Attachment - Potentially Significant Impacts Attachment

Mitigation Measure 3.2-1: Implement the Sacramento Metropolitan Air Quality Management District's Advanced On-site Exhaust Control Measures for the LEA Community Plan Area

Subsequent development in the LEA Community Plan Area shall implement SMAQMD's Enhanced Exhaust Control Practices for NO_X and exhaust PM emissions. Before the issuance of grading and/or building permits, subsequent project applicants shall submit to the City and SMAQMD an initial report of all off-road construction equipment, equal to or greater than 50 horsepower, that will be used 8 hours or more during any portion of the construction project before any grading activities. The initial report shall include the horsepower rating, engine model year, and projected hours of use for each piece of equipment. The subsequent project applicants shall provide the anticipated construction timeline including start date, and name and phone number of the project manager and on-site foreman. The information shall be submitted at least 4 business days before the use of subject heavy-duty off-road equipment. The report shall be updated and submitted monthly throughout the duration of the project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs.

Before any grading activities, the subsequent project applicants shall provide a plan for approval by the City and SMAQMD demonstrating that the heavy-duty off-road vehicles (50 horsepower or more) to be used in the construction project, including owned, leased, and subcontractor vehicles, will achieve a subsequent project-wide fleet-average of 10 percent NO_X reduction (depending on available technology and engine Tier) compared to the most recent CARB fleet average. This plan shall be submitted in conjunction with the equipment inventory. Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available. If achievement of the aforementioned reductions over the statewide average are deemed infeasible by the City, SMAQMD, or construction contractor, the subsequent project applicants shall ensure the construction fleet meets the lowest fleetwide emissions average possible, through the use of all available on-site emissions reduction measures (e.g., highest tier engines, emission control devices, cleaner burning fuel).

The subsequent project applicants shall submit a final report at the end of the job, phase, or calendar year, as pre-arranged with SMAQMD staff and documented in the approval letter, to demonstrate continued project compliance. If modeled construction-generated emissions of NO_X are not reduced to a level below SMAQMD's thresholds of significance by the application of the aforementioned mitigation measures, then the project developer must pay a mitigation fee into SMAQMD's off-site mitigation program. By paying the appropriate off-site mitigation fee, construction-generated emissions of NO_X would be reduced to a less-than-significant level. The fee calculation to offset daily NO_X emissions shall be based on the SMAQMD-determined cost to reduce one ton of NO_X applicable at the time (currently $30,000 per ton in May 2023 but subject to change in future years).

Once initial construction activities are finalized by the subsequent project applicants, and before the issuance of grading and/or building permits, quantification of construction-related emissions shall be verified at the project level. As each subsequent project-level construction phase is finalized throughout the duration of the project buildout, the mitigation fee shall be calculated based on current information, available construction equipment, and proposed construction activities. As construction activities occur over the buildout period, the developer shall work with SMAQMD to continually update mitigation fees based on actual on-the-ground emissions. The final mitigation fees shall be based on the contractor equipment report provided by the developer to SMAQMD and shall reconcile any fee discrepancies due to schedule adjustments and increased or decreased equipment inventories. Equipment inventories and NOX emission estimates for subsequent construction phases shall be coordinated with SMAQMD, and the off-site mitigation fee measure shall be assessed to any construction phase that would result in an exceedance of SMAQMD's mass emission threshold for NO_X.

Mitigation Measure 3.2-2: Prepare an Air Quality Mitigation Plan for the LEA Community Plan Area

The City shall prepare an Air Quality Management Plan that demonstrates a 15 percent reduction in operational air pollutant for the LEA Community Plan Area, compared to unmitigated baseline project consistent with General Plan Policy NR-4-1. The Air Quality Management Plan shall be submitted to the Sacramento Metropolitan Air Quality Management District for review and endorsement. Air Quality Management Plan emission reduction measures will be identified and quantified and may include commitments to reducing VMT, promoting alternative modes of

transportation, and energy efficiency building measures. The Air Quality Management Plan shall be submitted to SMAQMD prior to the certification of the Final EIR to confirm that the project meets reduction requirements.

Mitigation Measure MM 5.5.1b

As part of the development review process for projects involving modification to existing buildings and structures, require all affected buildings and structures over 50 years of age to be evaluated for historical significance, using the significance criteria set forth for historic resources under CEQA Guidelines Section 15064.5, which are also the criteria for listing in the Elk Grove Register of Historic Resources, contained in Section 7.00.050 of the Municipal Code. For buildings or structures that do not meet the CEQA criteria for historical resource, no further mitigation is required.

If the building or structure can be preserved on site, but remodeling, renovation or other alterations are required, this work shall be conducted in compliance with the "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" (Weeks and Grimmer 1995).

If a significant historic building or structure is proposed for demolition, the City shall ensure that a qualified architectural historian thoroughly documents the building and associated landscaping, if applicable, and setting. Documentation shall be to the applicable level (short form, Level I, Level II, or Level III) of Historic American Building Survey or Historic American Engineering Record documentation. This is consistent with Section 7.00.080(B)(5) of the Elk Grove Municipal Code. A copy of the record shall be deposited with the City, Elk Grove Historical Society, and the North Central Information Center, at minimum. The record shall be accompanied by a report containing site-specific history and appropriate contextual information.

Mitigation Measure MM 5.5.1a

Prior to the approval of subsequent development projects in the Planning Area, the City shall determine the level of archaeological sensitivity based on the previously prepared confidential archaeological sensitivity map, in combination with the level of previous disturbance of the project area and anticipated level of ground disturbance, as shown below.

	Developed, proposed ground disturbance less than 24"	Not previously developed, proposed ground disturbance less than 24"	Developed, proposed ground disturbance more than 24"	Not previously developed, proposed ground disturbance below 24"
low area of archaeological sensitivity	minimum investigation	minimum investigation	minimum investigation	moderate investigation
medium area of archaeological sensitivity	minimum investigation	moderate investigation	moderate investigation	intensive investigation
high area of archaeological sensitivity	moderate investigation	intensive investigation	intensive investigation	intensive investigation

- Minimum Investigation: Implement Mitigation Measure 5.5-1a(1).
- Moderate Investigation: Implement Mitigation Measure 5.5-1a(1) and (2).
- Intensive Investigation: Implement Mitigation Measure 5.5-1a(1), (2), and (3).

1) Unless the project qualifies for part (2) below, no cultural resources study shall be required as part of the project consideration. If archaeological materials or tribal cultural resources are discovered during grading or construction activities within the project site, work shall halt immediately within 50 feet of the discovery, the Planning Division shall be notified, and a qualified professional shall be retained. As related to archaeological materials, a professional archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in archaeology shall determine the significance of the discovery. As related to tribal cultural resources, a "qualified professional" consists of the geographically and culturally affiliated tribe.

If resources are determined to be potentially significant, the City shall require the preparation of a treatment plan and report of findings for archaeological and tribal cultural resources by a qualified professional. The City and the applicant shall consult and agree to implement all measures the City deems feasible. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The applicant shall be required to implement measures necessary for the protection and documentation of archaeological and tribal cultural resources.

2) A detailed cultural resources study of the subject property shall be conducted by either the City or the applicant and then peer reviewed by the City. The report shall include a records search of the North Central Information Center, the Native American Heritage Commission, tribal outreach, and a pedestrian field survey. The cultural resources study shall identify, evaluate, and mitigate impacts to archaeological and tribal cultural resources as defined by CEQA and/or the NHPA. Mitigation methods to be employed include, but are not limited to, the following:
   - Redesign of the project to avoid the resource. The resource site shall be deeded to a nonprofit agency to be approved by the City for maintenance of the site.
   - If avoidance is determined to be infeasible by the City, the resource shall be mapped, stabilized, and capped pursuant to appropriate standards.
   - If capping is determined infeasible by the City, the resource shall be recovered to appropriate standards.
3) Prior to the start of any ground disturbing activities, a qualified archaeologist meeting the United States Secretary of Interior guidelines for professional archaeologists shall be retained to develop a construction worker awareness brochure. This brochure shall be distributed to all construction personnel and supervisors who will have the potential to encounter cultural resources. The topics to be addressed in the Worker Environmental Awareness Program will include, at a minimum:
   - types of cultural resources expected in the project area;
   - what to do if a worker encounters a possible resource;
   - what to do if a worker encounters bones or possible bones; and
   - penalties for removing or intentionally disturbing cultural resources, such as those identified in the Archeological Resources Protection Act.

Mitigation Measure 3.6-1 Construction Noise Reduction Measures for the LEA Community Plan Area

The following mitigation measures shall be implemented and specified on subsequent project building and improvement plans:

- Construction equipment shall be properly maintained and equipped with noise-reduction intake and exhaust mufflers and shrouds, in accordance with manufacturers' recommendations.
- Construction equipment staging areas shall be centrally located on the site or located at the farthest distance possible from nearby residential land uses.
- All motorized construction equipment and vehicles shall be turned off when not in use.
- To the extent feasible, alternative construction processes that generate lower noise levels shall be selected. Examples include the use of drilled piles as opposed to impact piles, use of electrified equipment as opposed to combustion engines, and temporary noise barriers or noise curtains installation such that they block the line of sight between the noise source and the receiver.
- Post visible signs along the perimeter of the construction site that disclose construction times and duration, as well as a contact number for a noise complaint and enforcement manager. The on-site noise complaint and enforcement manager's duties shall include documenting noise complaints, responding to and investigating noise-related complaints, implementing any feasible and appropriate measures to reduce noise at the receiving land uses, and reporting the complaints to City staff on a weekly basis.

Mitigation Measure 3.6-2 Operational Noise Reduction Measures for the LEA Community Plan Area

The City shall require acoustical assessments to be prepared as part of subsequent land use development projects in the LEA Community Plan Area. The acoustical assessments shall evaluate potential environmental noise impacts attributable to the

subsequent project, anticipated traffic noise condition, stationary noise sources, and the compatibility of proposed land uses in comparison to applicable City noise standards. Where the acoustical analysis determines that noise levels would exceed applicable City noise standards, noise reduction measures shall be identified and included in the subsequent project. Such measures may include, but are not limited to, the incorporation of setbacks, sound barriers, berms, hourly limitations, or equipment enclosures. The emphasis of such measures shall be placed on site planning and Project design. The acoustical analysis shall be prepared in accordance with City requirements (Elk Grove Municipal Code and General Plan).

Mitigation Measure 3.11-1 Agricultural Resources Preservation for the LEA Community Plan Area

The applicant of subsequent development projects in the LEA Community Plan Area shall protect one acre of existing farmland land of equal or higher quality for each acre of Prime Farmland, Unique Farmland or Farmland of Statewide Importance that would be developed as a result of the Project. The Project mitigation acreage must be located within Sacramento County. This protection may consist of the establishment of farmland conservation easement, farmland deed restriction or other appropriate farmland conservation mechanism that ensures the preservation of that land from conversion in perpetuity, but may also be utilized for compatible wildlife habitat conservation efforts (e.g., Swainson's hawk foraging habitat mitigation). In deciding whether to approve the land proposed for preservation by the Project applicant, the City shall consider the benefits of preserving farmlands in proximity to other protected lands. The farmland/wildlife habitat must have adequate water supply to support agricultural use. The preservation of off-site farmland shall be done prior to the City's approval of the project's first grading permit. Grading plans shall include the acreage and type of farmland impacted. In addition, the City shall impose the following minimum conservation easement content standards:

a) All owners of the agricultural/wildlife habitat mitigation land shall execute the document encumbering the land.

b) The document shall be recordable and contain an accurate legal description of the agricultural/wildlife habitat mitigation land.

c) The document shall prohibit any activity which substantially impairs or diminishes the agricultural productivity of the land. If the conservation easement is also proposed for wildlife habitat mitigation purposes, the document shall also prohibit any activity which substantially impairs or diminishes the wildlife habitat suitability of the land.

d) The document shall protect any existing water rights necessary to maintain agricultural uses on the land covered by the document, and retain such water rights for ongoing use on the agricultural/wildlife habitat mitigation land.

e) Interests in agricultural/habitat mitigation land shall be held in trust by an entity acceptable to the City and/or the City in perpetuity. The entity shall not sell, lease, or convey any interest in agricultural/wildlife habitat mitigation land which it shall acquire without the prior written approval of the City.

f) The applicant shall pay to the City an agricultural/wildlife habitat mitigation monitoring fee to cover the costs of administering, monitoring and enforcing the document in an amount determined by the receiving entity, not to exceed 10 percent of the easement price paid by the applicant, or a different amount approved by the City Council, not to exceed 15 percent of the easement price paid by the applicant.

g) The City shall be named a beneficiary under any document conveying the interest in the agricultural/wildlife habitat mitigation land to an entity acceptable to the City.

h) If any qualifying entity owning an interest in agricultural/wildlife habitat mitigation land ceases to exist, the duty to hold, administer, monitor and enforce the interest shall be transferred to another entity acceptable to the City.

Mitigation Measure 3.11-2 Special Status Plant Preconstruction Surveys for the LEA Community Plan Area

Applicants for any projects shall retain a qualified biologist(s) to conduct a preliminary evaluation of the specific project site to determine whether freshwater emergent wetland, or irrigation/drainage ditch habitats occur within the specific project site. If

any of these habitats are identified within the specific project site, surveys in and adjacent to (within 100 feet, where appropriate) the proposed impact area, including new construction access routes, shall be conducted to determine the presence/absence of special-status plant species, including Sanford's arrowhead.

Surveys shall be conducted in accordance with CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (2009). These guidelines require that rare plant surveys be conducted at the proper time of year when rare or endangered species are both evident and identifiable. Field surveys shall be scheduled to coincide with known flowering periods and/or during appropriate developmental periods that are necessary to identify the plant species of concern. Survey results shall be submitted to the City for review and approval.

If no special status plant species are found in or adjacent to (within 100 feet) proposed impact areas, no further mitigation is required.

If any special status plant species are found in or adjacent to (within 100 feet) proposed impact areas during the surveys, these plant species shall be avoided to the greatest extent feasible. Any special status plant species that are identified adjacent to the project area, but not proposed to be disturbed by the project, shall be protected by barrier fencing to ensure that construction activities and material stockpiles do not impact any special-status plant species. These avoidance areas shall be identified on site plans and/or, tentative subdivision maps.

If project-related impacts will result in the loss of occupied habitat for a special-status plant species, mitigation to ensure that the special-status plant species population is not reduced below to self-sustaining levels, avoid elimination of the plant community, or reduce the range of the plant species based on the technical analysis of the qualified biologist and applicable agency (e.g., U.S. Fish and Wildlife and California Department of Fish and Wildlife) input/guidance. Mitigation may include redesign of the subsequent project to avoid the plant species and permanent preservation of onsite plant species population, transplantation of the plant species to habitat suitable for the plant species, or offsite mitigation banks.

Plans for avoidance, minimization, and mitigation (if appropriate) shall be prepared and submitted to the City of Elk Grove at the time of application for the City's review and approval. Surveys shall occur no more than two years prior to groundbreaking of the subsequent project.

Mitigation Measure 3.11-3 Valley Elderberry Longhorn Beetle Avoidance and Minimization in the LEA Community Plan Area

Applicants shall retain a qualified biologist to survey for the presence of elderberry shrubs with stems measuring greater than 1-inch diameter at ground level. Surveys shall be conducted in accordance with the USFWS 1999 Conservation Guidelines for the Valley Elderberry Longhorn Beetle. If no elderberry shrubs with one or more stems measuring 1 inch or greater in diameter at ground level are documented, no further mitigation is required. Survey results shall be submitted to the City for review and approval. If an elderberry shrub(s) with one or more stems measuring 1 inch or greater in diameter at ground level is documented, and a 100-foot avoidance buffer can be maintained around the shrub, the following protective measures shall be implemented:

1) Fence and flag all areas to be avoided during construction activities. In areas where encroachment into the 100-foot buffer has been approved by the USFWS, provide a minimum setback of at least 20 feet from the dripline of each elderberry plant.

2) Brief contractors on the need to avoid damaging the elderberry plants and the possible penalties for not complying with these requirements.

3) Erect signs every 50 feet along the edge of the avoidance area with the following information: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment." The signs should be clearly readable from a distance of 20 feet and must be maintained for the duration of construction.

4) Instruct work crews about the status of the beetle and the need to protect its elderberry host plant.

5) Restore any damage done to the buffer area (area within 100 feet of elderberry plants) during construction. Provide erosion control and revegetate with appropriate native plants.

6) Continue to protect buffer areas after construction from adverse effects of the project. Measures such as fencing, signs, weeding, and trash removal are usually appropriate.

7) Do not use insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or its host plant in the buffer areas or within 100 feet of any elderberry plant with one or more stems measuring 1 inch or more in diameter at ground level.

8) Project applicants shall provide a written description of how the buffer areas are to be restored, protected, and maintained after construction is completed to the USFWS and the City.

9) Mowing of grasses/ground cover shall only occur from July through April to reduce fire hazard. No moving shall occur within 5 feet of elderberry plant stems. Mowing shall be done in a manner that avoids damaging plants (e.g., stripping away bark through careless use of mowing/trimming equipment).

If elderberry plants cannot be avoided, they must be transplanted to a conservation area in accordance with the 2017 USFWS guidelines, with USFWS approval. A plant that is unlikely to survive transplantation because of poor condition or location, or a plant that would be extremely difficult to move because of access problems, may be exempted from transplantation through consultation with the USFWS. In addition to transplanting all elderberry shrubs, additional elderberry seedlings or cuttings shall be planted at a 3:1 ratio (new plantings to affected stems). Native plants shall also be planted at a 1:1 ratio (native tree/plant species to each elderberry seedling or cutting). Stock of saplings, cuttings, and seedlings shall be obtained from local sources. If the parent stock is obtained from a distance greater than 1 mile from the conservation area, the USFWS must approve the plant donor sites prior to initiation of revegetation work. Planting or seeding the conservation area with native herbaceous species is encouraged.

Mitigation Measure 3.11-4 Giant Garter Snake Avoidance and Minimization in the LEA Community Plan Area

For projects with potential to impact giant garter snake (GGS) habitat, applicants shall have a qualified biologist perform a preconstruction survey within 30 days prior to commencement of construction activities within 200 feet of all aquatic habitats potentially suitable for GGS. In order to protect snakes, de-watering of areas shall not occur prior to completion of the pre-construction surveys.

If aquatic habitat potentially suitable for giant garter snake would be filled, the aquatic habitat shall be dewatered at least 15 days before fill. Dewatering of aquatic habitat for construction purposes shall not occur between October 1 and April 15, except for areas within a cofferdam, unless authorized by USFWS. Any dewatered habitat must remain dry for at least 15 consecutive days after April 15 and before excavation or filling of the dewatered habitat.

All construction activities within 200 feet of aquatic habitat suitable for giant garter snakes shall be conducted during the snake's active season of May 1 to October 1 so that snakes can move and avoid danger, and a monitoring biologist shall be retained by the City and funded by the project applicant to routinely monitor construction activities within 200 feet of aquatic habitat. For any construction outside of the snake's active period, USFWS will be consulted to determine whether additional measures are necessary to avoid or minimize potential impacts during the inactive season and avoid take. The applicant shall implement the avoidance and minimization measures outlined in Appendix C Standard Avoidance and Minimization Measures During Construction Activities in Giant Garter Snake (Thamnophis gigas) Habitat (USFWS 1997) whenever working within 200 feet of aquatic habitats potentially suitable for GGS. If a snake is encountered during construction activities, the monitoring biologist shall contact the City and will have the authority to stop construction activities until appropriate corrective measures have been completed or it is determined that the snake will not be harmed.

GGS encountered during construction activities should be allowed to move away from construction activities on their own. Capture and relocation of trapped or injured individuals can only be attempted by personnel or individuals with current USFWS recovery permits pursuant to Section 10(a) 1(A) of the ESA. The biologist shall be required to report any incidental take to the USFWS immediately. The project area shall be re-inspected whenever a lapse in construction activity of two weeks or greater has occurred. This mitigation measure does not apply to land areas where surveys within the active period of the snake have been conducted and no snakes were found.

In areas where aquatic habitats potentially suitable for giant garter snake are being retained on the site:

- A qualified biologist shall install temporary exclusion fencing around suitable upland habitat within 200 feet of aquatic habitat to prevent giant garter snakes from entering the work area during construction. The fencing shall be maintained for the duration of the construction activities;
- Ground disturbance, spoils, and equipment storage and other project activities shall not be allowed within the fenced area; and
- Water quality shall be maintained and construction runoff into wetland areas shall be limited using hay bales, filter fences, vegetative buffer strips, or other accepted equivalents. However, no plastic,

monofilament, jute, or similar matting to control erosion that could entangle snakes shall be placed in the project area.

Mitigation Measure 3.11-5 Burrowing Owl Avoidance and Minimization in the LEA Community Plan Area

For projects with potential burrowing owl habitat, applicants shall retain a qualified biologist to determine whether suitable nesting habitat occurs within 500 feet of the specific project site within 30 days prior to any construction activities outside of the breeding season (September 1 through January 31). If suitable habitat exists, focused surveys must be performed by a qualified biologist in accordance with the CDFW's Staff Report on Burrowing Owl Mitigation, published March 7, 2012. Surveys shall be repeated if project activities are suspended or delayed more than 15 days during nesting season.

If no burrowing owls are detected, no further mitigation is required. If active burrowing owl nest sites are detected, the project applicant shall implement the avoidance, minimization, and mitigation methodologies outlined in the CDFW's Staff Report on Burrowing Owl Mitigation prior to initiating project-related activities that may impact burrowing owls. Burrowing owl surveys are valid for one year from the date of the survey.

Mitigation Measure 3.11-6 Migratory Bird Preconstruction Survey in the LEA Community Plan Area

If clearing and/or construction activities would occur during the nesting bird season (February 1 through September 1), preconstruction surveys to identify active non-raptor native bird nests protected under the Migratory Bird Treaty Act or California Fish and Game Code Section 3503 shall be conducted by a qualified biologist within 14 days of construction initiation on specific project sites. Focused surveys must be performed by a qualified biologist for the purpose of determining the presence/absence of active nest sites within the proposed impact area and a 500-foot buffer (if accessible). Surveys shall be repeated if construction activities are delayed or postponed for more than 30 days.

If active nest sites are identified within 500 feet of project activities, impacts on nesting birds shall be avoided by establishing appropriate buffers around active nest sites identified during focused surveys to prevent disturbance to the nest. Project activity shall not commence within the buffer areas until a qualified biologist has determined that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment. Buffer size for common, non-raptor bird species shall be determined by a qualified biologist. Factors to be considered for determining buffer size shall include presence of natural buffers provided by vegetation or topography, nest height above ground, baseline levels of noise and human activity, species sensitivity, and proposed project activities. Generally, buffer size for these species shall be at least 20 feet. The size of the buffer may be adjusted if a qualified biologist, determines that such an adjustment shall not be likely to adversely affect the nest. Any buffer reduction for a special-status species shall require consultation with CDFW and/or the City. Periodic monitoring of the nest by a qualified biologist during project activities shall be required if the activity has potential to adversely affect the nest, the buffer has been reduced, or if birds within active nests are showing behavioral signs of agitation (e.g., standing up from a brooding position, flying off the nest) during project activities, as determined by the qualified biologist.

Mitigation Measure 3.11-7 Raptor Nesting Preconstruction Survey in the LEA Community Plan Area

If clearing and/or construction activities would occur during the raptor nesting season (January 15–August 15), preconstruction surveys to identify active raptor nests shall be conducted by a qualified biologist within 14 days of construction initiation in specific project sites. Focused surveys must be performed by a qualified biologist for the purposes of determining presence/absence of active nest sites within the proposed impact area, including construction access routes and a 1,000-foot buffer. If no active nests are found, no further mitigation is required. Surveys shall be repeated if construction activities are delayed or postponed for more than 30 days.

If active white-tailed kite or other raptor (excluding Swainson's hawk) nest sites are identified within 1,000 feet of project activities, the applicant shall impose a 500-foot setback of all active nest sites prior to commencement of any project construction activities to avoid construction or access-related disturbances to nesting raptors. Project related activities (i.e., vegetation removal, earth moving, and construction) will not occur within the setback until the nest is deemed inactive. Activities permitted within setbacks and the size of setbacks may be adjusted through consultation with the CDFW and/or the City.

Trees containing white-tailed kite or other raptor (excluding Swainson's hawk) nests that must be removed as a result of project implementation shall be removed during the non-breeding season (September 1–January 1). Swainson's hawks are State listed

as a threatened species; therefore, impacts to Swainson's hawk nest trees require regulatory authorization from the CDFW prior to removal.

Mitigation Measure 3.11-8 Swainson's Hawk Avoidance and Minimization in the LEA Community Plan Area

The City shall require future project applicants to implement the measures to mitigate the potential loss of Swainson's hawk foraging habitat. For any project 40 acres and greater the following measure shall be implemented to reduce impacts to Swainson's hawk foraging habitat:

- The project applicant shall acquire conservation easements or other instruments to preserve suitable foraging habitat for Swainson's hawk. The location of mitigation parcels as well as conservation instruments protecting them shall be approved by the City.
- The amount of land preserved shall be at a ratio provided in Chapter 16.130 Swainson's Hawk Mitigation Fees of the Elk Grove Municipal Code foreach acre developed at the project site. In deciding whether to approve the land proposed for preservation by the Project applicant, the City shall consider the benefits of preserving lands in proximity to other protected lands. The preservation of land shall be done prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first.
- The applicant shall implement the following minimum conservation easement content standards, or such other requirements as may be updated by the City Council from time-to-time and as provide din Chapter 16.130:
    - The land to be preserved must be found to be suitable Swainson's hawk foraging habitat as determined by the City based on substantial evidence.
    - The land shall be protected through either fee title or conservation easement ("legal agreement") acceptable to the City of Elk Grove.
    - The legal agreement shall be recordable and contain an accurate legal description of the mitigation land.
    - The legal agreement shall prohibit any activity, which in the sole discretion of the City, substantially impairs or diminishes the land's capacity as suitable Swainson's hawk foraging habitat.
    - If the land's suitability as foraging habitat is related to existing agricultural uses on the land, the legal agreement shall protect any existing water rights necessary to maintain such agricultural uses on the land covered by the document and retain such water rights for ongoing use on the mitigation land.
    - The applicant shall pay or cause to be paid to the City a mitigation monitoring fee to cover the costs of administering, monitoring, and enforcing the document in an amount determined by the City or a third-party receiving entity approved by the City, not to exceed 10% of the easement price paid by the applicant, or a different amount approved by the City Council.
    - Interests in mitigation land shall be held in trust by an entity acceptable to the City and/or the City in perpetuity. The entity shall not sell, lease, or convey any interest in mitigation land without the prior written approval of the City.
    - The City shall be named a beneficiary under any legal agreement conveying the interest in the mitigation land to an entity acceptable to the City and the City shall receive indemnification, defense and indemnity in any legal agreement.
    - If any qualifying entity owning an interest in mitigation land ceases to exist, the duty to hold, administer, monitor and enforce the interest shall be transferred to another entity acceptable to the City or to the City.
- Before committing to the preservation of any land, the project proponent shall obtain the City's approval of the land proposed for preservation. This mitigation measure may be fulfilled in combination with a mitigation measure imposed on the project requiring the preservation of agricultural land as long as the agricultural land is suitable Swainson's hawk habitat as determined by the City in its sole discretion.

For any project less than 40 acres (smaller projects shall still mitigate pursuant to Chapter 16.130) the following measure shall be implemented to reduce impacts to Swainson's hawk foraging habitat:

- Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first, the project applicant shall preserve at the Chapter 16.130 prescribed ratio land of similar equally suitable habitat for each acre of habitat lost. This land shall be protected through a fee title or conservation easement acceptable to the City of Elk Grove, or
- Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first, the project applicant shall submit payment of Swainson's hawk impact mitigation fee per acre of habitat impacted (payment shall be at a 1:1 ratio) to the City of Elk Grove in the amount set forth in the Elk Grove Municipal Code.

Mitigation Measure 3.11-9 Western Pond Turtle Avoidance and Minimization in the LEA Community Plan Area

The City shall require future project applicants to implement the following measures to avoid the potential loss of western pond turtles:

- Projects shall be planned and designed to avoid aquatic habitats that could support western pond turtle to the extent that is technically feasible and appropriate. Avoidance shall be deemed technically feasible and appropriate if the habitat may be preserved on-site while still obtaining the project purpose and objectives and if the preserved habitat features (i.e., aquatic habitats) could reasonably be expected to continue to function as suitable habitat for western pond turtle following project implementation.
- A preconstruction survey for western pond turtle shall be conducted by a qualified biologist prior to work in suitable aquatic habitat. If no pond turtles are observed, no further mitigation is necessary.
- If pond turtles are observed, a qualified biologist, with approval from CDFW, shall relocate pond turtles from to the nearest area with suitable aquatic habitat that will not be disturbed by project related construction activities.
- Construction within 500 feet of aquatic habitat known to support western pond turtles shall be conducted outside of the nesting season (March-August) unless a nesting survey conducted by a qualified biologist determines there are no active nests or hatchlings present in the proposed construction area.

Mitigation Measure 3.11-10 Western Red Bats Avoidance and Minimization in the LEA Community Plan Area

The City shall require future project applicants to implement the following measures to avoid the potential loss of western red bats:

- A qualified biologist shall conduct surveys for roosting western red bats prior to any tree removal. If evidence of bat use is observed, the number of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts. If no evidence of bat roosts is found, then no further study shall be required.
- If tree roosting bats are found, bats shall be excluded from the roosting site before the tree is removed. A mitigation program addressing compensation, exclusion methods, and roost removal procedures shall be developed by a qualified biologist in consultation with CDFW before implementation. Exclusion efforts may be restricted during periods of sensitive activity (e.g., during hibernation or while females in maternity colonies are nursing young). Once it is confirmed that bats are not present in the original roost site, the tree may be removed.

Mitigation Measure 3.11-11 Wetland Avoidance and Minimization in the LEA Community Plan Area

If there is potential for wetlands to occur on a project site, project applicants shall retain a qualified wetland consultant to determine if state or federally protected wetlands or other waters are present. If potential waters of the United States or state are identified, the project applicant shall submit a delineation report to the U. S. Army Corps of Engineers (USACE) and the Regional Water Quality Control Board (RWQCB) for verification or jurisdictional determination. The verified delineation will be submitted to the City for its records. If the project site supports a lake, river, or stream, the project applicant shall complete a notification of lake and streambed alteration and submit it to CDFW. Pursuant to California Code of Regulations, a stream is defined as a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This can include human-created waterways.

Project applicants shall ensure that their specific projects would result in no net loss of state or federally protected waters through impact avoidance, impact minimization, and/or compensatory mitigation, as determined in CWA Section 404 and 401 permits and/or Waste Discharge Requirements and a California Fish and Game Code Section 1602 Lake and Streambed Alteration Agreement. Evidence of compliance with this mitigation measure shall be provided prior to construction and grading activities for each proposed project.

Mitigation Measure 3.11-12 Soil Contaminant Evaluation for the LEA Community Plan Area

With each improvement plan and/or grading plan application, the Project applicant shall include a detailed assessment of soil contamination associated with previous herbicide/pesticide use on the site. Soil sampling shall be conducted within the areas of potential herbicide/pesticide contamination. If substances are detected at concentrations that could pose a health hazard and/or violate local, State, or federal health standards, remediation of the affected areas shall be undertaken in accordance with the requirements of the City of Elk Grove and the Sacramento County Environmental Management Department. Development of the site shall not commence until the site is deemed remediated and clear for development by the City in consultation with the Sacramento County Environmental Management Department.

Mitigation Measure 3.11-13 Asbestos and Lead Prevention in the LEA Community Plan Area

Prior to the issuance of demolition permits for existing onsite structures constructed prior to 1979, asbestos material sampling shall be conducted to determine if asbestos containing building materials are present. Any identified asbestos containing building materials present in each of the structures to be dismantled shall be removed under acceptable engineering methods and work practices by a licensed asbestos abatement contractor prior to removal. These practices include, but are not limited to: containment of the area by plastic, negative air filtration, wet removal techniques, and personal respiratory protection and decontamination. The process shall be designed and monitored by a California Certified Asbestos Consultant. The abatement and monitoring plan shall be developed and submitted for review and approval by the Sacramento Metropolitan Air Quality Management District.

Prior to the issuance of demolition permits for existing onsite structures that were constructed prior to 1970, all loose and peeling paint shall be removed and disposed of by a licensed and certified lead paint removal contractor, in accordance with local, State, and federal regulations. The demolition contractor shall be informed that all paint on the buildings shall be considered as containing lead. The contractor shall take precautions in accordance with local, state, and federal regulations to protect his/her workers, the surrounding community, and to dispose of construction waste containing lead paint.

Mitigation Measure 3.11-14 Utility Hazard Avoidance in the LEA Community Plan Area

Prior to approval of improvement plans and/or a grading permit for development of properties that contain transformers, the City Planning Department shall consult with SMUD, which owns and operates the transformers, to determine whether onsite transformers are to be abandoned, moved, upgraded, etc. Together, the City Planning Department and SMUD shall develop a plan for dealing with all of the transformers located within the Project area. Future actions associated with the transformers may be implemented as individual development Projects are proposed.

Mitigation Measure 3.11-15 Stormwater Retention for the LEA Community Plan Area

Grading plans for individual development projects in the LEA Community Plan Area shall be designed in such a way to direct all overland flow into proposed on-site detention basins. If this is not feasible, separate stormwater quality treatment facilities shall be constructed and a detailed drainage study shall be completed which demonstrates that the overall flood control and hydromodification goals for the watershed, contained in the City's Storm Drainage Master Plan, are still met.

Mitigation Measure 3.11-16 Drainage Report for the LEA Community Plan Area

New development in the LEA Community Plan Area shall be accompanied by site-specific drainage report. The project drainage report shall be reviewed and approved by the City prior to improvement plan approval for new development. The project drainage report shall include, at a minimum, written text addressing existing conditions, the effects of project improvements, all appropriate calculations, a watershed map, potential increases in downstream flows and volumes, proposed on-site improvements, and drainage easements, if necessary, to accommodate flows from the site. The sites specific drainage plans shall ensure that peak flows from developed areas do not exceed pre-development conditions. Site-specific drainage reports shall demonstrate consistency with the Southeast Policy Area Drainage Study.