

RESOLUTION NO. 2017-159

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR
ACQUISITION OF PUBLIC RIGHT-OF-WAY AND PEDESTRIAN AND PUBLIC UTILITY
EASEMENT FOR PROPERTY LOCATED ON BILBY ROAD [A PORTION OF APN(S)
132-0300-017 AND 132-0300-021], TOGETHER WITH A REIMBURSEMENT
AGREEMENT, ASSOCIATED WITH THE NEW GROWTH AREA INFRASTRUCTURE
PROJECT (CEQA EXEMPT)**

WHEREAS, in support of the master development plan for Southeast Policy Area ("SEPA"), and buildout of Laguna Ridge Specific Plan ("LRSP"), the City proposes to construct the New Growth Area ("NGA") Project; and

WHEREAS, the NGA Project includes the construction of the Laguna Ridge South Lift Station; the Big Horn Boulevard Extension; and the Bilby Road Extension; and

WHEREAS, the Bilby Road Extension ("Project") proposes to construct the inside two lanes and median, including water and sewer trunk lines and joint trench for electrical, gas, and telecommunications, whereby the developer is responsible for constructing the frontage lanes and landscape corridors; and

WHEREAS, California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereinafter referred to as CEQA) Guidelines Section 15183 (Public Resources Code §21083.3), (Consistency with a General Plan, Community Plan or Zoning), provides that projects that are consistent with a Community Plan, General Plan or Zoning for which an EIR has been certified "shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site."; and

WHEREAS, a previous Environmental Impact Report (EIR) was certified for the Southeast Policy Area ("SEPA") (State Clearinghouse No. 2013042054); and

WHEREAS, the proposed Project is consistent with the SEPA Strategic Plan by providing the necessary right-of-way for a portion of roadway infrastructure identified in the Plan, therefore, there are no effects peculiar to the Project, or substantial new information, that would result in new or more severe impacts than discussed in the prior EIR; and

WHEREAS, on June 8, 2016, City Council approved resolutions authorizing the issuance and sale of special tax bonds on behalf of Community Facilities District ("CFD") No. 2005-1 ("Series 2016") for the Laguna Ridge Specific Plan Area, to fund backbone infrastructure; and

WHEREAS, the benefit of these improvements is that they provide access and circulation to areas of LRSP as well as providing a secondary point of access to some of the employment areas of SEPA, along with necessary sewer facilities for the buildout of LRSP as well as the majority of SEPA; and

WHEREAS, Joe I. Mendes and Mary F. Mendes (“Owner”) own fee title to the vacant property located on Bilby Road in the City of Elk Grove, identified as Sacramento County APN(s): 132-0300-017 and 132-0300-021 (“Owner’s Property”); and

WHEREAS, Owner’s Property is subject to an option to purchase between the Owner and KRM Investors, LLC (“Option Holder/Developer”), as described in that certain Memorandum of Option Recorded in Book 20141103, Page 0757, Official Records of Sacramento County (“Option Agreement”) for the purchase price of \$70,000 per acre; and

WHEREAS, City staff has negotiated with the Owner, including consent of the Option Holder/Developer, for the partial acquisitions required from Owner’s Property, which include a grant of Public Right-of-Way and Pedestrian and Public Utility Easement (“Easements”), in the amount of \$370,450, as established by the Option Agreement purchase price of \$70,000 per acre, and as required for the Bilby Road Extension segment of the New Growth Area Infrastructure Project; and

WHEREAS, Option Holder/Developer understands and acknowledges the benefits that would accrue to the Property as a result of the Project and has agreed to fund, pay and reimburse the City for the amount paid to the Owner for the Easements in an amount not to exceed \$370,450, plus title and escrow costs, including interest (“Reimbursement Amount”), due and payable to the City on or before the approval of any tentative map for development of the Property, as further described in the Reimbursement Agreement between the City of Elk Grove and KRM Investors, LLC, (“Reimbursement Agreement”); and

WHEREAS, the acquisition is consistent with the City’s General Plan and in compliance with Elk Grove Municipal Code Section 3.42.300(B) and California Government Code Section 65402(a) as determined by the Planning Commission by Resolution No. 2016-18; and

WHEREAS, the purchase of the Easements will be funded through a combination of the City’s Roadway Fee Fund and Laguna Ridge CFD proceeds; and

WHEREAS, the California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereinafter referred to as CEQA) requires analysis of agency approvals of discretionary “projects”. A “project”, under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.”

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Elk Grove hereby finds the acquisition of the subject properties exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan and Zoning) based upon the following finding:

Finding: No further environmental review is required pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

Evidence: Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan and Zoning), provide that for projects that are consistent with a community plan, general plan and zoning, where an Environmental Impact Report has been certified "shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.". The proposed action involves the acquisition of right-of-way within the Southeast Policy Area, for which an Environmental Impact Report was prepared ("SEPA EIR"), which includes the adoption of the Southeast Policy Area Community Plan and Zoning ("SEPA SPA"). The acquisition will further the SEPA Strategic Plan by providing the necessary right-of-way for a portion of the roadway infrastructure identified in the Plan.

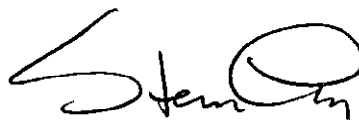
Additionally, CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations) requires that when an EIR has been certified for an adopted project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, that one or more of the following exists:

- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- 3) New information of substantial importance, which was not known and could not have been known with exercise of reasonable diligence at the time of the previous EIR was certified as complete shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measures or alternative.

Staff has reviewed the Project and analyzed it based upon the above provisions in Section 15162 of the CEQA Guidelines. The Project is being undertaken pursuant to and in conformity with the approved the Southeast Community Plan and Special Planning Area. There are no substantial changes in the Project from that analyzed in the 2014 EIR and no new significant environmental effects, or substantial increase in the severity of previously identified significant effects. No new information of substantial importance has been identified. Further, since no changes to the EIR are necessary to support the Project, the City is not required to prepare an Addendum to the EIR as required by CEQA Guidelines Section 15164. Therefore, the prior EIR is sufficient to support the proposed action and no further environmental review is required.

AND, BE IT FINALLY RESOLVED, that the City Council of the City of Elk Grove authorizes the City Manager to execute an Agreement for Acquisition of Public Right-of-Way and Pedestrian and Public Utility Easement with Joe I. Mendes and Mary F. Mendes in substantially the form presented for the acquisition of a portion of the property located on Bilby Road, identified as Sacramento County Assessor Parcel Number(s): 132-0300-017 and 132-0300-021 in the amount of \$370,450; together with a Reimbursement Agreement with KRM Investors, LLC, in substantially the form presented.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 12th day of July 2017.



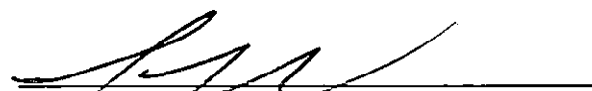
STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2017-159**

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

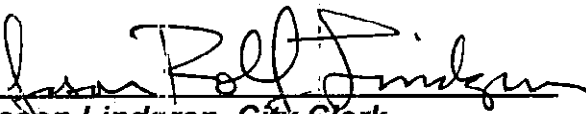
I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on July 12, 2017 by the following vote:

AYES: COUNCILMEMBERS: Ly, Detrick, Hume, Nguyen, Suen

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None



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