

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2023, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereinafter referred to as “City”) and Dudek, a California Corporation, whose address of record is 605 Third Street, Encinitas, California, 92024, (hereinafter referred to as “Consultant”).

WHEREAS, City is undertaking a project to annex, on the behalf of a developer, approximately 70 acres generally located at the northeast corner of Yosemite Avenue and Gardner Avenue; and,

WHEREAS, Consultant represents that it possesses the professional skills to provide environmental services in connection with said project.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. **SCOPE OF SERVICES.** The Consultant shall furnish the following services: Consultant shall provide the environmental services described in Exhibit “A” attached hereto.

No additional services shall be performed by Consultant unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the Director of Development Services or designee. However, the means by which the work is accomplished shall be the sole responsibility of the Consultant. Consultant shall perform with the skill and care ordinarily exercised by members of the same profession practicing under similar circumstances.

2. **TIME OF PERFORMANCE.** All of the work outlined in the Scope of Services shall be completed in accordance with the Schedule outlined in Table 1. Project Schedule on Pages 20 and 21 of Exhibit “A” attached hereto and incorporated herein by reference. By mutual agreement and written addendum to this Agreement, the City and the Consultant may change the requirements in said Schedule.

3. **TERM OF AGREEMENT.** The term of this Agreement shall

commence upon the day first above written and end upon completion of the scope of services to the satisfaction of the City of Merced.

4. **COMPENSATION.** Payment by the City to the Consultant for actual services rendered under this Agreement shall be made upon presentation of an invoice detailing services performed under the Scope of Services, in accordance with the fee schedule set forth in Table 2. Estimated Cost on page 22 of Exhibit "A" attached hereto and incorporated herein by reference. The Consultant agrees to provide all services required under the Scope of Services in Exhibit "A" within the compensation amount set forth in Table 2. Estimate Cost of Exhibit "A". For Consultant's services rendered under this Agreement, City shall pay Consultant the not to exceed sum of Two Hundred Two Thousand Eight Hundred Twenty Dollars (\$202,820).

5. **METHOD OF PAYMENT.** Compensation to Consultant shall be paid by the City after submission by Consultant of an invoice delineating the services performed. City agrees to pay Consultant within 30 days of invoice receipt.

6. **RECORDS.** It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Consultant relating to the matters covered by this Agreement shall be the property of the City upon full payment to Consultant, and Consultant hereby agrees to deliver the same to the City upon termination of the Agreement and full payment to Consultant. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

7. **CONSULTANT'S BOOKS AND RECORDS.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

8. INDEPENDENT CONTRACTOR. It is expressly understood that Consultant is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Consultant shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Consultant desire any insurance protection, the Consultant is to acquire same at its expense.

In the event Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

9. INDEMNITY.

A. Indemnity for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and any and all of its officials, employees and agents from and against any and all losses, liabilities, damages, costs, and expenses, including reasonable legal counsel's fees and costs but only to the extent the Consultant (and its Subconsultants), are responsible for such damages, liabilities and costs on a comparative basis of fault between the Consultant (and its Subconsultants) and the City in the performance of professional services under this agreement. Notwithstanding the foregoing, with respect to any professional liability claim or lawsuit, this indemnity does not include providing the primary defense of City, provided, however, Consultant shall be responsible for City's defense costs to the extent such costs are incurred as a result of Consultant's negligence, recklessness or willful misconduct.

B. Indemnity for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings,

regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including reasonable legal counsel's fees and costs, court costs, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or City for which Consultant is legally liable, including, but not limited to officers, agents, employees, or subcontractors of Consultant.

10. **INSURANCE.** During the term of this Agreement, Consultant shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. **Workers' Compensation Insurance.** Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law, including Employer's Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

b. **General Liability.**

- (i) Consultant shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
- (ii) Consultant shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- (iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Consultant.
- (iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.
- (v) Consultant shall maintain its commercial general liability

coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

c. Automobile Insurance.

- (i) Consultant shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- (ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired or borrowed by the Consultant.
- (iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Consultant shall carry professional liability insurance appropriate to Consultant's profession in the minimum amount of One Million Dollars (\$1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.

e. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

- (i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
- (ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through

the California State Compensation Fund).

f. Certificate of Insurance. Consultant shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium. In addition to any other remedies City may have, City reserves the right to withhold payment if Consultant's insurance policies are not current.

11. PREVAILING WAGES.

A. Labor Code Compliance. If the work performed under this Agreement falls within Labor Code Section 1720(a)(1) definition of a "public works" the Consultant agrees to comply with all of the applicable provisions of the Labor Code including, those provisions requiring the payment of not less than the general prevailing rate of wages. The Consultant further agrees to the penalties and forfeitures provided in said Code in the event a violation of any of the provisions occurs in the execution of this Agreement.

B. These wage rate determinations are made a specific part of this Agreement by reference pursuant to Labor Code Section 1773.2. General Prevailing Wage Rate Determinations may be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov/>.

C. After award of the Agreement, and prior to commencing work, all applicable General Prevailing Wage Rate Determinations, if applicable, are to be obtained by the Consultant from the Department of Industrial Relations. These wage rate determinations are to be posted by the Consultant at the job site in accordance with Section 1773.2 of the California Labor Code.

D. Consultant agrees to include prevailing wage requirements, if applicable, in all subcontracts when the work to be performed by the subcontractor under this Agreement is a "public works" as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771.

12. ASSIGNABILITY OF AGREEMENT. It is understood and agreed that this Agreement contemplates personal performance by the Consultant and is

based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express written consent of the City.

13. **TERMINATION FOR CONVENIENCE OF CITY.** The City may terminate this Agreement any time by mailing a notice in writing to Consultant that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

14. **CONFORMANCE TO APPLICABLE LAWS.** Consultant shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by Consultant in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

15. **WAIVER.** In the event that either City or Consultant shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

16. **INCONSISTENT OR CONFLICTING TERMS IN AGREEMENT AND EXHIBITS.** In the event of any contradiction or inconsistency between any attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control.

Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

17. **AMBIGUITIES.** This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.

18. **VENUE.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

19. **AMENDMENT.** This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

20. **INTEGRATION.** This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

21. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

22. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be

executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
STEPHANIE R. DIETZ, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY:  9/13/23
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

CONSULTANT
DUDEK,
A California Corporation

BY:  61A12CB5F28F42F...
(Signature)

Joseph Monaco
(Typed Name)

Its: President
(Title)

Taxpayer I.D. No. 95-3873865

ADDRESS: 605 Third Street
Encinitas, CA 95762

TELEPHONE: 916-438-5314

FAX: 916443-5113

E-MAIL: kwaugh@dudek.com



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AUBURN, CALIFORNIA 95603
T 530.887.8500 F 530.887.1250

Julie Nelson
Senior Planner
City of Merced
678 West 18th Street
Merced, CA 95340
Submitted via email to nelsonj@cityofmerced.org

July 31, 2023

Subject: Recirculated Environmental Impact Report Proposal for the Heritage Group Gardner Site Annexation and Development Project

Dear Julie,

Dudek appreciates the opportunity to provide this proposal to prepare a Recirculated Environmental Impact Report (EIR) for the Heritage Group Gardner Site Annexation and Development Project (Gardner Site Project, or project). This project would affect the same property that was addressed under the Draft EIR that Dudek prepared for the Yosemite Avenue-Gardner Avenue to Hatch Road Annexation Project (published September 2021).

The current Gardner Site Project proposes development in the same footprint as the prior project but would develop 20 fewer residential units and 22,000 more square feet of commercial space. As demonstrated in our proposed scope of work, we anticipate that because the project would use the same footprint as was previously, evaluated, much of the environmental impact analysis would require only minor updates and revisions. We propose to prepare a Recirculated EIR that is focused on the topics where more substantive updates and revisions are needed.

We are excited about this opportunity to work with the City to facilitate an efficient and thorough environmental review process for the project. As always, I'm happy to discuss the proposal with you should there be any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Katherine Waugh". The signature is written in a cursive style and is positioned above a horizontal line.

Katherine Waugh
Senior Project Manager

Proposal to Prepare a Recirculated Environmental Impact Report for the Heritage Group Gardner Site Annexation and Development Project

Project Understanding

The Heritage Group Gardner Site Annexation and Development Project would annex 68.6 acres from the County of Merced to the City of Merced (City) and construct 520 dwelling units (apartments) in 10 buildings, 88,090 square feet of commercial space, and a dog park. The residential component of the project would be located on 18.25 acres and would include 800 parking spaces. The commercial component of the project would be located on 10.25 acres in the southwest corner of the site and would include 406 parking spaces.

The project site is located in unincorporated Merced County but adjoins the City. The site extends north of East Yosemite Avenue between Gardner Avenue on the west and Hatch Road on the east. The City limits are immediately adjacent to the project site on the west and south and the project applicant is requesting the site be annexed into the City. The project is proposed to be located on the same site on which a similar development was previously proposed. Dudek worked with the City to prepare California Environmental Quality Act (CEQA) documents for the previous development proposal. This included Notices of Preparation (NOPs) that were published in 2016 and in 2020 as well as a Draft EIR that was published in September 2021. Dudek began work on the Final EIR, but the Final EIR was not completed before the project was placed on hold.

Key Issues

In response to the prior NOPs, the City received comment letters from the California Department of Conservation (DOC), California Department of Fish and Wildlife (CDFW), California Department of Transportation (Caltrans), Local Agency Formation Commission of Merced County (LAFCO), Merced Irrigation District (MID), Native American Heritage Commission (NAHC), and San Joaquin Valley Air Pollution Control District (SJVAPCD), and from six members of the public. A majority of the stated concerns in response to the 2016 NOP were related to potential traffic impacts, preservation of agricultural land, noise, lighting, neighboring property values, and the availability and adequacy existing of public services and utilities. In response to the revised 2020 NOP, stated concerns were related to potential impacts on biological resources, preservation of agricultural land, the proposed site plan configuration, the availability and adequacy existing of water supply and utilities, neighboring property values, as well as potential noise, traffic, and visual impacts.

In response to the Draft EIR, the City received comment letters from SJVAPCD, NAHC, and Merced County Farm Bureau (which only identifies a typographical error). The NAHC comment letter did not identify any deficiencies in the analysis or process. The primary comment from the SJVAPCD was to identify that a

construction Health Risk Assessment is needed and Dudek has included that required analysis in this proposed scope of work.

In addition to consideration of the previous NOP and EIR comments, Dudek staff have identified that there are new special status species observances that warrant consideration and a potential for indirect effects to adjacent properties that contain buildings and structures that are at least 45 years old and thus require analysis for potential historic significance.

Approach

Given that the project footprint would not change and considering both the specific changes in the development proposal and the provisions of CEQA Guidelines Section 15088.5 *Recirculation of an EIR Prior to Certification*, Dudek recommends that a Recirculated EIR is the appropriate CEQA document for this project. Further, Dudek recommends that the Recirculated EIR be focused on those topics where there have been changes in the site conditions, changes in applicable regulatory requirements and standards, and/or substantive changes in the impact analysis and mitigation measures. These factors could represent significant new information that needs to be circulated for public review to afford the public a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect.

Dudek will update technical studies, peer review updated technical studies provided by the project applicant, and prepare a new NOP, Draft and Final EIR, and all required CEQA notices. The NOP will provide substantial evidence demonstrating that the project revisions will not require additional of significant new information to certain environmental resource analyses and will document those sections of the EIR that will be recirculated. This approach will help control overall costs for the EIR and focus the public review and discussions on those resource areas where potentially significant impacts could occur.

Proposed Work Plan

Task 1: Project Initiation

Upon execution of the EIR contract, Dudek Project Manager Katherine Waugh will attend a virtual project initiation meeting with City staff and the project applicant representatives, if invited by the City. Although Dudek has been working with the City on this project for a number of years, the project has been on-hold for about a year and has been revised by the new project applicant. This meeting will provide a valuable opportunity to ensure that all parties have a thorough understanding of the project site conditions, proposed project components, and CEQA process. During this meeting we will discuss and review the scope of the project, formalize key project assumptions, and define important milestones and other success factors for the project. This meeting will also offer an opportunity to confirm document format requirements, points of contact and communication protocols, and any other logistical, technical, or procedural concerns. We approach every project with the understanding that attention on the front end of a project can save substantial time and costs in the long run.

Task 2: City Data Update, Project Description, and Request for Information

City Data Update

The Dudek team will coordinate with the City staff to identify any new regulations, policies, updated public services information, new utilities information (such as wastewater conveyance capacity), and any updates in the regional planning documents since the original Draft EIR was prepared.

From this new review and coordination with the City, Dudek will identify any new applicable policies and standards that will be cited in the EIR as portions of the regulatory framework governing impact analysis for this project.

Project Description

Dudek will revise the original Draft EIR project description to reflect the current proposal. It will document existing planning and environmental context for the project site and adjacent properties, provide a detailed description of the project components, and identify general construction logistics and schedule.

Figures will be included in the project description; however, during preparation of the first draft of the project description, only the general context figures (such as a map of the project location and aerial photograph of the project site) will be prepared. Figures based on the proposed project site plans will be prepared after those plans have been revised by the project applicant based on City staff comments.

The draft project description will be submitted to the City and the project applicant for review and comment, and Dudek will further revise the project description as necessary. We assume that Dudek will prepare no more than three versions of the project description (draft, revised, and final). The approved project description will be used as the basis for all project analyses. New minor revisions to the project description are anticipated as part of the EIR process; however, major changes could substantially affect impact analyses. Any changes to the project description that require revisions to completed or in-progress tasks could represent additional costs not included in the proposed budget.

Request for Information

Based on our review of project-specific and citywide documents, Dudek will prepare an information request to identify additional data and information needed to support preparation of the project description, technical studies, and EIR. This initial request for information will be submitted to the City and applicant with the first draft of the project description.

Often, we will identify further data/information needs as we review the responses to the initial data needs request and conduct additional research regarding the project. If this occurs, Dudek will inform the City's project manager and will prepare and submit additional data/information requests.

Task 3: Technical Study Updates

Dudek has identified three technical studies that require updates to address any changes in the environmental and regulatory setting that could alter the EIR impact analysis and conclusions. We propose to complete these studies in advance of preparing the Notice of Preparation (NOP) so that these topics can be excluded from the EIR if the technical study updates do not result in identification of new or more severe impacts.

3.1. Biological Resources

Dudek will conduct an updated query of the California Department of Fish and Wildlife California Natural Diversity Database, United States Fish and Wildlife Service IPaC Trust Resources database, and the California Native Plant Society Inventory of Rare and Endangered Plants to identify any new occurrences of listed or special-status species plants or wildlife found within the site region. Based on a preliminary review, there are at least two new species occurrences that must be addressed: Crotch's bumble bee (*Bombus crotchii*) and alkali-sink goldfields (*Lasthenia chrysantha*). A biological field survey of the site was last completed in December 2016; thus, a single site visit is included to verify or characterize existing conditions.

If we find that conditions have not changed substantially and there is no new or more severe impacts compared to the analysis in the 2021 EIR, we will prepare a brief memorandum reporting the findings of this analysis. If we find that there is significant new information regarding the project's impacts to biological resources, we will not prepare this memorandum and instead will complete Optional Task xB to update the Draft EIR section and include it in the Recirculated Draft EIR. In either case, the need for any additional focused biological surveys will be identified, and those surveys can be done under a separate scope and cost or may be integrated into mitigation measures that are completed after project approval.

Optional Task 3.2. Aquatic Resources Delineation

An aquatic resources delineation was not completed as part of the biological resources assessment and prior Draft EIR. However there are two potentially jurisdictional drainages within the development footprint and other potentially jurisdictional features within the remainder of the project site. The prior Draft EIR included Mitigation Measure 3.4i, which requires completion of an aquatic resources delineation and replacement of any aquatic habitat lost due to development at a minimum 1:1 ratio. Dudek offers an optional task to prepare the aquatic resources delineation as part of the Recirculated EIR scope of work to more accurately characterize the range and extent of biological resources within the project site, provide the project applicant with the opportunity to modify the site layout to minimize impacts to jurisdictional features, and streamline the process of obtaining grading and building permits by avoiding the need to complete this field work and analysis upon the conclusion of the CEQA process.

Delineation Fieldwork. Dudek biologists will conduct a formal aquatic resources delineation of state and federal jurisdictional waters within the development footprint in accordance with the following agencies and regulations: the U.S. Army Corps of Engineers (USACE), pursuant to Section 404 of the federal Clean Water Act; the Regional Water Quality Control Board (RWQCB), pursuant to Section 401 of the federal Clean Water Act and the Porter-Cologne Act; and CDFW pursuant to the California Fish and Game Code.

Jurisdictional waters of the United States, including wetlands with continuous surface connection to waters of the United States, will be delineated in accordance with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual (TR Y-81-1) and current published USACE guidance at the time of the delineation report. Non-wetland waters will be mapped at the ordinary high water mark based on the procedures defined in USACE's 2008 A Field Guide to Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States. Waters of the state will be mapped in accordance with the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Procedures) adopted on April 2, 2019, and revised on April 6, 2021. As described in these procedures, wetland waters of the state will be mapped based on the procedures in USACE's 1987 Corps of Engineers

Wetlands Delineation Manual and its 2008 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0).

Areas under the jurisdiction of the RWQCB generally coincide with waters of the United States; however, isolated waters may be under the jurisdiction of the RWQCB as waters of the state as provided by the state Porter-Cologne Act. Additionally, riparian habitat associated with stream channels may be subject to the jurisdiction of CDFW.

Vegetation, hydrology, and soils will be examined at each aquatic feature potentially under federal/state jurisdiction. If needed, wetland sampling points will be conducted to determine the extent of the jurisdictional areas. Where the extent of these jurisdictional areas is questionable or unclear, additional data stations will be completed. The 2020 USACE National Wetland Plant List will be used, as recently directed by the USACE, to determine the indicator status of plant species. Drift lines and drainage patterns will be noted, where present. Munsell soil color charts will be used to determine soil chroma and value. Soil pits will be dug to depths ranging from 10 to 16 inches. Excavated soils will be examined for evidence of hydric conditions, including low chroma values and mottling, vertical streaking, and high organic matter content in the upper horizon.

Once the data collection at various sampling stations has been completed, the boundaries of the jurisdictional features will be delineated in the field using a web mapping application (Collector for ArcGIS) with sub-meter accuracy. All delineated features will be depicted on project maps of the review area.

Aquatic Resources Delineation Report. In January 2016, the Sacramento District of the USACE published Minimum Standards for Acceptance of Aquatic Resources Delineation Reports (USACE 2016) which outlines specific items the USACE requires when reviewing a delineation. To support the Resource Agencies (i.e., USACE, RWQCB and CDFW) in concurring with the jurisdictional determination for the site, Dudek will prepare an Aquatic Resources Delineation Report. The budget for this task includes one round of edits to the draft report.

3.3. Archaeological Resources

Archaeological Inventory: Dudek has provided support on a number of previous cultural resources investigations for this project site. In general, previous documentation is sufficient to support present project needs. Dudek recommends that the records searches and related report be updated to meet CEQA best practice standards.

Dudek will conduct a records search for a 1/2-mile radius around the proposed project area at the Central California Information Center (CalC) to obtain information on previously recorded cultural resources and investigations. We anticipate direct costs for the records search to be no more than \$1,200

Upon written notice to proceed, we will also initiate correspondence with the Native American Heritage Commission (NAHC) to request an updated search of the Sacred Lands File for any known Native American resources identified within the APE. As part of the results of this search, the NAHC will provide a Contact List of tribal individuals and organizations that may have additional information concerning resources in the vicinity. Dudek will not send subsequent tribal outreach letters; it is anticipated that government-to-government notification and consultation pursuant to Assembly Bill (AB) 52 will be completed by the lead agency for compliance with CEQA. If there is future federal agency review, additional outreach may be required to meet best practice and agency standards for Section 106 of the

National Historic Preservation Act (NHPA). Associated tribal outreach would be outside of the present scope of work, although we would be happy to work with you to develop an additional scope and cost, should this be required.

Dudek will document the updated CalC and NAHC results of within the existing technical report for the Project site. The report will include a project location and description, regulatory context, cultural context, review of geomorphic information for suitability to support unanticipated archaeological resources, a summary of records search results, a discussion of impacts to cultural resources, and recommended mitigation. Reporting strategy may need to be adjusted in the event that archaeological resources are encountered. Up to three drafts of the latter report are included in this scope of work. In the event that these conditions change, we will work with you to provided an augmented scope and cost, based on your needs. The budget for this task also include time for senior Dudek archaeologists to attend up to two virtual meetings.

The project is subject to compliance with Assembly Bill (AB) 52 and Senate Bill (SB) 18. These laws require lead agencies to provide tribes who have requested notification with early notice of the project and, if requested, consultation to inform the CEQA process concerning Tribal Cultural Resources. AB 52 is a government-to-government process between the CEQA lead agency and California Native American tribes. If requested by the City, Dudek will assist with their Native American consultation obligations under AB 52. Assistance with these efforts might include providing Draft notification letters subject to the City's approval and on City letterhead for dissemination to each of the tribal representatives who have previously contacted the City requesting project notification and, if desired by the City, any additional names provided by the NAHC.

3.4. Built Environment (Historic) Resources

This scope of work includes tasks to complete the inventory and evaluation of historic built environment resources in conformance with the California Environmental Quality Act (CEQA) and all applicable local municipal guidelines and regulations. The present scope assumes that the project does not have a federal nexus and that, therefore, regulatory compliance with Section 106 of the National Historic Preservation Act and the National Environmental Policy Act are not required.

Supplementary Built Environment Inventory and Evaluation. The Cultural Resources Assessment Dudek prepared for the project site in August 2020 evaluated the approximately 30-acre development footprint (Assessor's Parcel Numbers [APNs] 060-890-001-000 and 060-890-002-000) and found the property to be ineligible for listing in the National Register of Historic Places (NRHP) and the California Register of Historical Resources (CRHR). Based on a review of the revised project and the general project area, Dudek has identified four additional properties that contain building(s) more than 45 years old that will be located within the Built Environment Area of Potential Impacts (API) and will therefore require formal recordation and evaluation under applicable historic significance criteria. Because these properties contain buildings and structures more than 45 years old, recordation and evaluation are necessary to establish their historical significance and to determine whether the resources are historical resources as defined under CEQA (14 CCR § 15064.5[a]). Dudek will, therefore, evaluate these properties' potential for significance under NRHP, CRHR, and local criteria. The significance evaluations will inform Dudek's analysis of the project's impacts on any historical resources identified within the API.

The scope of work for built environment tasks will include the following:

Records Search Review and Background Research. Dudek built environment cultural resources staff will review the CHRIS records search that will be completed at the Central California Information Center (CCIC) as part of the Archaeological Resource Inventory task. The purpose of the records search is to identify any previously recorded historic built environment resources that may be located within the study area. As part of this task, Dudek will conduct background research to develop an appropriate historic context to evaluate the significance of any potential historical resources identified within the study area. Dudek will also coordinate with local historical societies, advocacy groups/stakeholders who may have information on cultural resources within the project area and their history. This coordination will include limited outreach via emails and phone calls concerning the project area and its historical associations. No follow-up phone calls or in-person meetings are included in this task.

Area of Potential Impacts Map and Survey. Upon completion of the records search review, Dudek will develop an API map that will consider potential project related direct and indirect effects on any identified historical resources within the API. Following the delineation of the API, Dudek will conduct an intensive-level field survey to record historic era built resources in the API. Dudek assumes the following properties and structures, which are within or adjacent to the project area and contain buildings and structures older than 45 years will be included in the API:

- 2076 East Yosemite Avenue (APN 060-890-004), residential farm established in 1956
- 3570 North Gardner Avenue (APN 060-890-005), residential property established in 1954
- 3580 North Gardner Avenue (APN 060-890-006), residential property established in 1978
- 3604 North Gardner Avenue (APN 060-890-007), residential property established in 1962

The survey will be conducted by two qualified cultural resources specialists working no more than one field day. Hours under this task include survey coordination, travel time, and photo processing. The built environment component of the survey will entail taking detailed notes and photographs. We assume that the survey will be limited to the recordation of the four parcels listed above within the API, as well as their spatial relationships with the surrounding setting, landscaping, and observed alterations. We assume that the City and Heritage Group will provide and/or facilitate access to the properties.

Reporting. Preliminary research indicates that the project site includes four parcels that do not appear to have been previously evaluated for historic significance. This task includes Dudek's completion of State of California Department of Parks and Recreation Series 523 Form sets (DPR form sets) for each of the four properties listed above to evaluate each in consideration of NRHP, CRHR, and local designation criteria and integrity requirements. The DPR form sets will be appended to the applicable technical report described below. Should more than four properties/structures total require evaluation and consideration as part of the project, a budget augment will be required.

Dudek will prepare a Built Environment Inventory and Evaluation Report that will summarize the results of the survey, research, and property significance evaluations. The report will discuss the proposed project description, regulatory framework, all sources consulted, research and field methodology, and recommendations for appropriate management. Based on preliminary review of the property and our understanding of the proposed project, Dudek assumes that the CEQA finding for historical resources will be no impact and no mitigation will be required. Should this assumption change over the course of

completing technical work, Dudek reserves the right to revisit this scope and associated cost. We assume no more than one draft and one final version of the report will be required. Should any additional resources be identified as a result of the survey requiring recordation and evaluation a budget augment may be required to address the resources.

Task 4: Revised Notice of Preparation

Dudek will prepare a revised Notice of Preparation (NOP) that will summarize the project revisions and anticipated scope of the Recirculated Draft EIR. While an NOP is not required for a Recirculated Draft EIR, given the length of time since the 2020 NOP and 2021 Draft EIR were published, Dudek recommends circulating a revised NOP for public review to ensure that agencies and the community are aware that the City is continuing to process this application, informed of the project revisions, and have the opportunity to comment on the anticipated scope of the Recirculated Draft EIR.

The NOP will include a brief history of the CEQA process conducted for the original project, an overview of the current project description, a discussion of the EIR sections where no changes in impacts are expected and thus will not be included in the Recirculated Draft EIR along with justification for those expectations, and a list of the EIR sections that will be included in the Recirculated Draft EIR. We assume Dudek will prepare no more than three versions of the Revised NOP (draft, revised, and final). Dudek will also prepare notices required to file the NOP with the State Clearinghouse and coordinate with City staff to ensure appropriate local distribution of the NOP.

In general, the EIR sections that Dudek expects would be excluded from the Recirculated Draft EIR are those that relate to the physical footprint of development, which is not proposed to change relative to the prior project. However, where changes in the environmental or regulatory conditions related to a particular environmental resource that may lead to identification of a new or more severe environmental effect, the associated EIR section will need to be included in the Recirculated Draft EIR. We expect that the following topics will be covered in the Recirculated Draft EIR:

- **Aesthetics** – to address changes in site layout, building heights, and building/parking proximity to site boundaries; and any changes in lighting.
- **Air Quality** – the increase in the amount of commercial space is expected to increase air pollutant emissions during construction and increase traffic volumes during operation. Additionally, the SJVAPCD commented on the prior Draft EIR that a Health Risk Assessment must be prepared. Dudek will complete new modeling and analysis as described in Task 5.1 to address air pollutant emissions during construction and operation and construction period health risks.
- **Energy** – to incorporate updated energy consumption estimates based on modeling completed for the air quality and greenhouse gas emissions analysis.
- **Greenhouse Gas Emissions** – to address greenhouse gas emissions during construction and operation.
- **Land Use and Planning** - although land uses are not changing, the layout places buildings closer to the property boundaries so revisions to the land use compatibility discussion will be needed. Also the second impact regarding consistency with plans and policies is dependent on completion of the technical studies and updated impact analysis, thus we would not have sufficient information at the NOP stage to focus this topic out of the Recirculated Draft EIR.
- **Noise** – to address noise levels during construction and operation.

- **Transportation** – to address increased transportation impacts that may result from the increase in commercial space.
- **Utilities and Service Systems** - to address increased demand for potable water and for wastewater conveyance and treatment. We assume the project applicant will submit an updated Water Supply Assessment to address the project's water demands and the ability of .

The topics that we do not anticipate including in the Recirculated Draft EIR include the following:

- **Agriculture and Forestry Resources** – there are no changes in the development/annexation footprint and no changes in the Farmland Mapping and Monitoring Program classifications for the project site. Mitigation Measure 3.2a as presented in the original Draft EIR would continue to apply to the project, which would reduce the impact of loss of agricultural land to a less than significant level.
- **Biological Resources** – there are no changes in the development/annexation footprint. Assuming that no new or more severe are identified through the technical study update under Task 3, no significant new information would be needed and this topic can be focused out of the EIR. All of the mitigation measures included in Section 3.4 of the prior Draft EIR will continue to apply to the project to ensure impacts remain less than significant.
- **Cultural Resources** – there are no changes in the development/annexation footprint. Assuming that no new or more severe are identified through the technical study update under Task 3, no significant new information would be needed and this topic can be focused out of the EIR.
- **Geology and Soils** – This topic was omitted from the prior Draft EIR based on documentation in the NOP that there was no potential for significant adverse effects to occur. The currently proposed project would have the same development footprint as the original project. The revisions in the project components do not alter the project's potential to result in adverse effects related to geology and soils.
- **Hydrology and Water Quality** – The prior project included a detention basin with capacity for approximately 6 acre feet of water and pump station. The current site plan does not indicate any detention facility or other stormwater management improvements. However, we assume that the project design will include stormwater management measures to meet the requirements of Merced Municipal Code Chapter 15.50 as well as the City's Storm Water program, Post Construction Standards Plan, Introduction to Standard Designs, and the Small MS4 General Permit issued by the SWRCB. We also assume that the project applicant will submit updated reports demonstrating compliance with these standards , including a Storm Drainage Report and a Flood Study. Compliance with these regulations and standards would ensure that the impacts stormwater and water quality impacts of the Gardner Site Project would remain less than significant, consistent with the findings of the original EIR .
- **Hazards and Hazardous Materials** – Consistent with the statements in the prior NOPs, the project does not propose uses that would require the generation or use of hazardous materials and would not create a risk to the public or to schools in the project vicinity; and the project site is not within two miles of an airport and would not interfere with an adopted emergency evacuation plan.
- **Mineral Resources** – The project site is not known to support any mineral resources or mineral resource extraction activities. As demonstrated in the prior NOPs, the proposed project would have no impact on mineral resources.

- **Public Services and Recreation** – The NOP will document updated demands for public services based on the reduction in dwelling units and increase in commercial space. Dudek assumes that impacts to public services will remain less than significant.
- **Tribal Cultural Resources** – As described in Task 3.3, Dudek will support City staff in completing Native American consultation as required under Assembly Bill 52 and Senate Bill 18. Given the lack of responses from tribal organizations to the prior notifications and NOPs, Dudek assumes no tribes will request consultation or identify potential impacts to tribal cultural resources.
- **Wildfire** – The project site is not located in or adjacent to State Responsibility Area and there are no areas of Very High Fire Hazard Severity for the Local Responsibility Area throughout Merced County. The NOP will demonstrate that the Project would not exacerbate wildfire risks or interfere with emergency response and evacuation plans.

Dudek will coordinate with the City to ensure appropriate document distribution. Dudek assumes the City will undertake distribution to local agencies and individuals and provide for publication of a notice of availability in the newspaper; Dudek will submit the document electronically to the State Clearinghouse.

We assume that a public scoping meeting will not be held. At the conclusion of the NOP review period, Dudek will prepare a scoping comment summary.

Task 5: Technical Studies

To support preparation of the Recirculated Draft EIR, Dudek will prepare the following technical studies.

5.1: Air Quality, Greenhouse Gas, and Energy Consumption Modeling

Dudek proposes to conduct modeling of the project's air pollutant and greenhouse gas (GHG) emissions during construction and operation and use the resulting data to quantify the project's energy consumption. Rather than prepare a separate technical memorandum, Dudek's air quality specialists will directly prepare the EIR sections for these topics and prepare the modeling data documentation as a technical appendix to the EIR.

Air Quality Assessment

Dudek will prepare an updated assessment of the air quality impacts of the project utilizing the significance thresholds in the SJVAPCD guidelines for CEQA implementation, including their 2015 Guidance for Assessing and Mitigating Air Quality Impacts. After reviewing the updated project materials and prior Draft EIR, Dudek will prepare a request for any outstanding data needed to conduct the analysis. If precise information on a particular factor is not available from the applicant or its representatives, Dudek will make every effort to quantify these items using the best available information for comparable data sources, but in all cases will consult first with the City and applicant regarding the information needed. The air quality section of the EIR will include an updated environmental setting and regulatory framework discussion.

Dudek will estimate construction emissions associated with implementation of the project using the California Emissions Estimator Model (CalEEMod). The analysis of short-term construction emissions will be based on scheduling information (e.g., overall construction duration and phasing) and probable construction activities (e.g., construction equipment type and quantity, workers, and haul trucks) developed by the applicant or its representative. The emission estimates will consider the SJVAPCD's

fugitive dust prohibition rules and regulations, which require fugitive dust control at construction sites. Dudek will then evaluate the significance of the emissions based on the SJVAPCD significance criteria.

The proposed project may also result in a short-term increase in toxic air contaminants emissions related to construction, specifically diesel particulate matter (DPM). The nearest sensitive receptors (residential housing bordering the project site to the south and west) are located approximately 65 feet from the project site. Given the distance to the nearest sensitive receptors and the anticipated construction activity, a quantitative assessment of construction health risks is proposed and discussed below.

Dudek will estimate criteria air pollutant emissions from operation of the project using CalEEMod and spreadsheet calculations based on industry standard emission factors developed by the SJVAPCD and other California air districts, as necessary, to accurately estimate emissions from all project sources. Operational sources of emissions are anticipated to be generated by motor vehicles travelling to and from the site by guests and operators. Dudek will work with the applicant to identify all sources of emissions and the appropriate assumptions.

Dudek will evaluate whether traffic associated with the project could lead to potential exposure of sensitive receptors to substantial localized concentrations of air pollutant emissions, specifically carbon monoxide “hot spots.” The qualitative assessment will be based on the traffic assessment prepared for the project and applicable screening criteria recommended by the SJVAPCD and/or Caltrans. For budgetary purposes, it is assumed that the study intersections would not exceed the applied screening criteria and a quantitative carbon monoxide hotspots analysis would not be required.

The project would not be a source of toxic air contaminants such as DPM during operations. It is assumed that the project would not generate more than 100 heavy duty diesel (4+ axle) truck trips per day and would be connected to the electric grid and not rely on stationary sources such as diesel-powered generators. As such, a qualitative assessment of operational health risks will be provided. Land use siting guidance from the SJVAPCD and California Air Resources Board will be used to support the qualitative assessment. If it is determined that the project may include sources of toxic air contaminants during operations, a quantitative assessment is recommended, and a scope of work and budget amendment will be provided for review and authorization.

Per the SJVAPCD Guidelines, if a project emits greater than 100 pounds per day of any criteria air pollutant during construction or operation, dispersion modeling analysis of the concentrations of coarse particulate matter (PM₁₀), fine particulate matter (PM_{2.5}), nitrogen dioxide, carbon monoxide, and sulfur dioxide at the project boundary resulting from construction or operation of the proposed project would be required. Dudek has the in-house capabilities to perform this analysis using a dispersion model and following the guidance provided by the SJVAPCD. At the proposal stage, it is unknown if project-generated construction or operational emissions would exceed the 100 pounds per day of any criteria air pollutant ambient air quality analysis trigger. Therefore, a construction or operational ambient air quality analysis is not included in our scope and budget but could be provided under a separate scope and budget if determined to be required. Dudek will promptly notify the City if such analysis is determined to be required.

The potential for project construction to exacerbate the incidence of Valley Fever fungal spores (*Coccidioides immitis*) exposure will be addressed in the analysis. This assessment will be qualitative and will discuss the causes, effects, and incidence of Valley Fever in the project area and include recommended mitigation to reduce the potential exposure of workers and offsite receptors to Valley Fever

fungal spores. Assembly Bill 203, requiring employer-provided safety training on Valley Fever for Merced County for employees at risk of prolonged exposure to dust, will be discussed.

All Appendix G thresholds will also be evaluated, including the potential for the project to cause objectionable odors, or to impede attainment of the current SJVAPCD air quality plan. Dudek assumes that the project would be in compliance with SJVAPCD Rule 9510, Indirect Source Review. Compliance with Rule 9510 has not been included within this scope. If requested, Dudek can provide assistance with Rule 9510 under a separate scope and budget.

Construction Health Risk Assessment

The project would result in a short-term increase in toxic air contaminants emissions related to project construction activities such as construction equipment use and diesel vehicle travel. The main contaminant of concern is diesel particulate matter, which has been listed as a toxic air contaminant by CARB.

To evaluate the potential for the project to expose nearby sensitive receptors to TACs that would result in a health risk impact, Dudek will use the American Meteorological Society/EPA Regulatory Model (AERMOD), which is required by SJVAPCD to conduct dispersion modeling, and CARB's Hot Spots Analysis and Reporting Program Version 2 (HARP2) to calculate the health impacts, along with local meteorological data obtained from the SJVAPCD and the estimated toxic air contaminant emissions. The SJVAPCD's AERMOD modeling guidance will be followed. The maximum cancer risks at the appropriate receptors (e.g., proximate residential receptors) will be tabulated. Cancer risk isopleths (i.e., lines of equal cancer risk) will be plotted on figures showing the project site if the maximum cancer risk exceeds the SJVAPCD significance threshold. If the health impacts exceed the thresholds of significance, we will suggest appropriate mitigation measures to reduce the health impacts. A health risk assessment will be prepared as a technical appendix and a summary of the methodology and results will be provided in the air quality section of the EIR.

Greenhouse Gas Assessment

The revised GHG emissions assessment will include an updated description of global climate change and summary of applicable regulatory measures. This analysis will be consistent with any guidance provided by the City and the SJVAPCD's 2009 Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA.

Dudek will estimate the GHG emissions associated with construction of the revised project using CalEEMod based on the same construction scenario utilized in the air quality analysis. Project-generated operational GHG emissions that will be estimated may include those associated with mobile sources. When project details are not available, CalEEMod default values will be used to calculate direct and indirect source GHG emissions.

Dudek will assess the significance of the project with respect to the Appendix G thresholds; specifically, whether a project would (a) generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment and (b) conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions. The City's 2012 Climate Action Plan will be used for CEQA GHG analysis.

To assist Lead Agencies, project proponents, permit applicants, and interested parties in assessing and reducing the impacts of project-specific GHGs on global climate change, the SJVAPCD has adopted the Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA (SJVAPCD GHG Guidance). The guidance recommends, but does not require, that lead agencies, such as the City, use Best Performance Standards (BPS) to assess significance of project specific GHG emissions on global climate change during the environmental review process. Projects which are found to implement BPS would not require quantification of project specific GHG emissions. In light of the Supreme Court decision on the Newhall Ranch project Environmental Impact Report in the Center for Biological Diversity v. California Department of Fish and Wildlife, Dudek will work with the City to confirm the appropriate approach to determine the significance of impacts associated with project-generated GHG emissions under CEQA. The GHG analysis will discuss the project's potential to conflict with the applicable policies in the City's General Plan, which has several policies that specifically identify measures to reduce GHG emissions, and the Merced County Association of Governments 2022 Regional Transportation Plan, which contains a Sustainable Communities Strategy, and applicable development standards that would increase energy efficiency.

Energy

The energy analysis will include an updated setting discussion of electricity, natural gas, and petroleum. Based on Appendix G of the CEQA Guidelines, the impact analysis will assess if the project would (1) result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation, and (2) conflict with or obstruct a state or local plan for renewable energy or energy efficiency. The Project will be assessed in regard to construction and operational energy consumption of electricity, natural gas, and petroleum, which will be quantified using CalEEMod data from the GHG assessment. Project elements that would reduce the Project's energy demand will be identified in the analysis and quantified as available. Dudek assumes that the applicant will provide a list of the Project's sustainable design and energy conservation measures prior to initiating air quality and GHG emissions modeling, as the energy analysis will be prepared consistent with the emissions modeling assumptions. The analysis will be wholly contained within the EIR with supporting information provided as an appendix.

5.2: Noise Assessment

Dudek will update the noise and vibration study of potential impacts to existing noise-sensitive and vibration-sensitive vicinity land uses (mainly residential with a church and private school) from project construction and operation. The impact analysis will reflect Appendix G of the CEQA Guidelines; specifically, whether a project would (1) result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies, and (2) result in generation of excessive ground-borne vibration or ground-borne noise levels. The site is not within 2 miles of an airport, so airport noise will not be evaluated in the assessment.

Residential communities abut the project site to the south and west and there is a church to the east. These land uses could be impacted by noise and vibration from project-related construction activities and operation and from project-related traffic.

A field noise study will be conducted to measure existing on- and off-site noise conditions. Short-term (i.e., 15–30 minutes) sound pressure level measurements will be conducted at up to three on-site and nearby noise-sensitive receiver locations, which are anticipated to include locations on E. Yosemite and N. Gardner Avenues. Manual traffic counts of vehicles along the adjacent street segments will also be completed during the sound level measurements to validate the traffic noise model for use in characterizing the ambient community noise equivalent level. At Dudek’s discretion, a 24-hour sound pressure level measurement may be conducted at one of these three locations, or at another additional location.

If necessary, as an update to the earlier study, potential construction noise impacts at nearby noise-sensitive land uses will be evaluated using an equipment inventory and construction activity information provided by the project applicant or based upon construction equipment defaults for the development type and size from the CalEEMod model and by employing the Federal Highway Administration’s construction noise model. Potential impacts from construction-related vibration will be evaluated at vibration-sensitive locations using guidance and methodologies recommended by the Federal Transit Administration or the California Department of Transportation.

Long-term on-site operational noise from heating, ventilation, and air conditioning (HVAC) equipment and any other major exterior mechanical equipment will be evaluated at existing nearby noise-sensitive receivers and at the subject property boundaries. Conceptual information for the HVAC equipment is assumed to be provided by the applicant, including capacity and location of exterior equipment. If such information is not available, Dudek will identify representative equipment based upon the residential unit count.

Long-term (operational) noise effects from existing, future, and project-related vehicle trips along the nearby roadways adjacent to noise-sensitive uses will also be updated using the project’s traffic study and the Federal Highway Administration’s Traffic Noise Model (TNM) version 2.5. Anticipated roadway segments to be evaluated would include E. Yosemite and N. Gardner Avenues.

The significance of noise and vibration impacts will be assessed based on the relevant City of Merced, state, and federal thresholds. If significant impacts are identified, mitigation measures to reduce impacts to a less-than-significant level (where feasible) will be recommended. The regulatory background, existing noise environment, study methodology, results of the noise analysis, findings of potential effects, and mitigation measures (if needed) will be summarized in the EIR Noise Section.

5.3: Transportation Impact Analysis

Dudek will retain DKS as a subconsultant for the transportation analysis

DKS understands that this is a re-analysis of a previously studied project and that several things have changed since the last iteration of this project, including modification to the project’s land use plan, Merced’s adoption of VMT Guidelines and Thresholds pursuant to SB 743, availability of an updated travel demand model (MCAG’s countywide model was not available at the time of the original DKS study), and potential changes to existing conditions after the Covid 19 pandemic.

Task A: Existing Conditions Analysis. DKS will hire a qualified data collection firm to collect current traffic counts (AM and PM peak turning movement counts) at study intersections. DKS recommends that traffic counts be conducted once the school year is underway in mid-August (or early September after Labor Day

Weekend). Study intersections will include the following ten intersections in the vicinity of the proposed project:

- G Street & Mercy Avenue
- G Street & East Yosemite Avenue
- North Gardner Avenue & East Yosemite Avenue
- North Gardner Avenue & Dunn Road
- Hatch Road & Dunn Road
- Hatch Road & East Yosemite Avenue
- Lake Road & Dunn Road
- Lake Road & East Yosemite Avenue
- McKee Road & East Yosemite Avenue
- Chaparral Drive & East Yosemite Avenue

Traffic count data will be reviewed and summarized, and level of service (LOS) will be calculated for each existing intersection in the study area. Consistent with previous iterations of this study, this scope does not include daily roadway segment counts or daily segment roadway analysis. DKS will summarize active transportation infrastructure (pedestrian and bicycle facilities) within the study area, as well as any transit routes.

Task B: Trip Generation And Distribution. DKS will revise trip generation and distribution contained in the previous study to represent the revised project description. A revised trip generation table using current ITE trip rates (11th Edition) will be prepared for use in the revised traffic study. The project trip distribution will be based on MCAG's travel demand model. Trip distribution maps will be prepared for use in the study. The revised trip generation and distribution will be implemented to determine updated project impacts on study area roadways.

Task C: Local Transportation Analysis. DKS will utilize operational models (Synchro) developed previously to analyze the operational implications of the revised project. Volume processing spreadsheets and Synchro files used for evaluating intersection operations will be updated with revised forecast volumes based on the revised trip generation and distribution and the recently acquired travel demand model. DKS will examine the revised project's non-motorized network modifications (pedestrians and cyclists) relative to existing and planned pedestrian and bicycle facilities in the study area. Any inconsistencies or conflicts will be noted. As with the previous analyses, the following scenarios will be evaluated:

- Existing Plus Project
- Existing Plus Approved Projects (if the City determines that recently approved projects need to be added to the base year travel demand model)
- Existing Plus Approved Projects Plus Project
- Cumulative No project
- Cumulative Plus Project

DKS will also revise and update operational deficiencies and resulting improvement recommendations identified in the previous study based on the revised analysis.

For the cumulative analyses, DKS will utilize MCAG's countywide travel demand model. This model will likely require modification to adequately represent all of the study intersections, as well as the proposed project. It is also likely that some traffic analysis zones (TAZs) will require splitting to accomplish the desired trip loading resolution in the study area.

Task D: CEQA VMT Analysis. DKS will analyze VMT (vehicle miles traveled) impacts associated with the project consistent with Merced's recently adopted VMT thresholds and procedures. DKS will utilize, where available, any scripts or processes included in the model to calculate VMT per Capita and VMT per Employee for the proposed project and will compare those results to the regionwide average, consistent with recently adopted policies and recommendations. If requested, DKS will calculate model network based VMT by Speed Bin for both without and with project scenarios and roadway segment ADTs to provide to air quality and/or noise consultants respectively.

Task E: Prepare Administrative Draft and Draft Study. DKS will prepare an administrative draft study documenting the results of Tasks A through D. This study will include tables and graphics as needed to support the analysis and provide context. DKS will respond to one set of comments from the client and one set of consolidated comments from the City. Once all comments have been reviewed, DKS will prepare the draft study.

Task 6: Administrative Recirculated Draft EIR

Dudek will prepare the Administrative Recirculated Draft EIR (ARDEIR) pursuant to the requirements of the CEQA Statutes, CEQA Guidelines, CEQA case law, and City policies and standards. It will consist of the following sections, each of which is described further in the following discussions:

1. Introduction and Scope of the EIR
2. Executive Summary
3. Project Description
4. Aesthetics
5. Air Quality
6. Energy
7. Greenhouse Gas Emissions
8. Land Use and Planning
9. Noise
10. Transportation
11. Utilities and Service Systems
12. CEQA-mandated sections: Growth-Inducing Effects, Irreversible Environmental Effects
13. Alternatives to the Proposed Project
14. Preparers and References

Each of the environmental analysis sections will contain the following: Environmental Setting, Regulatory Framework, Impacts, and Mitigation Measures. Each section will include an updated description of the baseline conditions of the project site and vicinity as they relate to the environmental resource being evaluated and the changes to those conditions that would result from the proposed project. Each section

will also include an updated discussion of the regulatory framework related to the environmental resource being evaluated.

Where necessary, the thresholds of significance for impacts to the subject resources will also be updated based on applicable city, state, and federal policies, regulations, and standards. The impacts analysis and mitigation measures in each section will be updated based on the updated setting and regulatory framework and to reflect the currently proposed project components and design.

Dudek will work with the City to develop a range of project alternatives, which may include modifying the previously evaluated alternatives and/or creating new alternatives. Developing the project alternatives may include consideration of public comments received in response to the previous EIR and the revised NOP, modification or reduction of the project footprint, reconfiguration of the proposed site layout, reduction of the project's density and/or intensity, and/or modification of the project's land uses. It is anticipated an off-site alternative will not be evaluated and an explanation of why it is not feasible will be provided. The impacts of the alternatives will be quantified where feasible, and otherwise described qualitatively and compared to those of the proposed project. A summary table displaying the relative significance of impacts between the proposed project and each project alternative will be provided, and the environmentally superior alternative will be identified.

The CEQA-Mandated Discussions section will address growth inducement, significant and unavoidable impacts, and irreversible environmental effects as described here:

- **Growth Inducement.** This section will evaluate the potential for the proposed project to induce additional growth in the project vicinity and the relationship of the proposed project to the City's General Plan, including the Housing Element. This analysis will consider the degree to which the project may remove barriers to growth and/or provide infrastructure and other improvements that could support additional growth.
- **Significant and Unavoidable Impacts and Irreversible Environmental Effects.** Based on the analysis presented in each of the environmental resource sections, a list of the proposed project's significant and unavoidable impacts will be provided. Further, the use of nonrenewable resources and commitment of environmental resources associated with the proposed project will be evaluated to determine if the proposed project would result in additional irreversible environmental effects.

Task 7: Recirculated Draft EIR

Once the City has reviewed the ARDEIR and provided Dudek with a single set of consolidated comments, Dudek will revise the ARDEIR and submit a 2nd ARDEIR to the City for a second round of review. Dudek will complete additional revisions based on City comments and prepare a screencheck RDEIR for final City review. Upon City approval of the screencheck document, Dudek will prepare the Recirculated Draft EIR for public review.

Dudek will work with City staff to assemble, notice, and distribute the Recirculated Draft EIR for public review. Dudek assumes City staff will deliver the Notice of Availability of the EIR to the Merced County Clerk for posting and will undertake local agency distribution. Dudek will prepare a Notice of Completion in the format of the most recently updated CEQA Guidelines for review and approval by the City prior to public distribution and submit 15 hard copies of the Recirculated Draft EIR to the City for distribution;

technical appendices will be provided on a CD or flash drive. Dudek will also undertake online submittal of the Draft EIR to the State Clearinghouse.

Task 8: Response to Comments

After close of the 45-day public comment period on the Draft EIR, Dudek will prepare an Administrative Draft responses to comments (ADRTC) document for City review. This will include bracketing all written comments received, including the comments received on the 2021 Draft EIR and a transcript of verbal comments received at a Draft EIR hearing, and preparing written responses. If comments received reiterate the same or similar concerns, Dudek will prepare master responses to address those comments. The ADRTC will include a chapter that provides any text changes to the Draft EIR, to reflect any changes resulting from the responses to comments. All changes to the text of the Draft EIR will be identified in strike out and underline. Dudek will submit the ADRTC in electronic format for City review. We assume that no more than 30 individual new comments will be received.

Should comments on the Draft EIR raise new issues or require that new surveys or technical studies be conducted to complete adequate responses, Dudek will initiate discussions immediately with City staff to evaluate the options. In addition, if any comment letters are received from attorneys Dudek will reach out to the City to discuss a budget augment.

Task 9: Final EIR and Mitigation Monitoring and Reporting Program

After City review of the ADRTC, Dudek will incorporate City comments and prepare the screencheck Final EIR (including list of commenters, responses to comments, and the revised text of the Draft EIR) for City review. Upon receipt of City comments on the screencheck Final EIR, Dudek will prepare the Final EIR for distribution to the Planning Commission, City Council, and staff. The Final EIR will be a stand-alone document and will include only those pages of the Draft EIR where text revisions were made; this task does not include reprinting a revised version of the complete Draft EIR as revised.

Dudek will also provide the City with a Mitigation Monitoring and Reporting Program (MMRP) with the ADRTC, the screencheck final EIR, and the Final EIR. The MMRP will identify the parties responsible for implementation and monitoring of each mitigation measure, specific timing requirements, and performance criteria. The MMRP will serve to support City staff in ensuring that mitigation measures are properly implemented. Dudek previously completed an MMRP for the proposed project in October 2021. That document will be revised to accommodate any new changes.

Dudek will provide 15 hard copies of the Final EIR and MMRP as well as an electronic submittal.

Task 10: Meetings and Hearings

Dudek staff will attend up to three public meetings, including:

- One Planning Commission meeting to review and receive comments on the Draft EIR
- One Planning Commission meeting to review and consider recommending certification of the Final EIR
- One City Council meeting to review and consider certification of the Final EIR

At each meeting, Dudek will present project information, analysis, findings, and recommendations in the environmental document.

Dudek staff will also attend up to six virtual meetings with City staff to review project status, document progress, comments on administrative drafts of documents, and other project issues. In preparation of these meetings, Dudek will prepare meeting agendas and minutes for City review and file.

Task 11: Project Management

We prioritize project management and believe that a focused, well-managed effort on the part of the Dudek team will be key to achieving the City's processing goals for the proposed project. Project manager Katherine Waugh will be available to consult with City staff by telephone and email, with a goal of responding to emails within 24 hours. Ms. Waugh will also actively engage with all the Dudek team members and our subconsultant to ensure all parties have consistent project information, are meeting project milestones, and are working within the agreed-upon scope of work and budget.

Project Schedule

Dudek's anticipated schedule for completion of our proposed Work Plan is presented in Table 1. This schedule includes periods for City review of work products and all required public review periods. At the project initiation meeting, we will work with you to refine this schedule and establish specific target dates for tasks 1 through 4. We will continue to coordinate with City staff to update the project schedule as we progress through the tasks. Tasks 10 and 11 will occur throughout the project.

Table 1. Project Schedule

Task Name	Weeks Elapsed	Total Weeks Elapsed
Task 1 Project Initiation		
Initiation Meeting	1 week	1 week
Task 2 City Data Update, Project Description, and Request for Information		
City data update	2 weeks	3 weeks
Draft project description and request for information	0.5 weeks	3.5 weeks
City/applicant review and response	2 weeks	4.5 weeks
Revised project description	1.5 weeks	6 weeks
City/applicant review	1 week	7 weeks
Final project description	1 week	8 weeks
Task 3 Technical Study Updates (<i>all studies conducted concurrently</i>)		
Biological resources	1.5 weeks	9.5 weeks
Archaeological resources	3 weeks	11 weeks
Built environment resources	3 weeks	11 weeks
Task 4 Revised NOP (<i>first draft to be prepared concurrent with Task 3</i>)		
Draft revised NOP	1 week	9 weeks
City review	1.5 weeks	10.5 weeks
2 nd draft revised NOP	1 week	11.5 weeks

Table 1. Project Schedule

Task Name	Weeks Elapsed	Total Weeks Elapsed
City review	1 week	12.5 weeks
Final NOP	0.5 week	13 weeks
NOP public review	4.5 weeks	17.5 weeks
Task 5 Technical Studies		
5.1 Air Quality/GHG/Energy	4.5 weeks	22 weeks
5.2 Noise Assessment	4.5 weeks	22 weeks
5.3 Transportation Impact Analysis	6 weeks	23.5 weeks
Task 6 Administrative Recirculated Draft EIR		
ARDEIR	2 weeks	25.5 weeks
City review	3 weeks	28.5 weeks
Task 7 Recirculated Draft EIR		
2 nd ARDEIR	2.5 weeks	31 weeks
City review	1.5 weeks	32.5 weeks
Screencheck ARDEIR	1.5 weeks	34 weeks
City review	1 week	35 weeks
Recirculated Draft EIR	1.5 weeks	36.5 weeks
Recirculated Draft EIR public review	7 weeks	43.5 weeks
Task 8 Response to Comments		
Draft responses to comments	3 weeks	46.5 weeks
City review	2.5 weeks	49 weeks
Task 9 Final EIR and MMRP		
Screencheck Final EIR and MMRP	2 weeks	51 weeks
City review	1.5 weeks	52.5 weeks
Final EIR and MMRP	1.5 weeks	53.5 weeks

Cost Estimate

As provided in **Table 2, Estimated Cost**, Dudek proposes a time-and-materials, not-to-exceed fee of \$202,820 to complete the scope of work described in this proposal, inclusive of optional task 3.2 as well as all direct costs (i.e., shipping, mileage).

This is only a cost estimate and is subject to change after receipt of any refinements to the project components and input from City staff. At that time Dudek will refine the scope of work and cost estimate if necessary. The budget provided is valid for 90 days from the date of this proposal assuming no changes to the project understanding or scope of work.

Dudek will submit monthly invoices that identify the employee classification and billing rate of personnel who worked on the project, the specific tasks under which work occurred, the number of hours billed to each task by each employee classification, and a budget summary.

Table 2. Estimated Cost

Task Name	Cost
Task 1 Project Initiation	\$1,130
Task 2 City Data Update, Project Description, and Request for Information	\$3,220
Task 3 Technical Study Updates	
3.1: Biological Resources Assessment	\$2,870
Optional 3.2 Aquatic Resources Delineation	\$7,670
3.3: Archaeological Resources Investigation/Study	\$3,915
3.4 Built Environment Assessment	\$18,450
Task 4 Revised NOP	\$3,790
Task 5 Technical Studies	
5.1 Air Quality, GHG, and Energy Modeling and EIR sections	\$22,680
5.2: Noise Assessment	\$10,180
5.3 Transportation Impacts Analysis	\$47,855
Task 6 Administrative Recirculated Draft EIR	\$27,300
Task 7 Recirculated Draft EIR	\$15,155
Task 8 Responses to Comments	\$13,400
Task 9 Final EIR and MMRP	\$6,140
Task 10 Meetings and Hearings	\$9,565
Task 11 Project Management	\$9,500
Total	\$202,820