

**Findings and Facts in Support of
Findings for the 2007 San Joaquin County
Regional Transportation Plan Program
Environmental Impact Report**

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1.1 Introduction

The California Environmental Quality Act (CEQA) requires a CEQA lead agency, in this case the San Joaquin Council of Governments (SJCOG), to make written findings when it approves a project for which an environmental impact report (EIR) was certified (Public Resources Code Section 21081). The findings explain how the lead agency approached the significant impacts identified in the EIR. *Significant impacts* include the adverse effects of the project that can be reduced to less-than-significant levels through implementation of mitigation measures identified in the EIR, as well as significant and unavoidable effects.

The Final Program EIR (which includes the Draft Program EIR, comments, responses to comments, and revisions to the Draft EIR) for the 2007 San Joaquin County Regional Transportation Plan (RTP), also referred to as “the Project” in this document, examined several alternatives to the Project that were not chosen as part of the approved project (the No-Project, Transit/Alternative Modes Emphasis, and Highway Emphasis Alternatives). These alternatives have been found to be infeasible or not as desirable as other Project alternatives for the reasons described below.

As required under CEQA, the Final Program EIR certified by the SJCOG Board of Directors (SJCOG Board) describes the Project, adverse impacts of the project, and mitigation measures that would substantially reduce or avoid those impacts. The information and conclusions contained in the EIR reflect the Board’s independent judgment regarding the potential adverse environmental impacts of the Project.

Section 1 of this document provides a summary of the environmental review process and the record upon which these findings are based. Section 2 describes the alternatives considered in the Draft Program EIR. Section 3 contains the SJCOG Board’s findings for each significant environmental impact of the RTP identified in the Draft Program EIR, as required by CEQA.

1.2 CEQA Process

SJCOG analyzed the RTP on the basis of the State CEQA Guidelines. SJCOG determined that the RTP could have potentially significant impacts on the environment, including significant impacts that cannot be avoided.

Consistent with CEQA requirements, the Draft Program EIR was circulated for a 45-day public comment period (from March 19 to May 2, 2007). Although a public hearing was held on April 20, 2007 to receive comments, no comments were made concerning the EIR. Responses to written comments received during the public comment period are provided in Chapter 2 of the Final Program EIR.

Prior to approving the Project, the SJCOG Board will certify that it has considered the Final Program EIR, that the Final Program EIR adequately meets the requirements of CEQA, and that the Final Program EIR reflects the independent judgment of the SJCOG Board.

Upon approving the Project, the SJCOG Board will adopt the following findings of fact regarding the significant impacts identified in the Final Program EIR, the alternatives identified in the Final Program EIR, and statements of overriding considerations explaining the benefits that outweigh the significant and unavoidable impacts identified in the Final Program EIR.

Pursuant to Public Resources Code Section 21081.6, the SJCOG Board will also adopt a Mitigation Monitoring and Reporting Plan (MMRP). The MMRP establishes a program to ensure that the adopted mitigation measures identified in the Final Program EIR will be implemented.

1.3 Findings Record

The record upon which all findings and determinations related to the 2007 RTP are based includes the following:

- The EIR and all documents referenced in or relied upon by the EIR.
- All information provided by SJCOG staff to SJCOG relating to the EIR, the proposed approval, the 2007 RTP or its alternatives.
- All information presented to the SJCOG by the environmental consultant who prepared the EIR, or incorporated into reports presented to the SJCOG.
- All information presented to the SJCOG from other public agencies relating to the 2007 RTP or the EIR.
- All information presented at any public hearing or workshop related to the 2007 RTP and the EIR.
- For documentary and information purposes, all locally-adopted land use plans and ordinances, including, without limitation, general plans, specific plans and ordinances, together with environmental review documents,

findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.

- The MMRP adopted for the Proposed Project.
- All other documents comprising the record pursuant to Public Resources Code Section 21167.6(e).
- The custodian of the documents and other materials that constitute the record of proceedings upon which the SJCOG certification of the EIR is based is San Joaquin Council of Government.
- The general location of this material is the SJCOG, 555 E. Weber Avenue, Stockton, CA 95202.
- These findings are based upon substantial evidence in the entire record before the SJCOG and the judgment of the Board of Directors.
- The reference to certain details of the EIR set forth in these findings are for ease of reference only and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

Section 2

Findings Regarding Alternatives

2.1 Introduction

Two project alternatives and a No-Project Alternative were evaluated in the Final Program EIR but were not identified as the Environmentally Superior Alternative. These alternatives are described below along with their reasons for rejection. For a complete discussion of alternatives may be found in Chapter 16 of the Draft Program EIR.

The SJCOG adopts the EIR's analysis and conclusions regarding alternatives considered, both during the scoping process and in response to comments. The EIR evaluated a reasonable range of alternatives to the Proposed Project.

Evaluated alternatives included the No-Project Alternative, the Transit/Alternative Modes Alternative, and the Highway Emphasis Alternative. The analysis examined the feasibility of each alternative, the environmental impacts of each alternative, and the ability of each alternative to meet the objectives of the 2007 RTP.

The SJCOG has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the County and the SJCOG's independent judgment as to alternatives. The SJCOG finds that the 2007 RTP provides the best balance between satisfaction of the project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the EIR. All the remaining alternatives were not selected for reasons described below.

2.2 No-Project Alternative

As required by CEQA, the No-Project Alternative is a continuation of the existing 2004 RTP program of improvements. Under this alternative, SJCOG would not adopt the 2007 RTP and transportation improvements would be limited to those improvements already in the 2004 RTP. This alternative includes programmed Federal Transportation Improvement Program (FTIP) and State Transportation Improvement Program (STIP) projects, all projects that are at least 75% funded by Measure K, all Measure K road projects currently under

construction, and all Measure K projects for which a cooperative agreement has been signed. Existing bus service levels would be maintained.

As identified in the EIR, this alternative would result in more vehicle miles traveled (VMT), more vehicle hours of travel, more vehicle hours of delay, and more congestion compared to the 2007 RTP. This alternative would also not meet many of the project objectives including those concerning safety and security, improving operations, improving goods movement, improving mobility and accessibility. Although this alternative would avoid some of the construction period impacts identified for the 2007 RTP, due to the failure to meet most of the project objectives, this alternative was rejected by SJCOG.

2.3 Transit/Alternative Modes Emphasis Alternative

The Transit/Alternative Modes Emphasis Alternative focuses investment into development of public transit systems and alternative transportation modes. This alternative would allow for the development of a comprehensive urban transit system, including local, intercity, and interregional services, including bus rapid transit, park-and-ride lots, rideshare promotion, multimodal facilities, coordinated signalization, bicycle facilities, and improved pedestrian access to activity centers. This alternative represents a fund shift that increases transit funding by \$2 billion. It includes all Tier I non-motorized projects, non-transit transportation control measures, and all Tier I and II bus transit and rail corridor projects.

As identified in the EIR, this alternative would result in less vehicle miles traveled (VMT), approximately the same vehicle hours of travel, more vehicle hours of delay, and more congestion compared to the 2007 RTP. This alternative would meet most of the project objectives but not as well as the 2007 RTP. This alternative would avoid some of the construction period impacts identified for the 2007 RTP, but it would displace those construction impacts to the different transit and rail projects identified for additional funding. This alternative, while feasible, does not balance the various needs for transportation improvements as well as the 2007 RTP, and does not have the potential overall to substantially reduce or avoid significant impacts of the 2007 RTP that are not already addressed by adopted mitigation and for these reasons was not adopted by the SJCOG.

2.5 Highway Emphasis Alternative

The Highway Emphasis Alternative focuses on emphasizing highways and highway expansion as a solution to regional mobility problems. Thus, projects under this alternative would consist of all Tier I and Tier II highway widening and interchange capacity-increasing projects. This alternative represents a fund shift that increases mainline highway project funding by approximately \$2 billion.

Because this alternative would not discourage single-occupant vehicle use or promote the use of public transit, there would be no new investment in public transit systems and no provision for new commuter rail service or multimodal stations. Bus services in San Joaquin County would be limited to existing service levels. Park-and-ride lots would be maintained, and ridesharing services would be continued at current levels.

As identified in the EIR, this alternative would result in slightly less vehicle miles traveled (VMT), slightly fewer vehicle hours of travel, slightly fewer vehicle hours of delay, and slightly less congestion compared to the 2007 RTP. This alternative would meet most of the project objectives but not as well as the 2007 RTP, particularly as it relates to Goal 4 (Improve Quality of Life) and Goal 7 (Enhance the Environment). This alternative would have likely higher construction impacts than the 2007 RTP due to the nature of incorporated highway and interchange projects. This alternative, while feasible, does not balance the various needs for transportation improvements as well as the 2007 RTP, and does not have the potential overall to substantially reduce or avoid significant impacts of the 2007 RTP that are not already addressed by adopted mitigation and for these reasons was not adopted by the SJCOG.

3.1 CEQA Requirements

Section 15091 of the State CEQA Guidelines states that:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subsection (a) shall be supported by substantial evidence in the record.

The “changes or alterations” referenced in the guidelines may be mitigation measures, alternatives to the project, or changes incorporated into the project by the project proponent. “Substantial evidence” means factual evidence, including expert opinion supported by facts. Where a mitigation measure is cited in support of finding (a)(1), the finding of fact paraphrases that mitigation measure.

Where finding (a)(2) is made in the text below, the reference to adoption of mitigation by another public agency is to the specific implementing agency of the specific RTP project, whether one of the cities in San Joaquin County or San Joaquin County, some combination thereof, or one of these agencies in combination with other parties, such as Caltrans. Implementation of the adopted mitigation measures in the MMRP will be a requirement of receiving funding from the 2007 RTP.

In addition to describing the disposition of the various significant impacts identified in the Final Program EIR, the findings must also explain why specific project alternatives described in the EIR that have not been selected for inclusion in the project. In other words, SJCOG is required to describe the specific economic, legal, social, technological, or other considerations that make each alternative infeasible.

As a point of reference, Section 15364 of the State CEQA Guidelines defines “feasibility” as follows:

Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

The documents and other materials that constitute the record upon which SJCOG’s decision and these findings are based can be reviewed at the following location:

San Joaquin Council of Governments
555 E. Weber Avenue
Stockton, CA 95202

3.2 Findings Regarding Independent Review and Judgment

A public hearing was held on April 20, 2007 before the SJCOG Board for the purpose of describing the Project being recommended by staff and taking additional comments on the EIR. No comments were made on the EIR.

The Final Program EIR and the comments received on the Draft Program EIR were duly considered by the SJCOG Board prior to taking action to certify the Final Program EIR and approve the Project.

The following impacts (discussed in the next section) have been identified in the Final Program EIR certified for the Project as either potentially significant or significant and unavoidable. In many cases, the potentially significant impact will be avoided or otherwise reduced below the level of significance through the application of mitigation measures. The impacts and related mitigation measures are listed by letter and number, as found in the Final Program EIR for the 2007 RTP. For a full description of each impact and related mitigation measures, the reader is referred to the Final Program EIR

Each member of the SJCOG Board was provided complete copies of the Final Program EIR for the 2007 RTP. The SJCOG Board hereby finds that the Final Program EIR reflect its independent judgment. The SJCOG Board also finds that it has independently reviewed and analyzed the Final Program EIR prior to taking final action with respect to the 2007 RTP.

3.3 Findings Regarding the Project

Having reviewed and considered the information contained in the Final Program EIR, findings, facts in support of findings, and the statement of overriding considerations, the SJCOG Board finds that the 2007 RTP, as described in the Final Program EIR, is a plan to meet the needs of the traveling public in San Joaquin County.

These findings identify significant and unavoidable impacts and less-than-significant impacts with mitigation resulting from the proposed 2007 RTP identified in the Final Program EIR.

Land Use and Agriculture

Physical division of an established community by transportation improvement projects (Impact LUA-1)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures LUA-1 and LUA-2 will lower the impact to a less-than-significant level. These measures include conducting site-specific review of project design improvements to determine effects on established communities and designing project improvements to avoid or minimize physical division of an existing community.

Conflicts between RTP transportation improvement projects and local land use, agricultural, and applicable open space/agricultural land use preservation policies (Impacts LUA-2 to LUA-4)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures LUA-3 and LUA-4 will lower the impact to a less-than-significant level by designing projects to minimize impacts on open space and agriculture, as well as seeking input from all interested parties during project design to meet the design and minimization goals of the mitigation measure.

Direct conversion of important farmland to nonagricultural uses, or conflicts with existing Williamson Act contracts (Impacts LUA-5 to LUA-7)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures LUA-5 and LUA-6 will lower the impact to a less-than-significant level by evaluating the potential to displace or impair agricultural operations or Williamson Act contract lands at the project level and requiring avoidance, minimization, and compensation for such losses.

Air Quality

Impacts to air quality resulting from short-term fugitive dust and air pollutant emissions from construction activity (Impact AQ-1)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures AQ-1 and AQ-3 will lower the impact to a less-than-significant level by utilizing measures to reduce emissions from construction sites, such as a dust control plan and other measures and conducting health risk assessments where hazardous air pollutants may result in significant exposure of sensitive receptors and implementing remedial actions to reduce potential exposure.

Impacts to air quality from occasional localized carbon monoxide concentrations and /or Hazardous Air Pollutants from traffic conditions at some individual locations (Impact AQ-3)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures AQ-2 and AQ-3 will reduce the impact to less than significant by improving traffic flow and requiring remedial action if determined necessary to address potential exposure of sensitive receptors to hazardous air pollutants.

Noise and Vibration

Exposure of noise sensitive land uses to construction noise and increased traffic noise (Impacts NV-1 and NV-2)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures NV-1 and NV-2 will reduce this impact through the implementation of measures to reduce noise resulting from construction activities and/or increased vehicle use. It is

anticipated that the implementation of noise reduction measures will reduce the impacts to a less-than-significant level. However, the potential level of impact resulting from increased vehicular traffic will need to be analyzed on an individual project basis to determine specific impact and mitigation levels.

Exposure of noise-sensitive land uses to noise from improved rail facilities and service operations (Impact NV-3)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure NV-3 will reduce this impact to a less-than-significant level by reducing noise from increased rail activity.

Cultural Resources

Impacts from damage to or destruction of archaeological resources from construction of improvements on a project level (Impact CR-1)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure CR-1 will reduce this impact below the level of significance through cultural resource surveys conducted during individual project environmental review.

Inadvertent discovery of, or damage to human remains or paleontological resources from construction, excavation, and/or earthmoving activities in undisturbed areas during individual projects (Impacts CR-2 and CR-3)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures CR-2 and CR-3 will reduce this impact below the level of significance through project-specific paleontological and cultural resource surveys, as well as a stop-work and consultation procedure program associated with individual projects.

Impacts resulting from construction of transportation projects near some architectural resources (Impact CR-4)

Finding: The Board hereby makes findings (a)(1), (2) and (3), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures CR-4 to CR-7 will reduce this impact through inventory, evaluation, avoidance, recordation, and rehabilitation, according to the Secretary of the Interior's standards for any impacts to architectural resources. While avoidance (Mitigation Measure CR-5) is the preferred mitigation for significant architectural resources, given the extensive number of projects in the 2007 RTP and the preliminary nature of project planning, it cannot be determined that it will always be feasible to always avoid physical demolition, destruction, relocation, or alteration of potential historical resources. It is possible that certain individual projects will be constrained from avoiding significant architectural resources by other limitations such as need to connect to existing facilities, other significant environmental constraints, and/or other technical, logistical, or economic limitations beyond the capacity of the implementing agency to overcome. Because of the potential loss of these historic resources, this is a potentially significant and unavoidable consequence. Mitigation Measure CR-4 to CR-7 provide a comprehensive programmatic approach to avoiding, reducing, and minimizing impacts, but SJCOG finds that 100% avoidance is not a feasible mitigation measure due to the potential constraints noted above. At a programmatic level, no other feasible mitigation has been identified that would avoid the potential for this significant impact. None of the identified alternatives would inherently avoid the potential for this significant impact as they all include substantial transportation improvements throughout San Joaquin County that may also incur this same unavoidable impact and they also do not meet the overall project purpose and need as well as the 2007 RTP.

Hydrology and Water Quality

Temporary impacts on water quality as a result of construction-related activities and use of hazardous materials (Impact HYD-1)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures HYD-1 and HYD-2 will reduce this impact below the level of significance through compliance with National Pollutant Discharge Elimination System (NPDES) General Construction Permit requirements and a spill prevention and control program.

Water quality impacts from construction below the water table (Impact HYD-2)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures HYD-3 and HYD-4 will reduce this impact below the significance level by complying with dewatering provisions.

Degradation of water quality due to urban runoff or substantial increased runoff resulting in flooding (Impacts HYD-3 and HYD-4)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures HYD-5 and HYD-6 will reduce this impact below the significance level by implementing measures to maintain water quality after construction.

Water quality impacts from discharges (Impact HYD-6)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure HYD-5 will reduce this impact below the significance level by maintaining water quality after construction.

Impacts due to construction in the floodplain (Impact HYD-7)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure HYD-7 will reduce this impact below the significance level by avoiding restriction of flood flows.

Impacts due to inundation by dam or levee failure (Impact HYD-8)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure HYD-8 will reduce this impact below the significance level by designing projects to pass flows in the event of levee or dam failure.

Geology, Soils and Seismicity

Adverse effects resulting from earthquake-induced liquefaction, landslides, and/or other types of slope failures associated with transportation improvement projects (Impacts GEO-3 and GEO-4)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures GEO-2 and GEO-3 will reduce this impact to a less-than-significant level by conducting site-specific geotechnical investigations and implementing appropriate geotechnical methods for individual projects.

Potential construction-related soil erosion and sedimentation associated with transportation improvement projects (Impact GEO-5)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure HYD-1 will reduce this impact below the level of significance through compliance with NPDES General Construction Permit requirements.

Potential impacts resulting from expansive soils, sediments, land subsidence, or settlement (Impacts GEO-6 and GEO-7)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures GEO-4 and GEO-5 will reduce these impacts below the level of significance through conducting site-specific geological investigations using appropriate methods and implementing appropriate geotechnical methods for individual projects.

Biological Resources

Impacts resulting from disturbance or loss of special-status plant populations (Impact BIO-2)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures BIO-1, BIO-2, and BIO-3 will reduce this impact below the level of significance through documentation, avoidance, and compensation programs designed during environmental review for individual projects.

Impacts resulting from introduction or spread of noxious weeds (Impact BIO-3)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures BIO-4 and BIO-5 will reduce this impact below the level of significance through survey and avoidance methods for individual project areas.

Disturbance or loss of waters of the United States, including wetlands, and/or special-status wildlife species and their habitats (Impacts BIO-4 and WILD-1)

Finding: The Board hereby makes findings (a)(1), (2), and (3) as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures BIO-6 to BIO-9 and WILD-1 to WILD-3 will reduce these impacts through identification, avoidance, compensation, and implementation of resource protection measures for affected species and habitats. However, even with mitigation individual projects associated with the 2007 RTP may still include disturbance or removal of waters of the United States, including wetlands, through direct removal, filling, hydrological interruption, dewatering, alteration of bed and bank, and other construction-related activities. Special-status wildlife species and their habitat may suffer from increased mortality caused by loss of migration corridors, burrows, and foraging habitat; direct mortality from construction impacts in individual project areas; loss of underground habitat through soil compaction; and removal of trees with active nests.

While in many cases, the adopted mitigation measures will be able to reduce project impacts to a less than significant level, given the extensive number of projects in the 2007 RTP and the preliminary nature of project planning, it cannot

be determined that it will always be feasible to fully reduce residual impacts to a less than significant level at this time. It is possible that certain individual projects will be constrained from avoiding significant biological resources by other limitations such as need to connect to existing facilities, other significant environmental constraints, and/or other technical, logistical, or economic limitations beyond the capacity of the implementing agency to overcome. Because of the potential loss of these biological resources, this is disclosed in the Final Program EIR as a potentially significant and unavoidable consequence. Mitigation Measures BIO-6 through BIO-9 and WILD-1 through WILD-3, along with compliance with the SJMSCP where feasible, provides a comprehensive programmatic approach to avoiding, reducing, and minimizing impacts, but SJCOG finds that complete avoidance of significant impacts is not feasible due to the potential constraints noted above. At a programmatic level, no other feasible mitigation has been identified that would avoid the potential for this significant impact. None of the identified alternatives would inherently avoid the potential for this significant impact as they all include substantial transportation improvements throughout San Joaquin County that would also have a potential for unavoidable impacts and also do not meet the overall project purpose and need as well as the 2007 RTP. Thus, the losses of waters of the United States, including wetlands, and special-status species and habitat would be an unavoidable consequence.

Loss or disturbance of riparian habitats (Impact BIO-5)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures BIO-10 to BIO-12 will reduce this impact to a less-than-significant level through identification and avoidance of riparian habitat and compensation for loss of riparian habitat.

Direct and indirect impacts on special-status fish species (Impact FISH-1)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measures FISH-1 to FISH-5 will reduce the impacts below the level of significance by following necessary protective steps, including assessing and documenting special-status fish habitat, avoidance and minimization of impacts to special-status fish habitat, consultation with appropriate agencies when special-status species may be affected, and compensation for habitat loss.

Visual Resources

Substantial degradation of the existing visual character or quality of a project site and its surroundings (Impact AES-4)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure AES-1 will reduce this impact below the level of significance by developing design guidelines that make elements of proposed projects visually compatible with surrounding areas.

Impacts from creation of new sources of light and glare (Impact AES-5)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure AES-2 will reduce this impact below the significance level by allowing for the design of projects to meet minimum safety and security standards.

Transportation

Short-term localized changes in traffic patterns from construction (Impact TRN-1)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure TRN-1 will reduce this impact below the level of significance by implementing measures to reduce short-term construction-related impacts.

Hazardous Materials

Impacts from creation of a significant hazard to the public or environment during construction (Impact HAZ-1)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure HAZ-1 will reduce this impact below the level of significance through the use of site-specific analysis for hazardous materials and requirements for remediation and clean-up.

Potential to impair or physically interfere with an emergency response or evacuation plan (Impact HAZ-7)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure HAZ-2 will reduce this impact below the level of significance through the preparation and implementation of a transportation management plan.

Public Services and Utilities

Alteration of, addition to, or a need for utility systems (Impact PSU-1)

Finding: The Board hereby makes findings (a)(1),(2) and (3), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: The 2007 RTP could induce growth that could result in a substantial increase in the demand for utility systems such as water, sewer, or drainage. Mitigation to reduce these impacts is not feasible at a programmatic level, which may be an unavoidable consequence of the 2007 RTP. Growth management is within the purview of the local cities and San Joaquin County who have accounted for certain levels of growth and supporting public service and utilities within adopted General Plans. The 2007 RTP does not mandate or commit to growth beyond that in the adopted General Plans, but would remove a potential constrain to planned growth. In the future, the appropriate land use agencies will need to address potential demands for public services and utilities from that growth. In many cases, locally adopted city and County policies will be able to address these demands. However, at the programmatic level, it is possible that future demand (beyond the General Plan buildout horizons) could outstrip utility supply, and thus it cannot be concluded that no potential exists for a significant impact. Since this impact is most directly associated with growth outside the 2007 RTP, the alternatives identified would not directly avoid the potential for this impact to occur. As the evaluation of service and utility needs is not within the jurisdiction of the SJCOG but rather future General Plans prepared by local cities and San Joaquin County, it is not considered feasible to identify those future policies and mitigation at this time and thus this impact has been disclosed as significant and unavoidable.

Disruption of or interfere with the provision of public services and utilities
(Impact PSU-2)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure PSU-1 will reduce this impact below the significance level through coordination with service providers prior to construction that may disrupt services.

Impacts from increased demand for potable water, wastewater, and solid waste service (Impact PSU-3)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Implementation of Mitigation Measure PSU-2 will reduce this impact below the significance level by ensuring that adequate wastewater, solid waste, and water supply services are provided for 2007 RTP projects.

Impacts to level of police, fire, and medical services in San Joaquin County
(Impact PSU-4)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: This impact will be reduced below the level of significance by Mitigation Measure PSU-3, which will ensure that projects obtain the necessary encroachment permits and traffic control plans are prepared and implemented for individual projects.

Cumulative Impacts

Cumulative exposure of existing and future noise-sensitive land uses to increased traffic noise resulting from cumulative development (Impact CML-6)

Finding: The Board hereby makes findings (a)(1),(2) and (3), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Regionally, with mitigation the Project would not have a significant impact on noise or vibration. However, the extent of development in the region would cause some areas to experience greater

construction and operational noise disturbances relative to others. This would result as noise sensitive development becomes more clustered near noise-producing land uses, including roadways. Mitigation Measure NV-2 outlines measures to reduce noise impacts resulting from increased vehicle use. Mitigation Measure NV-2 outlines measure to reduce noise from increased rail activity. Although the Project itself is not a direct generator of noise during operations, it indirectly increases noise levels by accommodating additional capacity on roadways.

Although mitigation noted above may reduce impacts at many locations, at a programmatic level it cannot be determined that feasible mitigation will be available in all cases to reduce cumulative noise to a less than significant level. It is possible that certain individual projects, in combination with cumulative noise generation will be constrained from avoiding significant noise impacts by other limitations such as need to connect to existing facilities, other significant environmental constraints, and/or other technical, logistical, or economic limitations beyond the capacity of the implementing agency to overcome.

SJCOG finds that complete avoidance of significant impacts is not feasible due to the potential constraints noted above. At a programmatic level, no other feasible mitigation has been identified that would avoid the potential for this significant impact. None of the identified alternatives would inherently avoid the potential for this significant cumulative impact as they all include substantial transportation improvements throughout San Joaquin County, would not preclude future growth to occur in the County and also do not meet the overall project purpose and need as well as the 2007 RTP. Thus, coupled with the increase in regional growth, the cumulative noise impact is considered significant and unavoidable.

Cumulative impacts on known and undiscovered cultural and paleontological resources (Impact CML-7)

Finding: The Board hereby makes findings (a)(1), (2), and (3) as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Because site-specific surveys have yet to be conducted for the RTP projects, it is not known whether recognized cultural and/or paleontological resources would be disturbed. Furthermore, the potential exists for the discovery of previously unknown resource sites during the construction of RTP projects. Implementation of Mitigation Measures CR-1 and CR-2 and CR-3 will reduce project-related impacts to previously undiscovered cultural and paleontological resources. However, in combination with the future scenario, any disturbance or destruction of known and unknown cultural resources or significant paleontological resources would be considered to contribute considerably to a significant cumulative impact.

Implementation of Mitigation Measures CR-1 to CR-7 will reduce this impact through inventory, evaluation, avoidance, recordation, and rehabilitation, according to the Secretary of the Interior's standards for any impacts to

architectural resources. While avoidance is the preferred mitigation, given the extensive number of projects in the 2007 RTP and the preliminary nature of project planning, it cannot be determined that it will always be feasible to always avoid physical demolition, destruction, relocation, or alteration of potential cultural or paleontological resources. It is possible that certain individual projects will be constrained from avoiding such resources by other limitations such as need to connect to existing facilities, other significant environmental constraints, and/or other technical, logistical, or economic limitations beyond the capacity of the implementing agency to overcome. Because of the potential loss of these resources, this is a potentially significant and unavoidable consequence.

Mitigation Measure CR-1 to CR-7 provide a comprehensive programmatic approach to avoiding, reducing, and minimizing impacts, but SJCOG finds that complete avoidance is not a feasible mitigation measure due to the potential constraints noted above. At a programmatic level, no other feasible mitigation has been identified that would avoid the potential for this significant impact. None of the identified alternatives would inherently avoid the potential for this significant impact as they all include substantial transportation improvements throughout San Joaquin County that may also incur this same unavoidable contribution to a significant cumulative impact and they also do not meet the overall project purpose and need as well as the 2007 RTP.

Cumulative impacts to Hydrology and Water Quality (Impact CML-8)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: 2007 RTP projects could contribute to temporary and/or permanent impacts on water quality, increased runoff, reduce groundwater recharge, and flooding during construction and/or operations. Project mitigation identified (Mitigation Measures HYD-1 through Hyd-8) would reduce the potential contribution of projects to a less than considerable level by requiring construction BMPs, spill prevention and control programs, avoidance of continual dewatering (where feasible), compliance with provisions for dewatering (where necessary), stormwater quality controls, project-level drainage studies and treatments, avoidance of flood flow restriction, and design for passage of levee or dam failure flows.

Cumulative impacts of development on geologically hazardous areas (Impact CML-10)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Because of widespread seismic activity within California, past, present, and future development continues to place structures and residents/occupants in areas that are susceptible to seismic ground shaking. Strict building code regulations are in place to ensure that structures properly

account for seismic shaking and other seismic-related hazards. Common adherence to mandatory building code regulation throughout the region would prevent a significant cumulative impact associated with placing new structures on land susceptible to geologic hazards, as described in Mitigation Measure GEO-1. Because the Project would comply with these established policies, the Project would not contribute considerably to a cumulative impact.

Cumulative accelerated runoff, erosion, and sedimentation (Impact CML-11)

Finding: The Board hereby makes finding (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: As described in Chapter 9 of the Draft Program EIR, impacts on runoff, erosion, and sedimentation would be considered less than significant with the implementation of mitigation measures. Additionally, any new development would be required to adhere to city, county, state, and federal requirements for the containment of runoff, erosion, and sedimentation as part of the CEQA process. These impacts can be mitigated at the project level. Therefore, implementation of the RTP would not contribute considerably to a cumulative runoff, erosion, or sedimentation impact.

Cumulative loss of biological resources, including habitats and special-status species (Impact CML-12)

Finding: The Board hereby makes finding (a)(1), (2), and (3), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Construction and maintenance activities associated with cumulative development in the region could result in the direct loss or indirect disturbance of special-status species within the county. Any impact on special-status plant species or their habitats could result in a substantial reduction in local population size, lowered reproductive success, or habitat fragmentation.

Implementation of Mitigation Measures BIO-1 through BIO-12, WILD 1 through WILD-3, and FISH-01 to FISH-5 will reduce these impacts through identification, avoidance, compensation, and implementation of resource protection measures for affected species and habitats. However, even with mitigation individual projects associated with the 2007 RTP may still include given the extensive number of projects in the 2007 RTP and the preliminary nature of project planning, it cannot be determined that it will always be feasible to fully reduce residual impacts to a less than significant level at this time. It is possible that certain individual projects will be constrained from avoiding significant biological resources by other limitations such as need to connect to existing facilities, other significant environmental constraints, and/or other technical, logistical, or economic limitations beyond the capacity of the implementing agency to overcome. Because of the potential loss of these

biological resources, this is disclosed in the Final Program EIR as a potentially significant and unavoidable considerable contribution.

While the Mitigation Measures identified in the EIR provide a comprehensive programmatic approach to avoiding, reducing, and minimizing impacts, but SJCOG finds that complete avoidance of significant impacts is not feasible due to the potential constraints noted above. At a programmatic level, no other feasible mitigation has been identified that would avoid the potential for this considerable contribution. None of the identified alternatives would inherently avoid the potential for this considerable contribution as they all include substantial transportation improvements throughout San Joaquin County that would also have a potential for unavoidable impacts and also do not meet the overall project purpose and need as well as the 2007 RTP.

Furthermore, the cumulative impact of development in the region on biological resources is considered to be significant. Therefore, the RTP Project would contribute considerably to a significant cumulative impact.

Cumulative degradation of the existing visual character of the region (Impact CML-13)

Finding: The Board hereby makes finding (a)(1), (2), and (3), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Regional growth has combined and will continue to combine to create a cumulative aesthetic effect by converting undeveloped land into developed and occupied areas. Cumulative development entails grading/landform alteration, erection of structures, and installation of roadways and other infrastructure that has altered and will continue to permanently alter the region's existing visual character. While the RTP includes mitigation to reduce impacts of individual 2007 RTP projects on visual resources to less-than-significant levels, the overall development in the region would result in a significant cumulative impact. No feasible mitigation is available to reduce the cumulative effect on visual character, or to mitigate the residual contribution after application of identified mitigation. Consequently, the RTP's contribution to this cumulative impact is considerable and unavoidable.

Cumulative increase in demand for utility infrastructure and capacities (Impact CML-14)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: Regional development creates cumulative demand on all aspects of public services and utility provisions addressed in Chapter 14 of the Draft Program EIR. Public service and utility providers in San Joaquin County and associated cities have accounted for increases in the public needs in their master planning, and many service providers are operating below their

capacities at present. However, SJCOG projections indicate a significant increase in population growth in the region by 2025. The accommodation of such growth may place constraints on public utilities and services for future developments.

The Project is consistent with the density and intensity of development projected for the region, and would act to accommodate the future growth. It would not act to directly induce population growth, and its demand on public services and utilities are expected to be minimal. In some cases, such as the demand for fire and police protection, the cumulative demand may be significant. However, by adhering to Mitigation Measures PSU-1 to PSU-3, the cumulative contribution from the Project would be less than considerable.

Cumulative significant hazards to the public or environment (Impact CML-15)

Finding: The Board hereby makes findings (a)(1) and (2), as stated in State CEQA Guidelines Section 15091 and as required by Public Resources Code Section 21081, with respect to the above-identified impact.

Facts Supporting the Finding: The construction of the projects contained within the RTP would require the use and temporary storage of hazardous materials. In addition, areas proposed for construction may contain hazardous material sites or buried contamination. While the 2007 RTP would not contribute directly to significant hazards, the potential exists for accidental release due to vehicle accidents during operations, construction-related spills, and ground-disturbing activities for individual projects. Cumulative development of the area would result in increased construction, traffic, and accident potential. However, as with the transport and storage of hazardous materials, the treatment of accidental spills and releases are highly regulated, and procedures and protocols exist to mitigate potential impacts to less-than-significant levels. By adhering to these policies, as outlined in Mitigation Measures HAZ-1 and HAZ-2, the RTP would have a less-than-cumulatively-considerable contribution to impacts on the exposure of the public to hazardous materials.

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