

Proposed Mitigated Negative Declaration for the SR-4 Bypass Authority Surplus Property Project

Lead Agency: City of Brentwood
150 City Park Way
Brentwood, CA 94513

Project Title: SR-4 Bypass Authority Surplus Property Project

Project Location: The project site consists of approximately 5.3 acres located in the northwestern quadrant of the City of Brentwood, bounded by SR-4 to the west, Sand Creek Road to the north, San Jose Avenue to the south, and commercial lots to the east. The project site can be identified by its City of Brentwood Assessor's Parcel Numbers (APNs) 019-110-023 and 019-110-050.

Project Description: The 5.3-acre site is located at the southeast corner of Sand Creek Road and SR-4, in Brentwood, CA. There is currently no development application pending for the site. The City of Brentwood desires preparation of an "umbrella" CEQA document for the project site, which would streamline future development of the site with appropriate regional commercial uses without having to undertake subsequent CEQA review, if and when a project application for site development is received. There are no specific development plans or development proposals currently being processed by the City of Brentwood for the project site.

Given the project site's General Plan land use designation (Regional Commercial) and proposed zoning (PD-6) P.A. 3 Regional Commercial, upon future development, the project site could include a commercial use at no greater than the maximum intensity/density allowed by the Regional Commercial land use designation and the PD-6 zoning provisions. As provided in the City of Brentwood Municipal Code Section 17.456.003, any future development on the project site would not be allowed to exceed a height of 50 feet/3 stories, and the minimum required lot size is 5,000 square feet. The maximum Floor Area Ratio (FAR) is 0.45 (as provided in Table 2.0-2 of the City of Brentwood General Plan EIR). Based on the size of the project site (5.3 acres) and the maximum FAR, a future commercial project on the site could be developed with a maximum of 103,890 square feet of commercial space. Given the required number of parking spaces as provided in the City of Brentwood Municipal Code (1 parking space per 200 square feet of commercial floor space), if the project site were developed at its maximum capacity, the site would also require approximately 520 parking spaces.

Findings:

In accordance with the California Environmental Quality Act, the City of Brentwood has prepared an Initial Study to determine whether the SR-4 Bypass Authority Surplus Property Project may have a significant adverse effect on the environment. The Initial Study and Proposed Mitigated Negative Declaration reflect the independent judgment of City of Brentwood staff. On the basis of the Initial Study, the City of Brentwood hereby finds:

Although the proposed project could have a significant adverse effect on the environment, there will not be a significant adverse effect in this case because the project has incorporated specific provisions to reduce impacts to a less than significant level and/or the mitigation measures described herein have been added to the project. A Mitigated Negative Declaration has thus been prepared.

The Initial Study, which provides the basis and reasons for this determination, is attached and/or referenced herein and is hereby made a part of this document.

Date

Proposed Mitigation Measures:

The following Mitigation Measures are extracted from the Initial Study. These measures are designed to avoid or minimize potentially significant impacts, and thereby reduce them to an insignificant level. A Mitigation Monitoring and Reporting Program (MMRP) is an integral part of project implementation to ensure that mitigation is properly implemented by the City of Brentwood and the implementing agencies. The MMRP will describe actions required to implement the appropriate mitigation for each CEQA category including identifying the responsible agency, program timing, and program monitoring requirements. Based on the analysis and conclusions of the Initial Study, the impacts of proposed project would be mitigated to less-than-significant levels with the implementation of the mitigation measures presented below.

Mitigation Measure AES-1: *Prior to construction of the proposed project, the developer shall coordinate with the City of Brentwood Planning Commission to ensure that significant new sources of glare are not generated by the proposed project. This may include, but is not limited to, ensuring that the number of and/or location of windows and/or other potential sources of daytime glare that are generated by proposed project buildings, such as reflective siding or other building materials, do not adversely affect day or nighttime views in the area.*

Mitigation Measure AES-2: *In conjunction with development of the proposed project, the developer shall shield all on-site lighting so that nighttime lighting is directed within the project site and does not illuminate adjacent properties. A detailed lighting plan shall be submitted for the review and approval by the Community Development Department and the Public Works Department in conjunction with the project improvement plans. The lighting plan shall indicate the locations and design of the shielded light fixtures.*

Mitigation Measure AG-1: *The Project applicant must preserve agricultural lands by paying an in-lieu fee established by City Council resolution. The fee may be adjusted annually but may not be increased by more than ten percent during any twelve-month period.*

Mitigation Measure AIR-1: *Prior to the issuance of a grading permit, the Applicant/Developer shall prepare an Erosion Prevention and Dust Control Plan. The plan shall be followed by the project's grading contractor and submitted to the Public Works Department, which will be responsible for field verification of the plan during construction.*

The plan shall comply with the City's grading ordinance and shall include the following control measures and other measures as determined by the Public Works Department to be necessary for the proposed project:

- *Cover all trucks hauling construction and demolition debris from the site;*
- *Water all exposed or disturbed soil surfaces at least twice daily;*
- *Use watering to control dust generation during demolition of structures or break-up of pavement;*
- *Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas;*
- *Sweep daily (with water sweepers) all paved parking areas and staging areas;*
- *Provide daily clean-up of mud and dirt carried onto paved streets from the site;*
- *Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);*
- *Limit traffic speeds on unpaved roads to 15 mph;*
- *Install sandbags or other erosion control measures to prevent silt runoff to public roadways;*
- *Replant vegetation in disturbed areas as quickly as possible;*
- *Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site;*
- *Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) or construction areas;*
- *Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph;*
- *Limit the area subject to excavation, grading, and other construction activity at any one time;*
- *Unnecessary idling of construction equipment shall be avoided;*

- Equipment engines shall be maintained in proper working condition per manufacturers' specifications;
- During periods of heavier air pollution (May to October), the construction period shall be lengthened to minimize the amount of equipment operating at one time;
- Where feasible, the construction equipment shall use cleaner fuels, add-on control devices and conversion to cleaner engines.

Mitigation Measure AIR-2: To the extent feasible, construction employees shall be hired from local populations, since it is more likely that they have been previously exposed to the fungus which causes Valley Fever and are therefore immune.

Mitigation Measure AIR-3: During periods of high dust in the grading phase, crews must use National Institute for Occupational Safety and Health (NIOSH) approved N95 masks or better or other more stringent measures in accordance with the California Division of Occupational Safety and Health regulations.

Mitigation Measure AIR-4: The operator cab of area grading and construction equipment must be enclosed and air-conditioned.

Mitigation Measure BIO-1: ECCCHCP. Prior to the issuance of grading or construction permits for the project site, the developer shall submit an application and obtain coverage under the ECCCHCP. This will include payment of the applicable ECCCHCP per-acre fee in effect for Zone I in compliance with Section 16.168.070 of the Brentwood Municipal Code. The developer shall receive a Certificate of Coverage from the City of Brentwood and submit a construction monitoring report to the ECCCHCP Habitat Conservancy for review and approval. The Certificate of Coverage will confirm the fee has been received, that other ECCCHCP/HCP/NCCP requirements have been met or will be performed, and will authorize take of covered species.

Mitigation Measure BIO-2a: San Joaquin Kit Fox. Prior to any ground disturbance related to covered activities, a USFWS/CDFW-approved biologist shall conduct a preconstruction survey in areas identified in the planning surveys as supporting suitable breeding or denning habitat for San Joaquin kit fox. The surveys shall establish the presence or absence of San Joaquin kit foxes and/or suitable dens and evaluate use by kit foxes in accordance with USFWS survey guidelines (U.S. Fish and Wildlife Service, 1999). Preconstruction surveys shall be conducted within 30 days of ground disturbance. On the parcel where the activity is proposed, the biologist shall survey the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint to identify San Joaquin kit foxes and/or suitable dens. Adjacent parcels under different land ownership will not be surveyed. The status of all dens shall be determined and mapped. Written results of preconstruction surveys shall be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to initiation of covered activities. If San Joaquin kit foxes and/or suitable dens are identified in the survey area, Mitigation Measure BIO-2b shall be implemented.

Mitigation Measure BIO-2b: San Joaquin Kit Fox. If a San Joaquin kit fox den is discovered in the proposed development footprint, the den shall be monitored for 3 days by a USFWS/CDFW-approved biologist using a tracking medium or an infrared beam camera to determine if the den is currently being used. Unoccupied dens shall be destroyed immediately to prevent subsequent use. If a natal or pupping den is found, USFWS and CDFW shall be notified immediately. The den shall not be destroyed until the pups and adults have vacated and then only after further consultation with USFWS and CDFW.

If kit fox activity is observed at the den during the initial monitoring period, the den shall be monitored for an additional five consecutive days from the time of the first observation to allow any resident animals to move to another den while den use is actively discouraged. For dens other than natal or pupping dens, use of the den can be discouraged by partially plugging the entrance with soil such that any resident animal can easily escape. Once the den is determined to be unoccupied it may be excavated under the direction of the biologist. Alternatively, if the animal is

still present after five or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of a biologist, it is temporarily vacant (i.e., during the animal's normal foraging activities).

If dens are identified in the survey area outside the proposed disturbance footprint, exclusion zones around each den entrance or cluster of entrances shall be demarcated. The configuration of exclusion zones shall be circular, with a radius measured outward from the den entrance(s). No covered activities shall occur within the exclusion zones. Exclusion zone radii for potential dens shall be at least 50 feet and will be demarcated with four to five flagged stakes. Exclusion zone radii for known dens shall be at least 100 feet and will be demarcated with staking and flagging that encircles each den or cluster of dens but does not prevent access to the den by kit fox.

Mitigation Measure BIO-3a: Burrowing Owl. Prior to any ground disturbance related to covered activities, a USFWS/CDFW-approved biologist shall conduct a preconstruction survey in areas identified in the planning surveys as having potential burrowing owl habitat. The surveys shall establish the presence or absence of Western Burrowing Owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (California Department of Fish and Game, 1995).

On the parcel where the activity is proposed, the biologist shall survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys shall take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls shall be identified and mapped. Surveys shall take place no more than 30 days prior to construction. During the breeding season (February 1– August 31), surveys shall document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1– January 31), surveys shall document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results shall be valid only for the season (breeding or nonbreeding) during which the survey is conducted. Copies of both surveys shall be submitted to ECCC Habitat Conservancy and the City for review and approval.

Mitigation Measure BIO-3b: Burrowing Owl. If burrowing owls are found during the breeding season (February 1– August 31), the project proponent shall avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance shall include establishment of a non- disturbance buffer zone (described below). Construction shall occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1– January 31), the project proponent shall avoid the owls and the burrows they are using, if possible. Avoidance shall include the establishment of a buffer zone (described below).

During the breeding season, buffer zones of at least 250 feet in which no construction activities can occur shall be established around each occupied burrow (nest site). Buffer zones of 160 feet shall be established around each burrow being used during the nonbreeding season. The buffers shall be delineated by highly visible, temporary construction fencing.

If occupied burrows for burrowing owls are not avoided, passive relocation shall be implemented. Owls shall be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors shall be in place for 48 hours prior to excavation. The project area shall be monitored daily for a week to confirm that the owl has abandoned the burrow. Whenever possible burrows shall be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game, 1995). Plastic tubing or a similar structure shall be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

Mitigation Measure BIO-4a: Swainson's Hawk. Prior to any ground disturbance during the nesting season (March 15– September 15), a qualified biologist shall conduct a preconstruction survey no more than 1 month prior to construction

to establish whether Swainson's hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet of the project site are found, then their occupancy shall be determined by observation from public roads or by observations of Swainson's hawk activity (e.g., foraging) near the project site. If nests are occupied, minimization measures and construction monitoring are required (as provided in Mitigation Measure BIO-4b, below). A copy of the preconstruction survey shall be submitted to the ECCC Habitat Conservancy and the City for review and approval.

Mitigation Measure BIO-4b: Swainson's Hawk. If occupied nests are located within 1,000 feet of the project site, during the Swainson's hawk nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction shall be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the Implementing Entity shall coordinate with California Department of Fish and Wildlife (CDFW)/United States Fish and Wildlife (USFWS) to determine the appropriate buffer size. If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to the ECCC Habitat Conservancy and the City for a waiver of this avoidance measure. Any waiver must also be approved by USFWS and CDFW. While the nest is occupied, activities outside the buffer can take place. No trees shall be removed during project construction. All active nest trees shall be preserved on site, if feasible. Nest trees, including non-native trees, lost to covered activities shall be mitigated by the project proponent according to the requirements of Mitigation Measure BIO-4c (below).

Mitigation Measure BIO-4c: Swainson's Hawk. The loss of non-riparian Swainson's hawk nest trees shall be mitigated prior to project operation by the project proponent by:

If feasible on-site, planting 15 saplings for every tree lost with the objective of having at least 5 mature trees established for every tree lost according to the requirements listed below, and either:

1. Pay the Implementing Entity an additional fee to purchase, plant, maintain, and monitor 15 saplings on the HCP/NCCP Preserve System for every tree lost according to the requirements listed below, OR
2. The project proponent will plant, maintain, and monitor 15 saplings for every tree lost at a site to be approved by the Implementing Entity (e.g., within an HCP/NCCP Preserve or existing open space linked to HCP/NCCP preserves), according to the requirements listed below.

The following requirements shall be met for all planting options:

- Tree survival shall be monitored at least annually for 5 years, then every other year until year 12. All trees lost during the first 5 years will be replaced. Success will be reached at the end of 12 years if at least 5 trees per tree lost survive without supplemental irrigation or protection from herbivory. Trees must also survive for at least three years without irrigation.
- Irrigation and fencing to protect from deer and other herbivores may be needed for the first several years to ensure maximum tree survival.
- Native trees suitable for this site should be planted. When site conditions permit, a variety of native trees will be planted for each tree lost to provide trees with different growth rates, maturation, and life span, and to provide a variety of tree canopy structures for Swainson's hawk. This variety will help to ensure that nest trees will be available in the short term (5-10 years for cottonwoods and willows) and in the long term (e.g., Valley oak, sycamore). This will also minimize the temporal loss of nest trees.
- Riparian woodland restoration conducted as a result of covered activities (i.e., loss of riparian woodland) can be used to offset the nest tree planting requirement above, if the nest trees are riparian species.

- *Whenever feasible and when site conditions permit, trees should be planted in clumps together or with existing trees to provide larger areas of suitable nesting habitat and to create a natural buffer between nest trees and adjacent development (if plantings occur on the development site).*
- *Whenever feasible, plantings on the site should occur closest to suitable foraging habitat outside the UDA.*

Trees planted in the HCP/NCCP preserves or other approved offsite location will occur within the known range of Swainson's hawk in the inventory area and as close as possible to high-quality foraging habitat.

Mitigation Measure CL-1: *Prior to grading permit issuance, the developer shall submit plans to the Community Development Department for review and approval which indicate (via notation on the improvement plans) that if historic and/or cultural resources are encountered during site grading or other site work, all such work shall be halted immediately within the area of discovery and the developer shall immediately notify the Community Development Department of the discovery. In such case, the developer shall be required, at their own expense, to retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the Community Development Department for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the area of discovery would not be allowed until the preceding work has occurred.*

Mitigation Measure CL-2: *Pursuant to State Health and Safety Code §7050.5 (c) State Public Resources Code §5097.98, if human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find and the Contra Costa County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission who shall notify the person believed to be the most likely descendant. The most likely descendant shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. Additional work is not to take place within the immediate vicinity of the find until the identified appropriate actions have been implemented.*

Mitigation Measure GEO-1: *All project buildings shall be designed in conformance with the current edition of the California Building Code (CBC).*

Mitigation Measure GEO-2: *All grading and foundation plans for the development shall be designed by a Civil and Structural Engineer and reviewed and approved by the Director of Public Works/City Engineer, Chief Building Official, and a qualified Geotechnical Engineer prior to issuance of grading and building permits to ensure that all geotechnical recommendations specified in the geotechnical report are properly incorporated and utilized in the project design.*

Mitigation Measure GEO-3: *Prior to grading permit issuance, the applicant shall submit a final geotechnical evaluation of the project site that analyzes soil stability including soil expansion, and the potential for lateral spreading, subsidence, liquefaction or collapse. The report shall identify any on site soil and seismic hazards and provide design recommendations for onsite soil and seismic conditions. The geotechnical evaluation shall be reviewed and approved by the Director of Public Works/City Engineer, Chief Building Official, and a qualified Geotechnical Engineer to ensure that all geotechnical recommendations specified in the geotechnical report are properly incorporated and utilized in the project design.*

Mitigation Measure GEO-4: *Prior to grading permit issuance, the applicant shall submit a final grading plan to the Director of Public Works/City Engineer for review and approval. If the grading plan differs significantly from the proposed grading illustrated on the approved project plans, plans that are consistent with the new revised grading plan shall be provided for review and approval by the Director of Public Works/City Engineer.*

Mitigation Measure GEO-5: *Any applicant for a grading permit shall submit an erosion control plan to the Director of Public Works/City Engineer for review and approval. The plan shall identify protective measures to be taken during construction, supplemental measures to be taken during the rainy season, the sequenced timing of grading and*

construction, and subsequent revegetation and landscaping work to ensure water quality in creeks and tributaries in the General Plan Area is not degraded from its present level. All protective measures shall be shown on the grading plans and specify the entity responsible for completing and/or monitoring the measure and include the circumstances and/or timing for implementation.

Mitigation Measure GEO-6: Grading, soil disturbance, or compaction shall not occur during periods of rain or on ground that contains freestanding water. Soil that has been soaked and wetted by rain or any other cause shall not be compacted until completely drained and until the moisture content is within the limit approved by a Soils Engineer. Approval by a Soils Engineer shall be obtained prior to the continuance of grading operations. Confirmation of this approval shall be provided to the Public Works Department prior to commencement of grading.

Mitigation Measure HAZ-1: Prior to initiation of any ground disturbance activities, evenly distributed soil samples shall be conducted throughout the proposed project property for analysis of pesticides and heavy metals. The samples shall be submitted for laboratory analysis of pesticides and heavy metals per DTSC and EPA protocols. The results of the soil sampling shall be submitted to the City of Brentwood. If elevated levels of pesticides or heavy metals are detected during the laboratory analysis of the soils, a soil cleanup and remediation plan shall be prepared and implemented prior to the commencement of grading activities.

Mitigation Measure HYD-1: Prior to issuance of grading permits, the contractor shall prepare a Storm Water Pollution Prevention Plan (SWPPP). The Developer shall file the Notice of Intent (NOI) and associated fee to the SWRCB. The SWPPP shall serve as the framework for identification, assignment, and implementation of BMPs. The contractor shall implement BMPs to reduce pollutants in stormwater discharges to the maximum extent practicable. The SWPPP shall be submitted to the Director of Public Works/City Engineer for review and approval and shall remain on the project site during all phases of construction. Following implementation of the SWPPP, the contractor shall subsequently demonstrate the SWPPP's effectiveness and provide for necessary and appropriate revisions, modifications, and improvements to reduce pollutants in stormwater discharges to the maximum extent practicable.

Mitigation Measure HYD-2: Prior to the completion of construction, the applicant shall prepare and submit, for the City's review, an acceptable Stormwater Control Operation and Maintenance Plan. In addition, prior to the permanent occupancy of the site, the applicant shall be responsible for executing a Stormwater Management Facilities Operation and Maintenance Agreement and Right of Entry in the form provided by the City of Brentwood. The applicant shall accept the responsibility for maintenance of stormwater management facilities until such responsibility is transferred to another entity.

The applicant shall submit, with the application of building permits, a draft Stormwater Facilities and Maintenance Plan, including detailed maintenance requirements and a maintenance schedule for the review and approval by the Director of Public Works/City Engineer. Typical routine maintenance consists of the following:

- Limit the use of fertilizers and/or pesticides. Mosquito larvicides shall be applied only when absolutely necessary.
- Replace and amend plants and soils as necessary to insure the planters are effective and attractive. Plants must remain healthy and trimmed if overgrown. Soils must be maintained to efficiently filter the storm water.
- Visually inspect for ponding water to ensure that filtration is occurring.
- After all major storm events remove bubble-up risers for obstructions and replace if necessary.
- Continue general landscape maintenance, including pruning and cleanup throughout the year.
- Excavate, clean and or replace filter media (sand, gravel, topsoil) to insure adequate infiltration rate (annually or as needed).

Mitigation Measure HYD-3: Design of all on-site and/or downstream drainage facilities shall meet with the approval of both the Director of Public Works/City Engineer and the Contra Costa County Flood Control and Water Conservation District prior to the issuance of grading permits.

Mitigation Measure HYD-4: *Contra Costa County Flood Control and Water Conservation District drainage fees for the Drainage Area shall be paid prior to issuance of grading permits to the satisfaction of the Director of Public Works/City Engineer.*

Mitigation Measure HYD-5: *The Applicant/Developer shall ensure that the project site shall drain into a street, public drain, or approved private drain, in such a manner that un-drained depressions shall not occur. Satisfaction of this measure shall be subject to the approval of the Director of Public Works/City Engineer.*

Mitigation Measure HYD-6: *The improvement plans shall indicate concentrated drainage flows not crossing sidewalks or roadways for the review and approval of the Director of Public Works/City Engineer prior to the issuance of grading permits.*