

RESOLUTION NO. 2014-141

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF
UNDERSTANDING AND RELATED AGREEMENTS WITH CALTRANS, SACOG,
CITY OF WEST SACRAMENTO, AND THE CITY OF SACRAMENTO, TO CONTINUE
THE DEVELOPMENT AND IMPLEMENTATION OF THE I-5 FREEWAY
SUBREGIONAL CORRIDOR MITIGATION PROGRAM AND ENTER INTO AN
AGREEMENT WITH SACOG TO SHARE IN THE COST OF PREPARING AN
ENVIRONMENTAL IMPACT REPORT**

WHEREAS, concerns have been raised regarding the projected future cumulative mainline freeway traffic impacts from new developments located within the jurisdictional boundaries of cities along the Interstate 5 freeway; and

WHEREAS, staff from the Sacramento Area Council of Governments (SACOG) and the Cities of West Sacramento, Sacramento and Elk Grove, formed a working group with Caltrans to develop appropriate strategies to facilitate orderly and efficient development within the impacted agencies; and

WHEREAS, a study was prepared that modeled the cumulative mainline traffic impacts, identified projects to relieve congestion, identified the costs of such projects, and identified development fees related to those projects on the I-5 freeway from future developments within the I-5 Freeway Subregional Corridor; and

WHEREAS, Caltrans has reviewed the recommendations set out in this study and is anticipated to accept such fees as adequate freeway congestion mitigation, subject to such mitigation being found adequate by Caltrans upon a review under the California Environmental Quality Act ("CEQA"); and

WHEREAS, a Memorandum of Understanding (MOU) has been prepared for amending the study and preparing the environmental review of the I-5 Freeway Subregional Corridor Mitigation Program by SACOG with funding shared by the Cities of West Sacramento, Sacramento, and Elk Grove; and

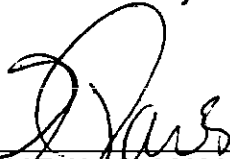
WHEREAS, the MOU includes a framework for future consideration of adoption of the fee by the Council, allocation of the fee if adopted, and development of fee funded projects if adopted.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby authorizes the City Manager to execute the Memorandum of Understanding (in substantially the same form as attached hereto as Exhibit A and incorporated herein by this reference) and related agreements with Caltrans, SACOG, City of West Sacramento, and the City of Sacramento, to Continue the Development and Implementation of the I-5 Freeway Subregional Corridor Mitigation Program and

Enter Into an Agreement with SACOG to Share in the Cost of Preparing an Environmental Impact Report; and

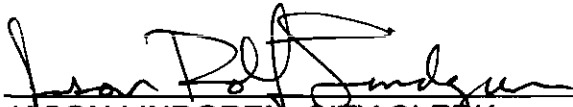
BE IT FUTHER RESOLVED that the City Council authorizes and expenditure of up to \$50,000 from Capital (Facility) Fund Reserves (Fund 106) in Fiscal Year 2014-15 for this work.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 25th day of June 2014.



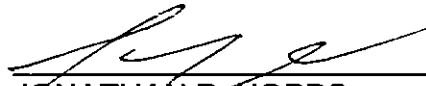
GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

Implementation Plan for the I-5 Freeway Subregional Corridor Mitigation Program

This MEMORANDUM OF UNDERSTANDING ("Agreement") is made and entered into this ___ day of _____, 2014, ("Execution Date") by and between the City of Sacramento, a municipal corporation ("Sacramento"), the City of West Sacramento, a municipal corporation ("West Sacramento"), and the City of Elk Grove, a municipal corporation ("Elk Grove"), which are referred to herein individually as "City" and collectively as "Cities;" and the California Department of Transportation, a state agency ("Caltrans") and the Sacramento Area Council of Governments, a joint powers entity ("SACOG"). All of the foregoing entities are referred to herein individually as "Party" and collectively as "Parties."

RECITALS

A. Due to the concerns of all the Parties regarding the projected future cumulative mainline freeway traffic impacts from new developments located within the jurisdictional boundaries of Cities along the Interstate 5 freeway ("Freeway Subregional Corridor"), staff from Cities and Caltrans (the "working group") met over a four year period and Cities collectively funded a study by DKS Associates dated April 30, 2009, titled: "Policy Recommendations for the Evaluation and Mitigation of Significant Impacts from Local Development Projects on the State Highway System" (the "Freeway Subregional Corridor Study"), regarding measures to mitigate potential impacts.

B. The Freeway Subregional Corridor extends generally from the American River on the north, the western boundary of the City of West Sacramento on the west, the southern boundary of the City of Elk Grove on the south and Highway 99 on the east. The study area was divided into four districts, with territory within Sacramento (District 1 and 3), West Sacramento (District 2) and Elk Grove (District 4).

C. DKS Associates modeled the cumulative mainline traffic impacts on the I-5 freeway from future developments within the Freeway Subregional Corridor. Based on this information, the working group identified planned transportation improvements in SACOG's Regional Transportation Plan ("RTP") which would best relieve traffic congestion within the Freeway Subregional Corridor. Caltrans has not adopted plans to add lanes to the I-5 freeway in this corridor to expand capacity, other than adding high occupancy vehicles lanes (the "Freeway Improvements") to encourage carpooling and use of bus transit. The Freeway Subregional Corridor Study identified roadway and river crossing projects (the "Local Roadway Improvements") as planned by the Cities and set out in the RTP, and the Sacramento Regional Transit District's ("Regional Transit") proposed extension of its light rail system to Natomas (the "Transit Improvements"), all of which will serve as alternative routes for intra-city and inter-city

travel. The selected Freeway, Local Roadway and Transit Improvements are referred to herein as the "Subregional Improvement Plan."

D. The Freeway Subregional Corridor Study, with input from the working group and SACOG, evaluated the estimated costs and anticipated funding sources for all of the projects included in the Subregional Improvement Plan, identified the funding shortfall, determined the fair share cost of these projects caused by the additional traffic from new development, and recommended mitigation fees (the "Subregional Impact Fee") to fund such fair share costs based on the development project's location and type of land uses.

E. On July 13, 2009, Caltrans, through its District 3 Director, approved the recommendations set out in the Freeway Subregional Corridor Study. Caltrans' letter stated that the recommended Subregional Impact Fee to help fund the costs of the projects in the Subregional Improvement Plan would lessen the cumulative mainline traffic impacts caused by new development located within the Freeway Subregional Corridor, and that Caltrans anticipates that it would accept such fees as adequate freeway congestion mitigation for cumulative traffic impacts under the California Environmental Quality Act ("CEQA"), subject to its review and acceptance of the EIR as referenced below.

F. SACOG and the working group will conduct environmental review of the Subregional Improvement Plan and Subregional Impact Fee to analyze whether implementation of such projects would mitigate the cumulative mainline freeway traffic impacts from new development within the Freeway Subregional Corridor.

NOW, THEREFORE, based on the Recitals set forth above and the Parties' desire to undertake efforts in a cooperative manner to implement the Subregional Improvement Plan and address how the identified projects are to be funded with the Subregional Impact Fee collected by each City, the Parties agree as follows:

AGREEMENT

1. Modification of Subregional Improvement Plan. The Parties shall meet to determine if there needs to be any changes to the Freeway, Local Roadway and Transit Improvements included in the Subregional Improvement Plan based on current information with regard to the status and funding of the projects in that plan. The refined Subregional Improvement Plan will be used as the project definition for preparation of the Environmental Impact Report (EIR).

2. Preparation of EIR. SACOG will be responsible as a lead agency for preparation of a program-level Environmental Impact Report in compliance with CEQA for the Subregional Improvement Plan. The purpose of the EIR is to analyze whether the Subregional Impact Fee is an appropriate measure to mitigate cumulative impacts of new development on the State Highway System. Each Party shall cooperate with SACOG in providing information and reviewing the administrative draft EIR for accuracy. The costs of the EIR preparation shall be shared equally by Cities, subject to approval of the SACOG's budget for the EIR preparation. An EIR cost sharing agreement between the Cities and SACOG will be needed before the EIR is prepared. After certification of the EIR by SACOG, Sacramento, West Sacramento and Elk Grove shall rely on the EIR as a responsible agency in supporting that Party's actions to fund the Subregional Improvement Plan if they adopt the Subregional Impact Fee.

3. Plan Approval and Fee Adoption. If SACOG certifies the EIR for the Subregional Improvement Plan, each City may individually take action to approve the Subregional Improvement Plan and adopt the Subregional Impact Fee. The Subregional Impact Fee may be adopted either: (i) as a voluntary measure, where a project applicant whose project traffic reaches the threshold of significance may choose to pay the fee in lieu of preparing a traffic model analysis of the cumulative mainline freeway impacts, or (ii) as a mandatory development impact fee pursuant to the Mitigation Fee Act (Government Code section 66000 *et seq.*).

A. Regardless of whether the Subregional Impact Fee is adopted as a voluntary measure or mandatory development impact fee, the fee would only apply to those development projects which: (i) may generate mainline traffic volumes on the I-5 freeway system within the Freeway Subregional Corridor which would exceed the threshold of significance as adopted by each City, in reliance on Caltrans guidance, and (ii) are not exempt from environmental review or traffic impact analysis under the CEQA Guidelines (CA Code of Regulations, Title 14 Chapter 3). If a project does not meet the thresholds, then no mitigation is required, the fee program does not apply. Caltrans agrees that: (i) if the Cities comply with the terms of this Agreement and a project applicant complies with the fee program for a particular project, or (ii) a project does not trigger the thresholds and therefore is not required to pay a fee, Caltrans will not challenge the lack of a cumulative mainline traffic impact study or the adequacy of the mitigation for such impacts for that project.

B. If a City adopts the Subregional Impact Fee as a voluntary measure and an applicant decides not to comply with the Subregional Impact Fee program, even though the project's traffic impacts will exceed the threshold of significance as adopted by that City, then the City will: (i) require a traffic model analysis of the cumulative

mainline freeway impacts for that development project as part of the preparation of the applicable CEQA document for that project; (ii) consult with Caltrans regarding the scope of such traffic analysis and the applicable mitigation measures if the resulting analysis demonstrates that the project's impacts could create potentially significant adverse impacts on the freeway mainline operations under future cumulative conditions; and (iii) consider imposing such mitigation measures as part of the conditions of approval for the project at the time the project and the CEQA document is approved.

C. Each City may adopt the voluntary or mandatory Subregional Impact Fee in consideration of the information in the Freeway Subregional Corridor Study, as well as any additional information that it may rely upon. The City may adjust the amount of the fees from those in the Freeway Subregional Corridor Study based on: (i) the land use categories applicable within each City's zoning ordinance, and (ii) whether the City previously adopted development impact fees which already include the fair share costs of one or more of the projects in the Subregional Improvement Plan. In addition, the working group may recommend to each City to increase or decrease the amount of the fees on an annual basis to account for changes in construction costs, the scope of the project and its estimated costs, and changes in project funding from other sources, all in compliance with the provisions of the Mitigation Fee Act.

D. If the Subregional Impact Fee is paid by the project applicant, whether on a voluntary or mandatory basis, Caltrans will provide written verification to the City, upon request from that City, that the payment of the fee satisfies Caltrans as to that project's obligation under CEQA to mitigate its cumulative mainline traffic impacts on the State Highway System.

4. Allocation of Fees. Annually, after adoption of the Subregional Impact Fee as described in Section 2, above, each City will prepare an annual report and provide a copy to all of the other Parties which includes the amount of the fees that the City has collected and its proposed allocation of such funding for projects in the Subregional Improvement Plan.

A. The Parties acknowledge that it may take many years to collect enough fees to assist in funding the costs of a project in the Subregional Improvement Plan as set out in the Freeway Subregional Corridor Study, and that many projects in that plan may not be ready for construction for a period of time after fees have been collected due to the need to secure additional funding. In addition, there may be delays in construction of the projects included in the Subregional Improvement Plan due to the need to prepare engineering plans and undertake environmental review. For these and other reasons, the Parties acknowledge that a City may propose in its annual report to

continue to accumulate the fees for a specified period of time and not to expend the funds that have been collected.

B. The Parties acknowledge that the first priority for each City in allocating fees it has collected is to apply those funds towards construction of projects in the Subregional Improvement Plan which are located within the jurisdictional boundaries of that City, or closest thereto, so as to benefit the new developments within that City which either paid the fee in accordance with the provisions of the Mitigation Fee Act or voluntarily.

C. Cities acknowledge that some of the projects in the Subregional Improvement Plan are to be constructed by another City, Caltrans, or Regional Transit. The working group shall meet annually to make recommendations on the allocation of the fees collected for projects. Each City will consider those recommendations and determine whether to allocate all or a portion of the fees it has collected to another City, Caltrans, or Regional Transit to assist in funding a project within their respective jurisdiction. If there are no projects or no remaining projects in the Subregional Improvement Plan in a City, that City must nonetheless allocate the fees it has collected to another City, Caltrans or Regional Transit to fund a project in the Subregional Improvement Plan. Transfer of such funding may require those Parties to enter into a project improvement agreement to specify the terms for transfer of such funds, or a City may transmit such funds to SACOG for appropriation for a project in another City, Caltrans or to Regional Transit which is included in the Subregional Improvement Plan.

D. SACOG may rely on the Cities' annual reports in determining funding allocations which may be needed when preparing its annual Metropolitan Transportation Improvement Plan for those projects which are included in the Subregional Improvement Plan, so as to facilitate construction of such projects which are supported by all of the other Parties.

4. Project Development. In regards to the delivery of projects included in the Subregional Improvement Plan, the Parties agree as follows:

A. Each Party will encourage public awareness and undertake public outreach efforts to involve the public in the planning and environmental review processes in which the Parties are engaged for their respective projects included in the Subregional Improvement Plan which are to be approved and/or constructed by that Party.

B. Each Party may use the products of any technical studies and reports generated by another Party in a manner consistent with its respective obligations. Each Party is responsible for making its own determination as to the usefulness or as to the propriety of its use of or reliance upon the work product of the other Party. Neither Party represents or warrants that its work product is or will be sufficient for the purposes to which another Party may wish to apply that work product. This Agreement does not reduce, expand, transfer, or alter in any way any of the statutory or regulatory authorities or responsibilities of any Party hereto. Neither Party is delegating any rights, duties, or responsibilities to any other Party under this Agreement.

5. Term. This Agreement is effective after execution by all of the Parties and shall continue in effect until terminated by all of the Parties through mutual agreement. Any Party may terminate this Agreement in regards to respective obligations of that Party under this Agreement upon providing 30 days' advance written notice delivered to the other Parties.

6. Other Provisions. This Agreement may be executed in counterparts. This Agreement does not create a joint venture, partnership, or any other relationship of association among the Parties. Nothing contained herein is intended, nor shall this Agreement be construed, as an agreement to benefit any third parties. This Agreement embodies the entire agreement of the Parties in relation to the matters contained herein, and no other understanding whether verbal, written or otherwise exists among the Parties.

[Signature pages follow]

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the last date set out below:

CITY OF SACRAMENTO

By: _____

Name:

Title:

Date: _____

Approved as to Form:

City Attorney

ATTEST

City Clerk

CITY OF WEST SACRAMENTO

By: _____

Name:

Title:

Date: _____

Approved as to Form:

City Attorney

ATTEST

City Clerk

CITY OF ELK GROVE

By: _____

Name:

Title:

Date: _____

Approved as to Form:

City Attorney

ATTEST

City Clerk

CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: _____

Name:

Title:

Date: _____

Approved as to Form:

Attorney

SACRAMENTO AREA COUNCIL OF GOVERNMENTS

By: _____

Name:

Title:

Date: _____

Approved as to Form:

Attorney

ATTEST

Clerk

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2014-141**

**STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)**


I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on June 25, 2014 by the following vote:

AYES : COUNCILMEMBERS: Davis, Cooper, Detrick, Hume, Trigg

NOES: COUNCILMEMBERS: None

ABSTAIN : COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None


**Jason Lindgren, City Clerk
City of Elk Grove, California**