

Meeting Date: 6/17/2014

Report Type: Consent

Report ID: 2014-00445

Title: Memorandum of Understanding: Implementation Plan for the I-5 Freeway Subregional Corridor Mitigation Program

Location: Citywide

Recommendation: Pass a Motion approving a Memorandum of Understanding (MOU) for Implementation Plan for the I-5 Freeway Subregional Corridor Mitigation Program between the City of Sacramento, City of West Sacramento, City of Elk Grove, State of California Department of Transportation (Caltrans) and the Sacramento Area Council of Governments (SACOG).

Contact: Samar Hajeer, Senior Civil Engineer, (916) 808-7808; Jerry Way, Director of Public Works, (916) 808-7100, Department of Public Works

Presenter: None

Department: Public Works Department

Division: Transportation Division

Dept ID: 15001911

Attachments:

1-Description/Analysis

2-Background

3-Attachment 1-April 30, 2009 DKS Paper

4-Memorandum of Understanding

City Attorney Review

Approved as to Form
Joe Robinson
6/5/2014 5:24:00 PM

Approvals/Acknowledgements

Department Director or Designee: Jerry Way - 6/2/2014 10:35:53 AM

Description/Analysis

Issue: The proposed Memorandum of Understanding (MOU) establishes a partnership among five parties in an effort to address future cumulative mainline freeway impacts from new developments located within the jurisdictional boundaries of cities along the I-5 Corridor. The program would allow applicants the option of either paying a set mitigation fee, a I-5 Subregional Impact Fee, or studying the project's freeway impacts and identifying mitigation requirements in the Environmental Impact Report (EIR). Caltrans acknowledges in the MOU that it would accept payment of the mitigation fee as adequate freeway congestion mitigation for cumulative traffic impacts under the California Environmental Quality Act (CEQA). If a project's freeway traffic impacts fall below the City's threshold of significance or otherwise is exempt under CEQA from traffic mitigation, the fee or study would not be required. The next steps include evaluating the proposed fee program under CEQA and returning to the City Council for adoption.

Policy Considerations: The MOU is consistent with the City's 2030 General Plan. In particular, approval of the proposed MOU will help to initiate the process for improving the multi-jurisdictional I-5 transportation corridor and streamline the approval process of development projects within this area. It may also become a model for other freeway corridors.

Economic Impacts: None.

Environmental Considerations:

California Environmental Quality Act (CEQA): The proposed action does not constitute a project under CEQA per Guidelines Section 15378(b)(2), (4), and(5). The MOU is an organizational activity of governments that will not result in direct or indirect physical changes in the environment. One of the tasks to be performed and funded under the MOU is preparation of a program-level Environmental Impact Report in compliance with CEQA for the Subregional Improvement Plan and associated Impact Fee.

Sustainability Considerations: The project is consistent with the City of Sacramento's Sustainability Master Plan Goals.

Commission/Committee Action: None.

Rationale for Recommendation: The recommended action in this report is to approve the City's participation in actions necessary prior to adoption of the proposed I-5 Subregional Impact Fee, which is intended to be a voluntarily program for new development projects in order to streamline the approval process. Caltrans' commitment is to provide written verification to the City that the project's obligation under CEQA to mitigate cumulative freeway mainline traffic impacts is satisfied by payment of the mitigation fee.

Financial Considerations: The cities of Sacramento, West Sacramento and Elk Grove have each committed to provide an equal share of the cost for the environmental document needed

before adoption of the fee program. There are no general funds planned or allocated for this project. Transportation funds will be identified at a later phase to cover the City of Sacramento's share.

Local Business Enterprise (LBE): Not applicable. No goods or services are being purchased.

Background Information:

Due to the concerns of City of Sacramento, City of West Sacramento, City of Elk Grove (Cities), Caltrans and SACOG regarding the projected future cumulative mainline freeway traffic impacts from new developments located within the jurisdictional boundaries of Cities along the I-5 Freeway, staff from Cities and Caltrans have met over the past seven years to identify options. The 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" (Freeway Subregional Corridor Study), regarding measures to mitigate potential impacts.

DKS Associates modeled the cumulative mainline traffic impacts on the I-5 freeway from future developments within the I-5 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. The Freeway Subregional Corridor Study identified roadway and river crossing projects (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 (Transit Improvements), all of which will serve as alternative routes for intra-city and inter-city travel.

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 Corridor Mitigation Program, identified the funding shortfall, determined the fair share cost of these projects caused by the additional traffic from new development, and recommended mitigation fees to fund such fair share costs based on the development project's location and type of land uses.

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 that it would accept such fees as adequate freeway congestion mitigation for cumulative traffic impacts under CEQA, subject to its review and acceptance of the EIR as referenced below.

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.

Policy Recommendations for the Evaluation and Mitigation of Significant Impacts from Local Development Projects on the State Highway System

INTRODUCTION

CEQA requires that the transportation impacts of local development projects be identified and that significant impacts be mitigated, including impacts to the State Highway System. In most cases, individual traffic impact studies are prepared to determine a project's impact on the State Highway System. This process requires an expense of time and money for the project applicant, cities, and Caltrans. Additional time and expense is then required to negotiate acceptable improvements or monetary contributions to mitigate identified impacts.

Individual development projects, in most cases, add limited amounts of traffic to the State highway system. Yet studies show that the cumulative effects of regional development over a period of 10 to 20 years are significant increases in traffic volumes on the State highway system, resulting in substantial increases in travel delay on an already burdened freeway system that serves everyone in the region. While local jurisdictions have been effective at using CEQA to mitigate development's traffic impacts on the local roadway system, they have been reluctant to deal with development's impact on the State Highway System, which has resulting in conflicts during the CEQA review process. The bottom line is that current practices are not leading to the implementation of improvements that will mitigate the cumulative impacts of development on the State Highway System.

Rather than continuing down the current path, transportation professionals representing the cities of West Sacramento, Sacramento and Elk Grove, plus Caltrans District 3, Caltrans Headquarters, SACOG, and Regional Transit were brought together to develop a better approach to mitigating impacts to the State Highway System by improving predictability and leveling the playing field for project applicants and local agencies. The purpose of the Subregional Freeway Working Group was to create a new "system" to mitigate impacts of new development on the State Highway System, which will be more cost effective, consistent, equitable, and predictable by providing more certainty for project applicants, cities and Caltrans.

This paper outlines the key issues related to the current practice of evaluating and mitigating significant impacts to the State Highway System due to local development projects. Most importantly, the paper defines a set of policy recommendations to resolve those issues, including the following:

- It defines a set of feasible improvements, agreed upon by the Subregional Freeway Working Group, which would significantly reduce overall travel delay on the portion of the State Highway system that serves the Subregion. The Working Group agrees

that implementation of this set of improvements would help to mitigate impacts caused by development within the Subregion.

- It provides a simple method to calculate the “fair share” funding contribution that a development should pay to help implement the improvements selected by the Working Group. This method could be used to establish a nexus-based development fee program for the Subregion. Whether or not a fee program is adopted by local governments, the Working Group agrees that payment of the funding contributions would adequately mitigate a development project’s impact on the State Highway System under CEQA if local jurisdictions adopt the policies outlined in this paper.
- It outlines a set of policies that the cities of Sacramento, West Sacramento and Elk Grove should adopt to guide the evaluation and mitigation of impacts on the State Highway System in the Subregion.

CURRENT PRACTICE

Caltrans reviews local development projects and land use change proposals for their potential impact to State highway facilities based on traffic impact studies (TIS) prepared by local governments under CEQA. To facilitate their review, Caltrans has prepared a “*Guide for the Preparation of Traffic Impact Studies*” (December 2002) to provide a starting point and a consistent basis in which Caltrans evaluates traffic impacts to State highway facilities. Some key points related to this guide are:

- The Guide defines thresholds, based on the amount of project traffic assigned to a State highway facility, to determine when a TIS is needed. It does not have separate thresholds for a “significant impact” to the State highway facility.
- The Guide implies that if a development project adds any traffic to a State Highway that would be operating at an unacceptable level of service (LOS) without the project, it would cause a significant impact. Caltrans’ Transportation Concept Reports (TCRs) define the acceptable LOS for each segment of the State Highway System.
- A substantial portion of the State Highway System covered by the Sub-Regional Mitigation Working Group already operates at the Concept LOS or worse conditions and a larger portion would operate at unacceptable conditions under typical “cumulative conditions” used in environmental documents studying development impacts.
- Since most development projects in the Sub-region would add at least one car to a State Highway that is operating at an unacceptable LOS (at least under cumulative conditions), it could be inferred from Caltrans’ Guide that this would cause a significant impact.

Local governments also have guidelines for traffic impact studies which define thresholds for when a traffic study is required, and define standards for when a project causes a significant impact on various components of the transportation system, including the State highway

system. The TIS guidelines for the cities of Sacramento, West Sacramento and Elk Grove differ from Caltrans guidelines as well as from each other. Appendix A provides additional information on TIS guidelines used by Caltrans and by the cities of Sacramento, West Sacramento and Elk Grove.

SHORTCOMINGS OF CURRENT PRACTICE

Current practices are not leading to the implementation of improvements to the State Highway System that will mitigate development's impact because 1) there is disagreement between local jurisdictions and Caltrans on the policies used in traffic impact studies, 2) it has been difficult to define appropriate and feasible mitigation measures, 3) there is no mechanism in place to fund improvements to the State Highway System and 4) prospects of the proposed freeway improvements ever being constructed remains uncertain.

There is disagreement between the local jurisdictions and Caltrans on the policies used in traffic impact studies (TIS), particularly on thresholds used to determine when a TIS should be conducted and on the "standards of significance" that should be used to define significant impact to the State Highway System. Local jurisdictions believe that the thresholds/standards used by Caltrans are too low and overstate impacts. As a result, local governments have been defining their own "standards of significance" for impacts on the State highway system.

When a TIS identifies that a development project would cause a traffic impact on the mainline freeway system, it is often difficult to define an appropriate mitigation measure for the following reasons:

- The evaluation and mitigation practice related to the State highway system focuses on the analysis and mitigation of individual segments of the State highway system, which usually mean the level of service (LOS) on a freeway segment between two interchanges including the level of service at the "merge and diverge" points where traffic using ramps flow onto or off of the freeway.
- Caltrans and SACOG do not have approved plans to add lanes to many freeway segments. Widening many freeway segments does not appear to be feasible and there has been no agreement on alternative measures, such as improvements to parallel transportation facilities.
- There is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the project's impact.
- There is no fee or other funding mechanism currently in place for future funding of improvements to the State highway system. Local jurisdictions cannot determine either the cost of the proposed improvement projects or the project's fair share proportional contribution to the improvement projects with sufficient certainty to develop a fee-based mitigation measure that would satisfy the legal requirements for fee-based mitigation under both CEQA and constitutional principals that call for a

nexus and rough proportionality between a project's impacts and the fee-based mitigation measure.

- The contribution of funds does not ensure that the project's impacts on the mainline freeway system would be fully mitigated.
- The prospects of the proposed freeway improvements ever being constructed remains uncertain due to funding priorities and on-going policy developments that may favor other approaches to addressing freeway congestion.

For these reasons, local jurisdictions have often concluded that appropriate mitigation measures can not be defined and/or have any certainty that they would be implemented. Thus their CEQA documents will usually define the impacts of a development project on the State Highway System as "significant and unavoidable".

The bottom line is that current practices are not leading to the implementation of improvements that will mitigate the cumulative impacts of development to the State Highway System

RECOMMENDED PROCESS TO IDENTIFY AND MITIGATE IMPACTS ON STATE HIGHWAY SYSTEM

The recommended solution to the shortcomings outlined above involves the following elements:

- Moving away from "standards of significance" that focus on the LOS of individual freeway segments and instead adopting standards related to impacts on overall travel delay on the freeway "system".
- Having local governments recognize that all but small developments would have some impact on overall travel delay of the freeway "system" that serves the region and thus most development projects should participate in funding improvements that reduce system delay on a fair-share basis.
- Defining a feasible package of improvements that would be effective in reducing overall travel delay on the regional freeway system
- Recognizing that the implementation of the package of improvements may not mitigate development's LOS impacts on all freeway segments in the Subregion. However, having an effective method to actually implement a package of improvements that would provide clear overall benefits to the regional freeway system is better than the current ineffective methods that attempt but fail to solve most individual freeway LOS impacts.

- Agreeing on fair-share development contributions to implement the defined set of mitigation measures. Ideally, the cities in the Subregion will eventually adopt a fee program to collect this funding. In the interim, by adopting the recommended standards of significance, local governments would have an agreement with Caltrans that payment of the funding contributions would adequately mitigate a development project's impact on the State Highway System under CEQA.

This recommended process for evaluating and mitigating impacts on State Highways in the Subregion involves the "standards of significance" and mitigation measures outlined in Method 1 below.

As an alternative, project applicants could elect to evaluate and mitigate traffic impacts on individual freeway segments instead of using the system-based method outlined in Method 1. This alternative process would use the "standards of significance" and mitigation measures outlined in Method 2 below. This alternative process would be subject to approval by the governing City, which is ultimately responsible to certify the environmental document.

Recommended Method 1

Standards of Significance

For development projects within the Subregion that is shown in [Figure 1](#), the following are considered to be significant impacts on the State Highway System:

- 1) The project would contribute a significant increase in system-wide peak period travel delay on the State's freeway system within the Subregion. A significant increase in freeway system delay would be caused by projects that would generate a net increase of at least 100 AM or PM peak hour vehicle trip-ends¹. Project's that would generate less than 100 peak hour vehicle trip-ends would not cause a significant impact on the State's mainline freeway system.
- 2) The project would cause vehicle queues on a freeway off-ramp to extend into the ramp's deceleration area or onto the freeway.

Mitigation of Significant Impacts

The Subregional Freeway Working Group, which includes transportation professionals representing the cities of West Sacramento, Sacramento and Elk Grove, plus Caltrans District 3, Caltrans Headquarters, SACOG, and Regional Transit have identified a set of improvements that would be used to mitigate CEQA traffic impacts of development projects on the State Highway System in the Subregion based on the following criteria:

¹ A trip-end is defined as either an origin or departure of a trip. Example: a round trip between two locations creates two trip ends at each location and four total trip ends.

- All of the selected improvements are included in SACOG's adopted 2035 MTP
- An evaluation of numerous projects in the MTP indicated that the selected improvements would be the most effective at reducing overall traffic delay on the freeway system serving the Subregion.
- The selected improvements are not fully funded by other sources and thus fair share funding contributions by development projects would facilitate their implementation.

The projects selected by the Subregional Freeway Working Group are shown in [Table 1](#).

Traffic impacts on the State Highway System identified under Standard of Significance 1 above can be mitigated if a development project pays its fair share funding contribution to fund the selected improvements outlined in [Table 1](#). The method to calculate fair-share contributions is described in [Appendix B](#).

Alternative Method 2

Standards of Significance

A project is considered to have significant impact on the State Highway System when:

- Project causes vehicle queues on off-ramps to extend into the ramp's deceleration area or onto the freeway.
- Project traffic increases that cause any ramp's merge/diverge level of service to be worse than the freeway's level of service.
- Project traffic increases that cause the freeway level of service to deteriorate beyond level of service "E."

Mitigation of Significant Impacts

Under Alternative Method 2, a significant impact would be mitigated by:

- 1) Identifying a feasible measure acceptable to Caltrans that would mitigate the identified impacts.
- 2) Following the "Methodology for Calculating Equitable Mitigation Measures" as outlined in Caltrans' *"Guide for the Preparation of Traffic Impact Studies"* (December 2002).

<p>Table 1 Selected Improvements Subregional Freeway Mitigation Working Group</p>
<p>Transit Improvements:</p> <ul style="list-style-type: none">• Construct a portion of the DNA light rail line (MOS 1 and MOS 2) from Downtown to the Natomas Town Center to help relieve traffic on I-5
<p>Local Roadway Improvements:</p> <ul style="list-style-type: none">• Extending Cosumnes River Blvd from Franklin Boulevard to Freeport Boulevard and constructing an interchange on I-5. This improvement would help facilitate the shift in traffic between SR 99 and the less congested I-5 freeway.• Extending Kammerer Road from I-5 to Bruceville Road This improvement would also help facilitate the shift in traffic between SR 99 and the less congested I-5 freeway• Construct a new American River Crossing bridge, which would help relieve traffic congestion on I-5 between I-80 and US 50.• Improve roadways in the Richards/Railyards area including:<ul style="list-style-type: none">– improvements to the I-5/Richards Boulevard interchange– implementing the proposed Richards/Bannon Couplet,– Widening 7th Street and extending 6th Street to Richard Boulevard– Constructing an interchange at SR 160 and Richards Boulevard <p>These improvements would help relieve traffic congestion on portions of I-5 and the Capitol City Freeway</p> <ul style="list-style-type: none">• Construct a new Sacramento River Crossing bridge to relieve traffic congestion on US 50 near the Pioneer Bridge.
<p>Freeway Improvements:</p> <ul style="list-style-type: none">• Add HOV lanes on I-5 from Elk Grove Boulevard to US 50. This improvement would not only reduce traffic congestion on I-5 south of US 50 but it would divert traffic from SR 99• Improve the I-5/I-80 interchange by adding direct connectors between HOV lanes on I-5 and I-80 and adding HOV lanes on I-5 south of I-80

Appendix A

Current Standards used in Traffic Impact Studies on Development Projects Related to State Highways

This appendix summarizes the standards or thresholds used to determine when a traffic impact study (TIS) is required, as well as the standards for when a project causes a significant traffic impact to the State Highway System, from the TIS guidelines adopted by Caltrans and the cities of Sacramento and West Sacramento and Elk Grove. These standards provide a background to the discussion on current practices in this paper.

Caltrans TIS Guidelines

To facilitate their review of traffic impact studies (TIS) prepared by local governments, Caltrans has prepared a *"Guide for the Preparation of Traffic Impact Studies"* (December 2002).

Trip Generation Thresholds

The following criteria are used by Caltrans as a starting point in determining when a TIS is needed. When a project:

1. Generates over 100 peak hour trips assigned to a State highway facility
2. Generates 50 to 100 peak hour trips assigned to a State highway facility – and, affected State highway facilities are experiencing noticeable delay; approaching unstable traffic flow conditions (LOS "C" or "D").
3. Generates 1 to 49 peak hour trips assigned to a State highway facility – the following are examples that may require a full TIS or some lesser analysis:
 - a. Affected State highway facilities experiencing significant delay; unstable or forced traffic flow conditions (LOS "E" or "F").
 - b. The potential risk for a traffic incident is significantly increased (i.e., congestion related collisions, non-standard sight distance considerations, increase in traffic conflict points, etc.).
 - c. Change in local circulation networks that impact a State highway facility (i.e., direct access to State highway facility, a non-standard highway geometric design, etc.)

While the above thresholds define when a TIS is needed, Caltrans guidelines do not have separate thresholds for a "significant impact" to the State highway facility. Some assume that the thresholds used to indicate the need for a TIS should also be used as standards of significance for traffic impacts on State Highways.

Local TIS Guidelines

Need for a Traffic Impact Study

In the City of Sacramento, a traffic impact study is necessary if any of the following are true:

1. The project will generate at least 100 AM or PM peak hour trip-ends²
2. The project generates at least 50 AM or PM peak hour trips on facility likely to be on main route used by project traffic and facility is already operating at LOS D-F.
3. The project may create a hazard to public safety.
4. The project will substantially change the off-site transportation system or connections to it.

In the City of Elk Grove, a traffic impact study will be recommended if any of the following are true:

1. The project will generate at least 100 new a.m. or p.m. peak hour vehicle trip-ends²
2. New project traffic will substantially affect an intersection or road segment already identified as operating at an unacceptable level of service (2).
3. The project may create a hazard to public safety.
4. The project will substantially change the off-site transportation system or connections to it.

In the City of West Sacramento, a traffic impact analysis shall be required as part of the project review process if it is determined that any of the following criteria are anticipated:

1. The project will generate at least 50 new peak hour vehicle trip-ends, in Passenger Car Equivalents (PCE's), and/or generate at least 500 daily vehicle trip-ends. Phased projects must be evaluated as a whole assuming full build-out conditions.
2. Traffic generated by the project will likely affect an intersection or a roadway segment already identified as operating at an unacceptable level of service.
3. The project will generate more than 40 percent of its total traffic in the form of truck traffic using PCE's and meets condition #1, above.

² A trip-end is defined as either an origin or departure of a trip. Example: a round trip between two locations creates two trip ends at each location and four total trip ends.

4. The project will intensify the usage, density, or traffic generation of the site above the level currently allowed by zoning codes, requiring a Conditional Use Permit, General Plan Amendment, or other discretionary permit.
5. The project may create a hazard for public safety.
6. The project may have significant impact on the city transportation system.

Standards of Significance

The “standards (or thresholds) of significance” for impacts on the State Highway System cities of Sacramento and West Sacramento and Elk Grove are listed below based on recent environmental documents.

In the cities of Sacramento and West Sacramento, the following is considered to be significant impacts:

- Off-ramps with vehicle queues that extend into the ramp’s deceleration area or onto the freeway.
- Project traffic increases that cause any ramp’s merge/diverge level of service to be worse than the freeway’s level of service.
- Project traffic increases that cause the freeway level of service to deteriorate beyond level of service “E.”

(Sources: Delta Shores DEIR and Fulcrum Property Development Project DEIR)

In the City of Elk Grove, an impact is considered significant on freeway facilities if the Project causes the facility to change from acceptable to unacceptable LOS. For facilities that are, or will be (in the cumulative condition), operating at unacceptable levels of service without the Project, an impact is considered significant if the Project:

- Increases the volume to capacity (V/C) ratio on a freeway mainline segment or freeway ramp junction by 0.05
- Increases the number of peak hour vehicles on a freeway mainline segment or freeway ramp junction by more than 5 percent

(Source: Sutter Elk Grove Master Plan DEIR)

Appendix B

Fair Share Contributions to Mitigate Traffic Impacts on the State Highway System in the I-5/SR 99 Subregion

The fair-share contributions that would mitigate freeway impacts in the Subregion are equivalent to a nexus-based fee program. The purpose of the program developed by the Working Group is to help mitigate the traffic impacts of development on the portion of the State Highway System serving the Subregion, as shown in [Figure 1](#).

Ideally, the cities in the Subregion will eventually adopt a fee program based on the calculations outlined in this appendix. In the interim, by adopting the recommended standards of significance outlined in this paper, local governments would have an agreement with Caltrans that payment of funding contributions based on this nexus analysis would adequately mitigate a development project's impact on the State Highway System under CEQA.

Methodology

The method used to calculate fair share is based on estimates of dwelling unit equivalent (DUE) rates that reflect new development's contribution to congestion on the State Highway System based on both the type and location of a development. Four districts have been defined for the Subregional Freeway Mitigation Program and these are also shown in [Figure 1](#).

SACOG's regional travel forecasting model was used to determine the delay increase on a selected portion of the State Highway System that is caused by trips from each major land use type in each fee district. That information was then used to determine DUE rates that reflect each development's relative responsibility for funding improvements that would help mitigate congestion on the State Highway System.

The advantage of the selected delay-based calculation is its ability to quantify impacts based not only on trip length but also trip direction. For example, an AM commute trip from Elk Grove to Downtown Sacramento would have a heavier impact to the State Highway System than an AM commute trip from Downtown Sacramento to Elk Grove, yet both commute trips have the same travel distance on the State Highway System. The heavier impact is due to the freeway's existing congestion being a directional problem on many of the selected freeway segments. The DUE rates also capture the effects of a district having an over- or under-supply of retail or total jobs for the number of houses in that district and thus promote Smart Growth.

Selected Improvements

[Table B-1](#) shows the projects selected by the Working Group based on their ability to reduce traffic delay on the selected portion of the State Highway System.

The nexus analysis indicates that a 10 percent growth in delay on the selected portion of the State Highway System can be attributed to proposed development in the Subregion through 2018. The analysis indicates that collectively the selected projects would not provide more than about a 6 percent reduction in delay – and the proposed Subregional Freeway Mitigation Program would only fund about 10 percent of the total cost of the selected projects. Thus, the resulting funding levels would be below a development’s fair share contribution to traffic impacts on the State Highway System

Table B-1 Project List - Subregional Freeway Mitigation Working Group				
Project	Description	Cost (\$million)		Assumed Funding from Fee Program (\$million)
		Total	Unfunded	
Transit				
DNA LRT MOS 1 + 2	Extend rail from Downtown to Natomas Town Center.	448	438	10
Local Roadway				
Cosumnes River Blvd	Cosumnes River Blvd. interchange on I-5 and extend road from Franklin Blvd. to Freeport	95	66	10
Kammerer Rd	Construct: 4 lane parkway from I-5 to Highway 99	50	35	10
American River Crossing	New bridge across the American River	150	150	10
Richards/ Railyards	I-5/Richards I/C, Richards/Bannon Couplet, 7th St. Widening, 6th St. Extension to Richards, SR 160 IC	100	100	15
Sacramento River Crossing	New bridge across the Sacramento River	100	100	30
Freeway				
I-5 HOV	HOV lanes from Elk Grove Blvd. to US 50	200	96	65
I-5/I-80 Interchange	HOV connectors and HOV lanes on I-5 south of I-80	300	195	
Total		1,443	1,180	150
Source: SACOG and DKS Associates, 2008				

Table B-1 also shows the funding levels that the Subregional Freeway Mitigation Program would provide for each of the selected improvements. In total, the Program would provide about \$150 million in funding for the selected improvements.

Mitigation Funding Rates

“Mitigation funding rates” are based on estimates of dwelling unit equivalent (DUE) rates that reflect new development’s contribution to congestion on the State Highway System based on both the type and location of a development. Table B-2 shows the estimated DUE rates defined in the nexus analysis for a set of land use categories. The list of land use categories may be expanded from those shown in this table when the Program is implemented but they illustrate some key categories.

Three categories of single-family units were defined to recognize that smaller and larger households have different traffic impacts than average (1,200 to 2,500 square feet) households. DUE rates were scaled such that an average single family dwelling unit in Elk Grove (Fee District 4) is equal to 1.00. A residential unit in Elk Grove has a higher impact on the State Highway system, and thus higher DUE rate, than a residential unit in the Sacramento Central City. Conversely, a square foot of office space in Elk Grove has a lower impact on the State Highway System than a square foot of office space in the Sacramento Central City

		Unit	Preliminary DUE Rates			
			Sacramento Central City/ West Sacramento Riverfront	West Sacramento (North and Southport)	Land Park/ So Sac/ Pocket	Elk Grove
Land Uses						
Residential	Single Family Less than 1,200 sq ft	DU	0.43	0.38	0.63	0.88
	1,200 to 2,500 sq ft	DU	0.49	0.43	0.71	1.00
	Greater than 2,500 sq ft	DU	0.57	0.50	0.83	1.17
	Multi-family	DU	0.30	0.26	0.44	0.62
Retail	General Commercial	sq. ft	0.00093	0.00074	0.00081	0.00034
	Car Sales	sq. ft	0.00068	0.00054	0.00060	0.00025
	Gas Station	fuel sta	0.95	0.75	0.82	0.35
	Hotel/Motel	room	0.26	0.21	0.23	0.09
Office	General Office	sq. ft	0.00092	0.00066	0.00059	0.00023
Industrial / Other	General Light Industrial	sq. ft	0.00065	0.00046	0.00041	0.00016
	Heavy Industrial	sq. ft	0.00045	0.00032	0.00028	0.00011
	Warehousing	sq. ft	0.00031	0.00022	0.00020	0.00008

Source: DKS Associates, 2008

Table B-3, shows that, with the estimated growth in development over about 20 years, a rate of \$2,900 per DUE would yield about \$150 million, which would provide the desired funding levels for the selected projects shown in Table B-1. The estimated mitigation rates by land use category based on a \$2,900 per DUE are shown in Table B-4.

District		Estimated Growth in DUEs	Estimated Funding
1	Sacramento Central City / W Sacramento Riverfront	13,630	\$39,500,000
2	West Sacramento (North and Southport)	7,850	\$22,800,000
3	Land Park / So. Sacramento / Pocket	9,490	\$27,500,000
4	Elk Grove	20,750	\$60,200,000
Total		51,720	\$150,000,000

Source: DKS Associates, 2008

Land Uses	Unit	Mitigation Rates				
		Sacramento Central City/ West Sacramento Riverfront	West Sacramento (North and Southport)	Land Park/ So Sac/ Pocket	Elk Grove	
Residential	Single Family Less than 1,200 sq ft	DU	\$1,252	\$1,099	\$1,814	\$2,555
	1,200 to 2,500 sq ft	DU	\$1,421	\$1,247	\$2,059	\$2,900
	Greater than 2,500 sq ft	DU	\$1,660	\$1,457	\$2,406	\$3,388
	Multi-family	DU	\$990	\$869	\$1,434	\$2,020
Retail	General Commercial	sq. ft	\$2.70	\$2.15	\$2.35	\$0.99
	Car Sales	sq. ft	\$1.98	\$1.58	\$1.73	\$0.72
	Gas Station	fuel sta	\$2,745	\$2,184	\$2,391	\$1,003
	Hotel/Motel	room	\$753	\$599	\$656	\$275
Office	General Office	sq. ft	\$2.67	\$1.91	\$1.71	\$0.67
Industrial / Other	General Light Industrial	sq. ft	\$1.89	\$1.33	\$1.19	\$0.46
	Heavy Industrial	sq. ft	\$1.31	\$0.93	\$0.83	\$0.32
	Warehousing	sq. ft	\$0.90	\$0.64	\$0.57	\$0.22

Source: DKS Associates, 2008

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

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