in-operation equipment shall be made at least weekly, and a monthly summary of the visual survey results shall be submitted to SMAQMD and the City of Elk Grove throughout the duration of the project, except that the monthly survey shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey. The SMAQMD and/or other officials may conduct periodic site inspections to determine compliance. Nothing in this section shall supersede other SMAQMD or state rules or regulations.

- (c) **Findings.** Based upon the FEIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR.

¹ Both Caltrans and FHWA are unable to concur with any mitigation measure that requires the contractor to use a construction fleet having 20% lower NOx emissions than the average fleet at the time of construction due to the State's obligations under the California Public Contract Code. Caltrans recognizes that the project sponsor, as lead agency, has the right to make its own determinations regarding use of this protocol and the mitigation measures designed to reduce potentially significant impacts. On the other hand, as a responsible agency, Caltrans must make an independent judgment regarding the adequacy of the lead agency's EIR to support issuance of the Department's encroachment permit authorizing work on the state highway system.

- (1) **Effects of Mitigation.** Air quality impacts due to construction-related activities will be mitigated to a less than significant level. Implementation of the mitigation measures above would result in a 20 percent reduction in NO_x emissions and a 45 percent reduction in visible emissions from heavy-duty diesel equipment. These mitigation measures will reduce air quality impacts from combined construction activities to a less than significant level.
- (2) **Remaining Impacts.** Any remaining impacts related to construction air quality will not be significant.

2. **Short-term Exposure to Toxic Air Contaminants (EIR Impact 4.2-2)**

- (a) **Potential Impact.** Implementation of the proposed project would result in short-term emissions of particulate exhaust from diesel-fueled engines (DPM) during construction associated with the use of off-road diesel equipment for site grading and excavation, paving, and other construction activities that could exceed the SMAQMD-recommended Hazard Index of 1 at nearby receptors.
- (b) **Mitigation Measure.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.2-2. The following measures shall be implemented to reduce potential exposure of nearby receptors to localized, short-term concentrations of particulate exhaust emissions from diesel-fueled engines (DPM):

- On-site diesel-powered stationary construction equipment, such as electrical power generators, shall be located at the furthest distance from nearby receptors.
 - To the extent feasible, diesel-powered construction equipment shall not be left idling.
- (c) **Findings.** Based upon the FEIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR.
 - (1) **Effects of Mitigation.** Project impacts from localized, short-term concentrations of particulate exhaust emissions from diesel-fueled engines will be mitigated to a less than significant level by the mitigation measure described above because the measure requires on-site diesel-powered stationary construction equipment be located at the furthest distance from nearby receptors and not be left idling. This mitigation measure will reduce project

generated particulate exhaust emissions to a less than significant level.

- (2) **Remaining Impacts.** Any remaining impacts from project generated particulate exhaust emissions will not be significant.

C. BIOLOGICAL RESOURCES

1. Special-status Species (EIR Impact 4.3-1)

- (a) **Potential Impact.** Implementation of the proposed project could disturb the movement of wildlife species within the project area through the removal of foraging and nesting habitat.
- (b) **Mitigation Measure.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.3-1. For construction and tree removal activities taking place during the nesting season (February 15 to September 15) of protected bird species, a focused survey for active nests will be conducted by a qualified biologist within 15 days prior to the beginning of project-related activities. If an active nest is found, the City shall consult with CDFG and the USFWS regarding appropriate action to comply with the Migratory Bird Treaty Act and the Fish & Game Code of California. Avoidance distances are determined on a site-specific basis depending on likelihood of nest abandonment, topography, vegetative cover, history of disturbance, and a number of other factors. If a lapse in project-related work of 15 days or longer occurs, another focused survey and if required consultation with the CDFG and USFWS shall be completed before project work can be reinitiated.

- (c) **Findings.** Based upon the FEIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR.

- (1) **Effects of Mitigation.** Project impacts related to disturbance to movement of wildlife species within the project area through the removal of foraging and nesting habitat will be mitigated to acceptable levels by the mitigation measures described above. This is because the measure requires that a focused survey for active nests of protected bird species be conducted by a qualified biologist within 15 days prior to the beginning of construction and tree removal activities taking place during the nesting season (February 15 to September 15). This mitigation measure will reduce impacts to migratory and nesting birds to a less than significant level.

- (2) **Remaining Impacts.** Any remaining impacts to migratory and nesting birds will be less than significant.

2. **Sensitive Habitats (EIR Impact 4.3-2)**

- (a) **Potential Impact.** Development of the proposed project may result in the direct removal and filling of protected wetlands.
- (b) **Mitigation Measure.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.3-2. The appropriate permits (i.e., Section 404 and 401 under the Clean Water Act) shall be obtained prior to site disturbance and the start of construction. The City shall comply with all permit conditions and employ best management practices and measures (established by the USACE) to minimize and compensate for impacts to any jurisdictional waters.

- (c) **Findings.** Based upon the FEIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR.

- (1) **Effects of Mitigation.** The potential impact of the project to waters of the U.S. will be mitigated to a less than significant level through implementation of the mitigation measure described above because the measure requires that the City secure the appropriate permits (i.e., Section 404 and 401 under the Clean Water Act) prior to site disturbance and the start of construction. The City will be required to comply with all permit conditions and employ best management practices and measures (established by the ACOE) to minimize and compensate for impacts to any jurisdictional waters. This mitigation measure will reduce impacts to waters of the U.S. to a less than significant level.

- (2) **Remaining Impacts.** Any remaining impacts related to waters of the U.S. will not be significant.

D. HAZARDOUS MATERIALS

1. Lead-based and Asbestos-containing materials (EIR Impact 4.4-1)

- (a) Potential Impact.** Grading, demolition, and construction activities within the project area could result in the disturbance of lead-based and asbestos-containing materials and expose persons to airborne lead and asbestos.
- (b) Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.4-1a. In areas where the yellow traffic markings would need to be removed as a part of the project, sampling and analysis of the thermoplastic and paint shall be conducted. If hazardous levels of lead materials are found, the materials shall be removed and disposed of by a licensed and certified lead removal contractor in accordance with Caltrans Standard Specifications, Section 15-2.02B and 15-2.03 and Standard Special Provisions for removal of yellow traffic stripe and pavement markings.

The contractor shall prepare a project-specific Lead Compliance Plan to prevent or minimize worker exposure to lead while handling removed yellow thermoplastic and yellow paint residue in accordance with Title 8, California Code of Regulations, Section 1532.1. Prior to submission of the plan to the City and Caltrans, it shall be approved by an industrial hygienist certified in comprehensive practice by the American Board of Industrial Hygiene.

MM 4.4-1b. If the former Caltrans equipment building is required to be demolished as a part of the project, then the identified asbestos shall be removed and handled by an appropriately licensed contractor prior to or during demolition and disposed at a regulated facility that accepts asbestos waste materials. The asbestos contractor shall have a valid license issued by the California Contractor's State License Board and be certified by Cal-OSHA. The rules and regulations of the Sacramento Metropolitan Air Quality Management District regarding asbestos shall be obtained and followed by the contractor. In addition, an on-site asbestos removal professional trained in the Asbestos Hazard Emergency Response Act (AHERA) and meeting the U.S. Environmental Protection Agency Asbestos Abatement Consultant Certification requirements shall be retained to oversee proper asbestos waste maintenance and handling.

MM 4.4-1c. If the former Caltrans equipment building and shed are to be demolished as a part of the project, then a lead-based paint survey shall be completed. Prior to demolition of the structures, painted surfaces should be tested by a state-certified lead inspector to determine if the paint contains lead and what

action, according to DHS recommendations and Cal-OSHA requirements, are recommended and required for any potential projects. If lead-based paint is present in the structures, the materials containing the paint shall be handled by an appropriately licensed contractor prior to or during demolition and disposed at a regulated facility that accepts materials containing lead-based paint.

MM 4.4-1d. Any soil excavated in the areas identified in Kleinfelder's Lead Soil Sampling Results report dated May 15, 2006, shall be handled in accordance with all federal, state, and local regulations. At a minimum, the following shall be implemented:

- a) Stockpile the excavated soil in the areas identified as containing elevated concentrations of lead. Obtain one four-point composite soil sample for each 155 cubic meters of excavated soil and have the samples analyzed for TLC and STLC lead.
- b) If the soil analysis indicates the soil is considered hazardous waste and it is to be reused at the project site, the soil will be handled in accordance with the California Department of Toxic Substance Control requirements that include at a minimum placing the lead-containing soil at least 5 feet above the maximum water table elevation and covered with at least 1 foot of nonhazardous soil. The contractor shall prepare and submit to the City and Caltrans for approval a project-specific Lead Compliance Plan to prevent or minimize worker exposure to lead while handling material containing aerially deposited lead. The Lead Compliance Plan shall contain the elements listed in Title 8, California Code of Regulations, Section 1532.1(e)(2)(B). The Lead Compliance Plan shall include perimeter air monitoring incorporating upwind and downwind locations as shown on the plans or as approved by the engineer. Monitoring shall be by personal air samplers using National Institute of Safety and Health Method 7082. Sampling shall achieve a detection limit of $0.05 \mu\text{g}/\text{m}^3$ of air per day. Daily monitoring shall take place while the contractor clears and grubs and performs earthwork operations. A single representative daily sample shall be analyzed for lead. Results shall be analyzed and provided to the engineer within 24 hours. Average lead concentrations shall not exceed $1.5 \mu\text{g}/\text{m}^3$ of air per day. If concentrations exceed this level, the contractor shall stop work and modify the work to prevent release of lead. Monitoring shall be done under the direction of, and the data shall be reviewed by and signed by, a certified industrial hygienist.
- c) If the soil analysis indicates the soil is considered hazardous waste and it is to be disposed, the soil shall be transported to and disposed of at a Class I Disposal Site. The contractor shall prepare and submit to the City and Caltrans for approval an

Excavation and Transportation Plan, which establishes the procedures the contractor will use to comply with requirements for excavating, stockpiling, transporting, and placing (or disposing) of material containing aerially deposited lead. The plan shall conform to the regulations of the DTSC and Cal-OSHA, including the Health and Safety Code, Division 20, Chapter 6.5 (California Hazardous Waste Control Act); Title 22, California Code of Regulations, Division 4.5 (Environmental Health Standards for the Management of Hazardous Waste); and Title 8, California Code of Regulations. Material excavated from these areas shall be transported by a hazardous waste transporter registered with the DTSC using the required procedures for creating a manifest for the material. The vehicles used to transport the hazardous material shall conform to the current certifications of compliance of the DTSC. The contractor shall provide to the City and Caltrans copies of the manifests.

(c) **Findings.** Based upon the FEIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR.

(1) **Effects of Mitigation.** The potential impact of the project related to the disturbance of lead-based and asbestos-containing materials and exposure of persons to airborne lead and asbestos will be mitigated to a less than significant level through the mitigation measures described above because in areas where yellow traffic markings would need to be removed as a part of the project, sampling and analysis of the thermoplastic and paint shall be conducted; if the former Caltrans equipment building is required to be demolished as a part of the project, then the identified asbestos shall be removed and handled by an appropriately licensed contractor prior to or during demolition and disposed at a regulated facility that accepts asbestos waste materials; if the former Caltrans equipment building and shed are to be demolished as a part of the project, then a lead-based paint survey shall be completed; and any soil excavated in the areas identified in Kleinfelder's Lead Soil Sampling Results report dated May 15, 2006, will be handled in accordance with all federal, state, and local regulations. These mitigation measures will reduce impacts from lead-based and asbestos-containing materials to a less than significant level.

(2) **Remaining Impacts.** Any remaining impacts related to lead-based and asbestos-containing materials will not be significant.

2. Hazardous Material Release During Construction (EIR Impact 4.4-2)

- (a) **Potential Impact.** Construction activities within the project area could result in the release of hazardous materials into the environment from leaking hazardous materials tanks, in-ground hydraulic lifts, or previously unknown soil contamination that could expose persons to hazardous conditions.
- (b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.4-2a. During the plans, specifications, and estimates (PS&E) phase of project development, Phase II soil sampling shall be conducted within areas where UST and waste oil releases have been known to occur. If contaminated soil is detected at concentrations that could pose a health hazard and/or violate local, state, or federal health standards, remediation of the affected areas shall be undertaken in accordance with the requirements of the City of Elk Grove and the Sacramento County Environmental Management Department. Development of the site shall not commence until the City, in consultation with the Sacramento County Environmental Management Department, deems the site remediated and clear for development.

MM 4.4-2b. If the former Caltrans equipment building is to be demolished as a part of the project, then the hydraulic lift and pump within the former equipment building shall be removed and disposed of in accordance with all applicable regulations. If during the removal of the hydraulic lift and pump, stained or odiferous soil is encountered, then soil samples shall be collected and analysis completed for hydraulic oil and PCBs. If contamination is found in the soils on the site, then a qualified professional, in conformance with the applicable regulatory agency guidelines (EPA, SWRCB, DTSC, SCEMD, and/or the Elk Grove Community Services District Fire Department) shall develop a plan to dispose of any contaminated soil.

MM 4.4-2c. If the former Caltrans equipment building is to be demolished as a part of the project, then the aboveground storage tank in it shall be removed. Prior to removal of the aboveground tank, the contents shall be characterized and disposed of in accordance with all applicable federal, State, and local regulations.

MM 4.4-2d. If contaminated soil is encountered or if suspected contamination is encountered during project construction, work shall be halted in the area and the type and extent of the contamination shall be identified. A qualified professional, in conformance with the applicable regulatory agency guidelines (EPA, California RWQCB, California Department of Toxic Substances Control, Sacramento County Environmental

Management Department, and/or the Elk Grove Community Services District Fire Department) shall develop a plan to dispose of any contaminated soil.

(c) **Findings.** Based upon the FEIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR.

(1) **Effects of Mitigation.** The potential impact of the project related to the release of hazardous materials into the environment from leaking hazardous materials tanks, in-ground hydraulic lifts, or previously unknown soil contamination that could expose persons to hazardous conditions will be mitigated to a less than significant level through implementation of the mitigation measures described above because during the plans, specifications, and estimates (PS&E) phase of project development, Phase II soil sampling shall be conducted within areas where UST and waste oil releases have been known to occur; if the former Caltrans equipment building is to be demolished as a part of the project, then the hydraulic lift and pump within the former equipment building shall be removed and disposed of in accordance with all applicable regulations; if the former Caltrans equipment building is to be demolished as a part of the project, then the aboveground storage tank in it shall be removed; and if contaminated soil is encountered or if suspected contamination is encountered during project construction, work shall be halted in the area and the type and extent of the contamination shall be identified. A qualified professional, in conformance with the applicable regulatory agency guidelines (EPA, California RWQCB, California Department of Toxic Substances Control, Sacramento County Environmental Management Department, and/or the Elk Grove Community Services District Fire Department) shall develop a plan to dispose of any contaminated soil. These mitigation measures will reduce potential impacts from the release of hazardous materials into the environment to a less than significant level.

(2) **Remaining Impacts.** Any remaining impacts related to the release of hazardous materials will not be significant.

3. **Water Well and Septic System (EIR Impact 4.4-3)**

(a) **Potential Impact.** Project activities could disturb a known on-site domestic water well or previously unidentified water wells or septic systems.

- (b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.4-3a. If the shed is to be demolished as a part of the project, then the water well shall be properly abandoned under permit and observation of the Sacramento County Environmental Management Department and in compliance with all applicable state and local regulations.

MM 4.4-3b. If previously unconfirmed or unidentified wells are encountered during construction, work shall be halted in the area and the Sacramento County Environmental Management Department shall be contacted for further direction.

MM 4.4-3c. If a septic system is encountered during construction activities, then it shall be removed or abandoned in place in accordance with all federal, state, and local regulations.

- (c) **Findings.** Based upon the EIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR.

(1) **Effects of Mitigation.** The potential impact of the project to disturb a known on-site domestic water well or previously unidentified water wells or septic systems will be mitigated to a less than significant level through implementation of the mitigation measures described above because if the shed is to be demolished as a part of the project, then the water well shall be properly abandoned under permit and observation of the Sacramento County Environmental Management Department and in compliance with all applicable state and local regulations; if previously unconfirmed or unidentified wells are encountered during construction, work shall be halted in the area and the Sacramento County Environmental Management Department shall be contacted for further direction; and if a septic system is encountered during construction activities, then it shall be removed or abandoned in place in accordance with all federal, state, and local regulations. These mitigation measures will reduce impacts to water wells and septic systems to a less than significant level.

(2) **Remaining Impacts.** Any remaining impacts related to water wells and septic systems will not be significant.

4. **Fueling Activities (EIR Impact 4.4-4)**

- (a) **Potential Impact.** Construction activities that could involve the release of hazardous materials associated with the project would include refueling and maintenance of on-site construction

equipment, which could lead to minor fuel and oil spills. The use and handling of hazardous materials during construction activities would occur in accordance with applicable federal, state, and local laws including California Occupational Health and Safety Administration (Cal-OSHA) requirements.

- (b) **Mitigation Measure.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.4-4. Prior to the start of construction, the construction contractor shall designate staging areas where fueling and oil-changing activities will take place. No fueling and oil-changing activities shall be permitted outside the designated staging areas. The staging areas, as much as practicable, shall be located on level terrain and away from sensitive land uses such as residences and schools. Staging areas shall not be located near any stream, channel, or wetland. All staging areas shall be identified in the Storm Water Pollution Prevention Plan (SWPPP), which shall be reviewed and approved by the City of Elk Grove as part of the NPDES permit process.

- (c) **Findings.** Based upon the FEIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR.

- (1) **Effects of Mitigation.** The potential impact of the project from refueling and maintenance of on-site construction equipment, which could lead to minor fuel and oil spills, will be mitigated to a less than significant level through implementation of the mitigation measure described above because the construction contractor shall designate staging areas where fueling and oil-changing activities will take place and all staging areas shall be identified in the Storm Water Pollution Prevention Plan (SWPPP), which shall be reviewed and approved by the City of Elk Grove as part of the NPDES permit process. This mitigation measure will reduce impacts from refueling and maintenance to a less than significant level.

- (2) **Remaining Impacts.** Any remaining impacts related construction refueling and maintenance activities will not be significant.

E. NOISE

1. Construction-related Noise (EIR Impact 4.5-1)

- (a) **Potential Impact.** Construction activities associated with the proposed project would generate noise that would affect sensitive receptor locations in the vicinity of the project site.

- (b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

MM 4.5-1a. Site preparation and construction activities shall be limited to between the hours of 7:00 A.M. to 7:00 P.M. whenever such activity is adjacent to residential uses. Construction equipment maintenance shall be limited to the same hours. If nighttime work will be required, no construction equipment shall be used that would exceed the nighttime noise standard dBA.

MM 4.5-1b. All construction equipment shall be equipped with appropriate mufflers in good working condition.

MM 4.5-1c. Construction staging areas shall be located as far from noise-sensitive uses as is feasible.

- (c) **Findings.** Based upon the FEIR and the entire record before the City Council, the City Council finds that changes or alterations have been required in, or incorporated into, the project which avoid the significant environmental effect as identified in the Final EIR:

- (1) **Effects of Mitigation.** The potential for the project to increase ambient noise levels resulting from construction will be mitigated to a less than significant level through implementation of the mitigation measures described above because they minimize construction noise during hours when most people are at their homes or are sleeping; require the use of appropriate mufflers on all construction equipment; and require that construction staging areas be located as far from noise-sensitive uses as is feasible. These mitigation measures will reduce impacts from construction-generated noise to a less than significant level.

- (2) **Remaining Impacts.** Any remaining impacts from construction-generated noise will not be significant.

V. Findings and Recommendations Regarding Those Impacts Which are Less Than Significant

- A. Specific impacts within the following categories of environmental effects were found to be less than significant without mitigation as set forth in more detail in the DEIR.
1. **Aesthetics/Light and Glare:** The following specific impacts were found to be less than significant: 4.1-2, 4.1-3, and 4.1-4.
 2. **Air Quality:** The following specific impacts were found to be less than significant: 4.2-3, 4.2-4, 4.2-5, 4.2-6, 4.2-7, 4.2-8, 4.2-9, and 4.2-10.
 3. **Biological Resources:** The following specific impact was found to be less than significant: 4.3-3.
 4. **Hazards and Hazardous Materials:** The following specific impact was found to be less than significant: 4.4-5.
 5. **Noise:** The following specific impacts were found to be less than significant: 4.5-2, 4.5-3, 4.5-4, and 4.5-5.
 6. **Hydrology and Water Quality:** The following specific impact was found to be less than significant: 4.6-1, 4.6-2, 4.6-3, and 4.6-4.
 7. **Transportation and Circulation:** The following specific impacts were found to be less than significant: 4.7-2, 4.7-3, and 4.7-4.
- B. The above impacts are less than significant for one of the following reasons:
- 1) The EIR determined that the impact is less than significant for the Project.
 - 2) The EIR determined that the impact is beneficial (would be reduced) for the Project.

VI. Project Alternatives

A. Background – Legal Requirements

Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would *substantially lessen* the significant environmental effects of such projects[.]" (italics added.) The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will *avoid or substantially lessen* such significant effects." (*Ibid.*, italics added.) Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects." (*Ibid.*)

CEQA defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." (Pub. Resources Code, § 21061.1.) The CEQA Guidelines add another factor: "legal" considerations. (CEQA Guidelines, § 15364; see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565 (*Goleta II*)). Among the factors that may be taken

into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site. (CEQA Guidelines, § 15126.6, subd. (f)(1).) The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417.)

Where a significant impact can be substantially lessened (i.e., mitigated to an "acceptable level") solely by the adoption of mitigation measures, the lead agency, in drafting its findings, has no obligation to consider the feasibility of alternatives with respect to that impact, even if the alternative would mitigate the impact to a greater degree than the Project. (Pub. Resources Code, § 21002; *Laurel Hills Homeowners Association, supra*, 83 Cal.App.3d at p. 521; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 691, 730-731; and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 400-403.) In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility of modifying the project lies with some other agency. (CEQA Guidelines, § 15091, subds. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated that, "[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interest, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (*Goleta II, supra*, 52 Cal.3d at p. 576.)

The preceding discussion regarding Project impacts revealed that most significant effects identified in the EIR have been at least substantially lessened, if not fully avoided, by the adoption of feasible mitigation measures. There is one impact, however, that was identified as significant and unavoidable and which cannot be substantially lessened.

Thus, as a legal matter, the City, in considering alternatives in these findings, need only determine whether any alternatives are environmentally superior with respect to those significant and unavoidable impacts. If any alternatives are in fact superior with respect to those impacts, the City is then required to determine whether the alternatives are feasible. If the City determines that no alternative is both feasible and environmentally superior with respect to the unavoidable significant impacts identified in the DEIR, the City may approve the Project as mitigated, after adopting a statement of overriding considerations.

CEQA does not require that all possible alternatives be evaluated, only that "a range of feasible alternatives" be discussed so as to encourage both meaningful public participation and informed decision making. (CEQA Guidelines, § 15126.6, subd. (a).) "The discussion of alternatives need not be exhaustive, and the requirement as to the discussion of alternatives is subject to a construction of reasonableness. The statute does not demand what is not realistically possible given the limitation of time, energy, and funds. 'Crystal ball' inquiry is not required." (*Residents Ad Hoc Stadium Committee v. Board of Trustees* (1979) 89 Cal.App.3d 274,

286; see also CEQA Guidelines, § 15126.6, subd. (f)(3).) Indeed, as stated by the court in *Village of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1028, although there may be "literally thousands of 'reasonable alternatives' to the proposed project . . . 'the statutory requirements for consideration of alternatives must be judged against a rule of reason.'" (*Ibid.*, quoting *Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco* (1980) 106 Cal.App.3d 893, 910.) "'Absolute perfection is not required; what is required is the production of information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned.'" (*Id.*, at p. 1029.) The requirement has been fulfilled here; the DEIR examined the Project alternatives in detail, exploring their comparative advantages and disadvantages with respect to the Project. As the following discussion demonstrates, however, only the Project as proposed is feasible in light of Project objectives and other considerations.

B. Identification of Project Objectives

The CEQA Guidelines state that the "range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects" of the project (CEQA Guidelines § 15126(d)). Thus, an evaluation of the Project objectives is key to determining which alternatives should be assessed in the EIR.

The overall objective of the Elk Grove Boulevard/SR 99 Interchange Modification project is to reduce congestion on Elk Grove Boulevard through the ramp intersections. Elimination of the traffic signal on Elk Grove Boulevard at the existing northbound on-ramp and the left turn from eastbound Elk Grove Boulevard to the northbound diagonal on-ramp will largely relieve traffic congestion on both eastbound and westbound Elk Grove Boulevard and improve traffic flow.

C. Alternatives Analysis in EIR

The CEQA Guidelines state that the "range of potential alternatives to the Project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects" of the project. The City evaluated the alternatives listed below.

1. Alternative 1

As required by CEQA, Alternative 1 (No Project Alternative) assumes that no development would occur in the project area and the site would remain in its current condition.

(a) Findings. The No Project Alternative is rejected as an alternative because it would not achieve the City's objective of reducing congestion on Elk Grove Boulevard through the SR 99 ramp intersections.

The No Project Alternative maintains the status quo. While this alternative would eliminate all construction-related impacts and impacts associated with aesthetics, biology, hazards and hazardous materials, and hydrology and water quality, impacts associated with noise would be similar to the project build alternative, and air quality and transportation impacts would, in fact, be greater with the No Project Alternative.

Travel demand forecasts show that without the proposed project, most of the study intersections would operate unacceptably at LOS E or F in 2030 during at least one peak hour with less than 80 percent of the corridor travel demand served. Average vehicle queues on the southbound and northbound off-ramps would exceed available storage and extend onto the SR 99 mainline.

Demand for travel on Elk Grove Boulevard and the Elk Grove Boulevard/SR 99 interchange will increase with planned development south of Elk Grove Boulevard, which will result in peak hour spreading (i.e., an increase in the number of hours that drivers experience peak hour conditions). Consequently, drivers may seek alternative routes to bypass the Elk Grove Boulevard corridor, which will increase travel times and congestion on adjacent roadways like Bruceville Road, Big Horn Boulevard, Laguna Springs Drive, Laguna Boulevard, and Sheldon Road.

Because the Elk Grove Boulevard/SR 99 interchange traffic queues and delays will increase over time without the project, overall air quality will deteriorate. Although there will be no short-term air quality impacts from construction, local mobile-source carbon monoxide (CO) emissions near interchange roadways and intersections will be worse than with the project because these emissions are a direct function of traffic volume, speed, and delay.

Thus, impacts to most traffic operations and air quality would be worse under the No Project Alternative than with the project. For the reasons mentioned above, the No Project Alternative was not found to be environmentally superior and was rejected as infeasible.

- (b) **Explanation.** This alternative would not realize the benefits of the project or achieve any of the project objectives. The No Project Alternative would not reduce congestion on Elk Grove Boulevard through the SR 99 ramp intersections or improve traffic flow in the area.

2. Alternative 2

Alternative 2 would modify the existing Elk Grove Boulevard/SR 99 interchange by eliminating the traffic signal on Elk Grove Boulevard at the existing northbound on-ramp, eliminating the left turn from Elk Grove Boulevard to the northbound on-ramp, and providing a new northbound hook on-ramp from East Stockton Boulevard to northbound SR 99. The interchange improvements project would include the following features:

- Provide a new northbound hook on-ramp from East Stockton Boulevard to northbound SR 99 having two metered mix flow lanes and transition to a one-lane freeway entrance.
- Close the left turn from Elk Grove Boulevard to northbound on-ramp with a raised median across the ramp intersection, eliminate the traffic signal, and lengthen the single left turn lane to the southbound on-ramp.

- Modify the intersection at Elk Grove Boulevard and East Stockton Boulevard to provide a free right turn lane from Elk Grove Boulevard to southbound East Stockton Boulevard.
 - Widen East Stockton Boulevard on the west side between Elk Grove Boulevard and the northbound ramp intersection to provide one additional dedicated right turn lane, shoulders on both sides for future bike lanes, raised median, and curb, gutter, and sidewalk on the west side.
 - Add a bicycle lane within the traffic lanes a short distance to the East Stockton Boulevard/SR 99 ramps intersection to allow bicycle traffic through the intersection.
 - Widen the northbound off-ramp to provide two lanes at its intersection with East Stockton Boulevard and signalize the northbound off-ramp intersection with East Stockton Boulevard.
 - At the modified off-ramp intersection on East Stockton Boulevard, provide an access road to the shopping center on the east side.
 - Northbound on East Stockton Boulevard, north of the ramp intersection, modify the existing bus stop to a bus turnout.
 - On East Stockton Boulevard, provide an intersection and access road to the former Caltrans parcel and park and ride lot. The intersection will have right turns in and out only.
 - Southbound on East Stockton Boulevard, provide a bus turnout south of the ramp intersection.
 - Provide a soldier pile retaining wall along SR 99 immediately south of the existing overcrossing bridge to avoid the existing cemetery.
 - The Elk Park Village Shopping Center entrance and a portion of its parking lot would be reconfigured.
 - A former Caltrans equipment building, water supply well, and associated well shed would be demolished and removed.
 - Add a second left turn only lane on westbound Elk Grove Boulevard to the southbound SR 99 on-ramp on the western portion of the overpass bridge. This will require widening the southbound on-ramp to receive two lanes that would then merge back into one lane prior to entering the freeway.
- (a) **Findings.** Although Alternative 2 is not able to eliminate the significant, unavoidable transportation and circulation impacts associated with the project, it has been chosen as the environmentally superior alternative. The overall objective of the Elk Grove Boulevard/SR 99 Interchange Modification project is to reduce congestion on Elk Grove Boulevard through the ramp intersections. Elimination of the traffic signal on Elk Grove Boulevard at the existing northbound on-ramp and the left turn from eastbound Elk Grove Boulevard to the northbound diagonal on-

ramp will largely relieve traffic congestion on both eastbound and westbound Elk Grove Boulevard and improve traffic flow.

- (b) **Explanation.** Overall, the project would result in improved traffic circulation conditions over those without the project in both the 2010 and 2030 conditions. Most of the intersections considered would operate at better LOS conditions with the project in both the 2010 and 2030 conditions. Although the proposed project would not meet the LOS criteria at all intersections, it is still an improvement over conditions without the project. In addition, as a result of improved flow, and based on modeling conducted for the project, it is anticipated that air quality would improve with implementation of the proposed project.

3. Alternatives Considered but Removed from Further Consideration

Two alternatives, Alternative 3 and Alternative 4, were considered during the project development phase but were removed from further consideration because they did not meet the project objectives.

Alternative 3 and Alternative 4 were similar and included construction of a new on-ramp loop to provide access for eastbound traffic on Elk Grove Boulevard traveling north on SR 99, as is included in the proposed project; however Alternative 3 would have retained a single left turn lane onto northbound SR 99 and signal on eastbound Elk Grove Boulevard and designated it as a high occupancy vehicle (HOV) access lane during peak hours. Alternative 4 would have retained a dual left turn lane and signal on eastbound Elk Grove Boulevard and designated the lanes as HOV access lanes during peak hours. These alternatives were removed from further consideration after it was determined that the configurations would result in potential traffic queuing in the eastbound direction if HOV traffic utilizing the left turn pocket(s) exceeded the pocket storage length and that the configuration offering drivers more than one option for entering northbound SR 99 would be confusing and potentially result in poor traffic flow.

4. Environmentally Superior Alternative

Under CEQA Guidelines Section 15126.6 (e)(2), if the environmentally superior alternative is the No Project Alternative, another environmentally superior alternative must be identified. For this analysis, after the No Project Alternative, Alternative 2 is considered the environmentally superior alternative. Overall, Alternative 2 best meets the project objective of improving traffic flow at the Elk Grove Boulevard/SR 99 interchange and also improves air quality, as a result of the improved traffic flow. Although Alternative 2 is not able to eliminate the significant, unavoidable transportation and circulation impacts associated with the project, it has been chosen as the environmentally superior alternative.

VII. Statements of Overriding Considerations Related to the Elk Grove Boulevard/SR 99 Interchange Project Findings

As set forth in the preceding sections, the City Council's approval of the Elk Grove Boulevard/SR 99 Interchange Modification project will result in significant adverse environmental effects that cannot be avoided even with the adoption of all feasible mitigation measures, and there are no

feasible project alternatives which would mitigate or substantially lessen the impacts. Despite the occurrence of these effects, however, the City Council chooses to approve the project because, in its view, the environmental, social, and other benefits of the project will render the significant effects acceptable.

In making this Statement of Overriding Considerations in support of the findings of fact and the project, the City Council has considered the information contained in the EIR for the project as well as the public testimony and record in proceedings in which the project was considered. The City Council has balanced the project's benefits against the unavoidable adverse impacts identified in the EIR.

The following statement identifies the reasons why, in the City Council's judgment, the benefits of the project, as approved, outweigh its unavoidable significant effects. Any one of these reasons is sufficient to justify approval of the project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the City Council would stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section.

The proposed project provides a unique opportunity for the City to achieve a variety of important goals that will benefit both the City and the region. Some of the project benefits include the following:

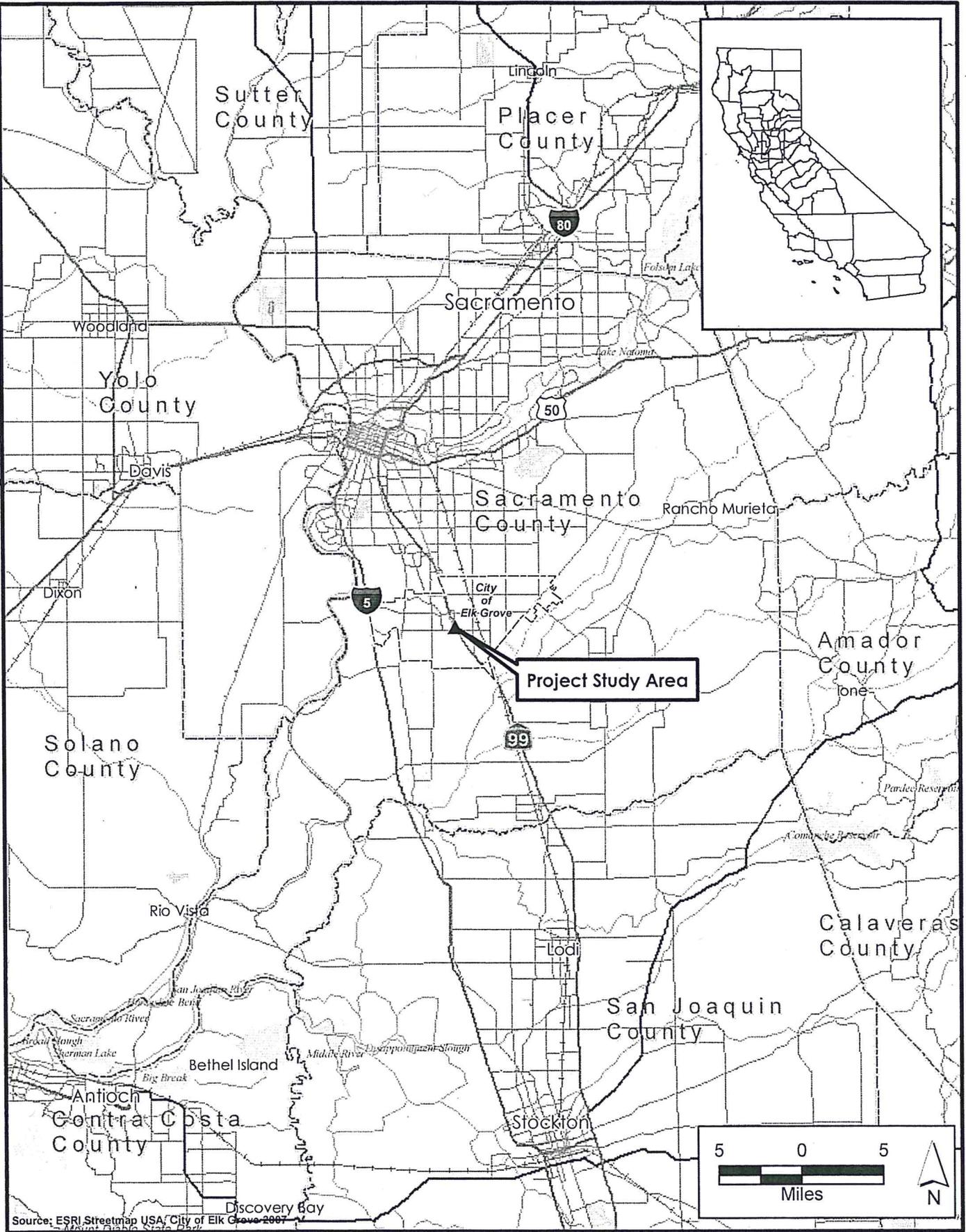
- A. **Improved Traffic Circulation.** Overall, the project would result in improved conditions over those without the project in both the 2010 and 2030 conditions. In comparing the proposed project to the significance criteria previously outlined, the proposed project would not result in all intersections operating at LOS D or better, and the delay would increase with the project in the 2010 conditions and in the 2030 conditions at two intersections. However, most of the intersections would operate at better LOS conditions with the project in both the 2010 and 2030 conditions. Although the proposed project would not meet the LOS criteria at all intersections in the 2010 and 2030 conditions, it is still an improvement over the conditions without the project.
- B. **Improved Air Quality.** Levels of local mobile-source carbon monoxide emissions near roadway intersections are a direct function of traffic volume, speed, and delay. Based on the traffic and air quality analysis prepared for the proposed project, implementation of the project would result in improved LOS at nearby intersections. As a result of improved flow, and based on modeling conducted for the project, it is anticipated that air quality would improve with implementation of the proposed project because less cars would be idling, thus reducing travel times and associated carbon monoxide emissions.

Conclusion. Based upon the objectives identified for the project, review of the project, review of the EIR, and consideration of public and agency comments, the City has determined that the project should be approved and that any remaining unmitigated environmental impacts attributable to the project are outweighed by the specific environmental, social, and other overriding considerations.

The City has determined that any environmental detriment caused by the Elk Grove Boulevard/SR 99 Interchange Modification project has been minimized to the extent feasible through the mitigation measures identified herein, and, where mitigation is not feasible, has

been outweighed and counterbalanced by the significant transportation and environmental benefits that would result from implementation of the project.

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City of Elk Grove
Development Services

Figure 2.0-1
Regional Vicinity Map
Elk Grove Blvd/SR 99
Interchange Modification Project