

RESOLUTION NO. 2024-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA, ACTING
AS A RESPONSIBLE AGENCY ADOPTING THE
FINAL FOCUSED SUPPLEMENTAL
ENVIRONMENTAL IMPACT REPORT FOR THE
VST ANNEXATION (ENVIRONMENTAL REVIEW
#23-44), AND ADOPTING THE STATEMENT OF
FACTS AND FINDINGS REQUIRED BY CEQA
GUIDELINES SECTION 15091, A MITIGATION
MONITORING PROGRAM, AND A STATEMENT
OF OVERRIDING CONSIDERATIONS FOR
ENVIRONMENTAL REVIEW #23-44**

WHEREAS, the Final Focused Supplemental Environmental Impact Report (FSEIR) provided at Exhibit “A” attached hereto and incorporated herein by this reference was prepared by Merced County, and is being adopted by the City of Merced for the VST Annexation which includes Annexation and Rezoning Application #23-03, General Plan Amendment #23-04, the Specific Plan for the VST project, and the Establishment of Planned Development (P-D) #80 (collectively referred to as the “Project”);

WHEREAS, prior to the City of Merced considering the annexation, the VST Specific Plan was considered by Merced County. The Draft Supplemental EIR was prepared and circulated for public and agency comment through the Merced County development process. The Draft Focused Supplemental EIR was available for public review and comment beginning April 29, 2023 and ending on June 12, 2023, for the 45-day review period required by law;

WHEREAS, the FSEIR, which responded to all comments received during the review period was distributed by Merced County to the appropriate bodies for consideration on July 12, 2023;

WHEREAS, on October 17, 2023, the Merced County Board of Supervisors, acting as the Lead Agency, certified and adopted the Final FSEIR, the Statement of Facts and Findings required by the California Environmental Quality Act “CEQA” Guidelines Section 15091, a Mitigation Monitoring Program, and a Statement of Overriding Considerations;

WHEREAS, because the FSEIR anticipated and analyzed potential actions by the City of Merced, such as annexation of the VST specific plan area, a General Plan Amendment, Pre-zoning, and a Pre-annexation development agreement, all of which would require City approval, the FSEIR identified the City as a responsible agency under CEQA (See, CEQA Guidelines § 15381);

WHEREAS, pursuant to the authority and criteria contained in the CEQA Guidelines Section 15381, the City of Merced is acting as a Responsible Agency regarding this FSEIR;

WHEREAS, on November 30, 2023, the public was made aware of the availability of the FSEIR prior to the Planning Commission meeting on December 20, 2023;

WHEREAS, on December 21, 2023, the public was made aware of the availability of the FSEIR to be considered for adoption by the City Council as a CEQA responsible agency on January 16, 2024;

WHEREAS, pursuant to CEQA Guidelines section 15096, as a responsible agency, the City must consider the environmental effects as shown in the FSEIR and the environmental effects of the Pre-Annexation and Development Agreement, General Plan Amendment, VST Specific Plan Adoption, and Annexation to the extent the City has the power to mitigate or avoid those direct or indirect environmental effects;

WHEREAS, the City has independently reviewed and determined that the FSEIR adequately disclosed and evaluated the impacts of the Project, including all impacts of the Project's contemplated therein, and imposed adequate mitigation measures to the extent feasible; and,

WHEREAS, the City, after independently considering the FSEIR, the County's Statement of Findings, Statement of Overriding Considerations, and MMRP, and after evaluating the environmental impacts associated with the Project, has concluded that the FSEIR complies with CEQA and the CEQA Guidelines.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. The City Council has reviewed and independently analyzed the information contained in the FSEIR and hereby finds that the Final FSEIR for the VST Annexation is complete and adequate and has been completed in compliance with CEQA.

SECTION 2. The City Council, in compliance with CEQA Guideline 15091 and 15093, adopts the Statement of Findings and Facts, including the adoption of the Statement of Overriding Considerations labeled as Exhibit “B” attached hereto and incorporated herein by this reference.

SECTION 3. The City Council, as required by Section 21081.6 of the Public Resources Code, adopts the Mitigation Monitoring Program for the monitoring of the implementation of the mitigation measures set forth in the Mitigation Monitoring Program labeled as Exhibit “C” attached hereto and incorporated herein by this reference.

SECTION 4. In its role as a responsible agency under CEQA, the City finds that there are no feasible alternatives to the proposed Project which would avoid or substantially lessen the Project’s environmental impacts, but still achieve most of the Project’s objectives. The City further finds that there are no additional feasible mitigation measures within the City’s authority which would eliminate or reduce any of the Project’s potentially significant impacts to a level of less than significant. The City has independently considered the MMRP, and hereby adopts the recommended Mitigation Measures. The City further finds that, pursuant to CEQA Guidelines section 15096(g)(2), the Statement of Overriding Considerations adopted by the County for the Project is supported by substantial evidence, that each Overriding Consideration outweighs the Project’s potentially significant impacts, and that, in light of this, the significant and unavoidable impacts are acceptable. As such, the City concurs with the Statement of Findings and the Statement of Overriding Considerations made by the County, attached hereto as Exhibit B, and therefore the City independently adopts the Statement of Findings and Statement of Overriding Considerations as its own and incorporates them herein, pursuant to CEQA Guidelines §§ 15091 and 15096(h). The City also adopts the MMRP, attached hereto as Exhibit “C”.

SECTION 5. The City Council directs the City Manager, upon approval of the project, to file or cause to be filed with the Merced County Clerk a Notice of Determination in regard to the environmental impacts of the project.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2024, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:
MATTHEW SERRATTO, MAYOR

Mayor

ATTEST:
D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:
CRAIG J. CORNWELL, CITY ATTORNEY

 1/11/24

City Attorney Date

FINAL

Focused Subsequent Environmental Impact Report for the UCP Update and VST Specific Plan

State Clearinghouse No. 2001021056



Prepared for:



Merced County Community and
Economic Development Department

July 2023

EXHIBIT A

FINAL

Focused Subsequent Environmental Impact Report for the UCP Update and VST Specific Plan

State Clearinghouse No. 2001021056

Prepared for:



**Merced County Community and
Economic Development Department**

2222 M Street, 2nd Floor
Merced, CA 95340

Contact:

Tiffany Ho

Deputy Director of Planning
209.385.7654 ext. 4407
tiffany.ho@countyofmerced.com

Prepared by:



Ascent Environmental

455 Capitol Mall, Suite 300
Sacramento, CA 95814

Contact:

Jessica Babcock

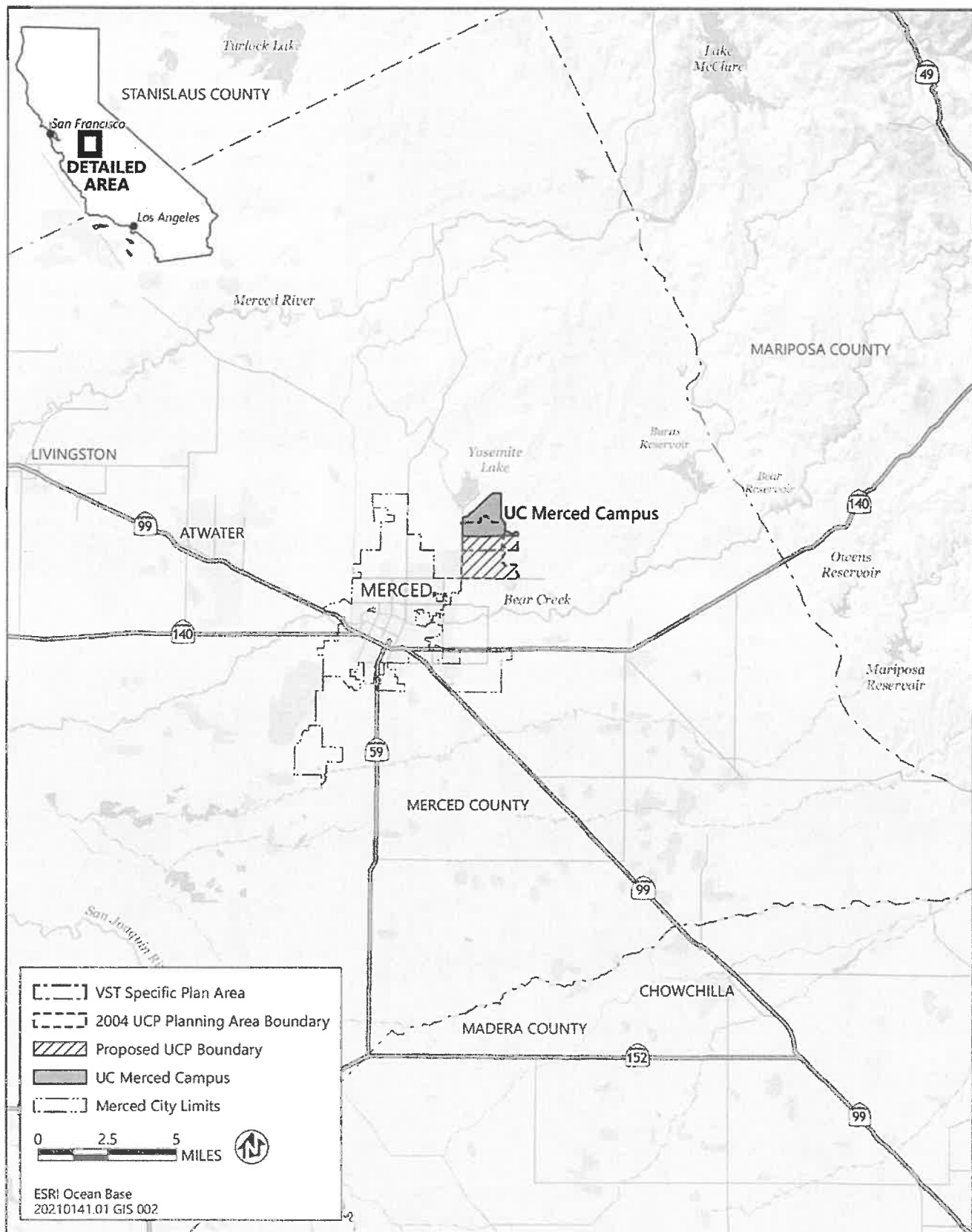
Project Manager
916.842.3163

July 2023

20210141.01

LIST OF ABBREVIATIONS

AAQA	ambient air quality analysis
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
County	Merced County
CSTDm	California Statewide Transportation Demand Model
Draft SEIR	draft subsequent environmental impact report
eTRIP	Employer Trip Reduction Implementation Plan
Final SEIR	final subsequent environmental impact report
HHD	heavy heavy-duty
HRA	health risk assessment
ITP	Incidental Take Permit
lb/day	pound per day
LRDP	Long Range Development Plan
MCAG	Merced County Association of Governments
MID	Merced Irrigation District
MMRP	Mitigation Monitoring and Reporting Plan
NO _x	oxides of nitrogen
OPR	Governor's Office of Planning and Research's
PM	particulate matter
PM ₁₀	respirable particulate matter
PRC	Public Resources Code
ROG	reactive organic gases
SB	Senate Bill
SJVAB	San Joaquin Valley Air Basin
SJVAPCD	San Joaquin Valley Air Pollution Control District's
SWRCB	State Water Resources Control Board
TAC	toxic air contaminants
TDM	Travel Demand Model
TIS	Transportation Impact Study
UC	University of California
UCP	University Community Plan
VMT	vehicle miles traveled
VOC	volatile organic compounds
VST	Virginia Smith Trust



Sources: Data downloaded from Merced County in 2020.

Figure 1-1 Regional Location

1.3 PROJECT OBJECTIVES

The State CEQA Guidelines require that an EIR include a statement of objectives for the project and that the objectives include the underlying purpose of the project. These objectives help the lead agency determine the alternatives to evaluate in the EIR (see CEQA Guidelines Section 15124[b]) and gauge whether alternatives or mitigation measures are feasible and would meet the basic project objectives.

1.3.1 Objectives of the UCP Amendments

The purpose of the UCP is to provide a planning framework for how lands are to be developed and important resources are to be protected and conserved, in anticipation of the growth and development associated with UC Merced.

The adopted objectives of the Adopted UCP are:

- ▶ to support the successful development of the University of California, Merced, campus by providing for a community that is physically contiguous to the campus and that includes appropriate and sufficient housing, commercial, industrial/business park, civic, and open space uses to meet the long-term needs of the campus and population;
- ▶ to provide adequate land and development opportunities to absorb the equivalent of 100 percent of the new growth demand generated by UC Merced over time;
- ▶ to provide a community that can be developed in an integrated fashion through a master developer rather than a fragmented subdivision process;
- ▶ to provide a community with patterns of land use and urban form that support principles of livable communities and environmental sustainability;
- ▶ to provide adequate circulation and utility infrastructure that supports the long-term sustainability of the UC Merced campus and University Community;
- ▶ to establish and support linkages and transitions that will integrate the University Community with greater Merced;
- ▶ to complement and support the economy on the City of Merced and the greater Merced region;
- ▶ to support the educational goals of the Virginia Smith Trust by enhancing its scholarship fund;
- ▶ to support regional programs to conserve and protect the County's important agricultural and natural resources as development of UC Merced and the University Community proceeds;
- ▶ to be configured and planned so that environmental permitting allows community development to proceed at the pace necessary to support campus development;
- ▶ to be affordable and financially feasible; and
- ▶ to support implementation of the Merced County General Plan.

These objectives remain the overarching objectives of the UCP. In addition, the proposed project modifications and UCP amendments are intended to:

- ▶ amend the Adopted UCP boundaries to reflect existing land ownership;
- ▶ reallocate the potential housing units attributed to land now owned exclusively by UC Merced to within the amended UCP boundaries without substantially changing the range of unit types;
- ▶ improve consistency between County and City general plans, and with the UC Merced LRDP;
- ▶ revise the Adopted UCP to conform to current development regulations;
- ▶ update the Adopted UCP land use plan to be compatible with adjacent development;

concept, and relatively high-density housing. The specific plan revises density and intensity of these uses compared to what was previously proposed. The specific plan includes a description of the overall land use plan and site design to provide 3,950 residential units at varying densities and supporting commercial uses. It also adjusts timing and phasing for installation of parks and public services to appropriately meet demand. Transportation facilities, including roads and bike paths, would be reconfigured in the VST Specific Plan to better serve the VST plan area and existing and planned surrounding land uses. Also, with the passage of AB 3312, VST is now seeking annexation into the City of Merced.

1.5 MAJOR CONCLUSIONS OF THE ENVIRONMENTAL ANALYSIS

The analysis in the Draft SEIR concludes that effects related to noise would remain significant and unavoidable. The Draft SEIR also identified new impacts related to greenhouse gas emissions and climate change, and noise and vibration; these impacts were not evaluated using the same standards in the 2001/2004 UCP EIR. New impacts associated with greenhouse gas emissions and noise and vibration were identified applying currently accepted best practices for evaluation. Significant and unavoidable impacts to aesthetics, agricultural resources, and biological resources are unchanged and consistent with the conclusions of the 2001/2004 UCP EIR. Impacts to air quality that were previously identified as a significant and unavoidable impact would be reduced to a less-than-significant impact with adoption of new mitigation.

1.6 CEQA PUBLIC REVIEW PROCESS

On April 28, 2023, the County released the Draft SEIR for a 45-day public review and comment period. The Draft SEIR was submitted to the State Clearinghouse for distribution to reviewing agencies and posted on the County's website (<https://www.countyofmerced.com/414/Environmental-Documents>). A notice of availability of the Draft SEIR was published in Merced County Times newspaper and distributed by the County to a project-specific mailing list.

A public hearing was held on Wednesday, July 12, 2023, during a meeting of the Planning Commission to receive input from agencies and the public on the Draft SEIR. The hearing was recorded and is available at: <https://www.countyofmerced.com/2229/Planning-Commission-Meetings>.

As a result of these notification efforts, seven written comments were on the content of the Draft SEIR. Chapter 2, "Responses to Comments," identifies these commenting parties, their respective comments, and responses to these comments. None of the comments received, or the responses provided, constitute "significant new information" by CEQA standards (State CEQA Guidelines, CCR Section 15088.5).

1.7 ORGANIZATION OF THE FINAL SEIR

This Final SEIR is organized as follows:

Chapter 1, "Introduction," describes the purpose of the Final SEIR, summarizes the UCP Update and VST Specific Plan and the major conclusions of the Draft SEIR, provides an overview of the CEQA public review process, and describes the content of the Final SEIR.

Chapter 2, "Responses to Comments," contains a list of all parties who submitted comments on the Draft SEIR during the public review period, reproductions of all the comments received on the Draft SEIR, and responses to the comments.

Chapter 3, "Revisions to the Draft EIR," presents revisions to the Draft SEIR text made in response to comments, or to amplify, clarify or make minor modifications or corrections. Changes in the text are signified by ~~double-strikeout~~ where text is removed and by double underline where text is added.

Chapter 4, "References," provides the sources cited in the preparation of this Final EIR.

Chapter 5, "List of Preparers," identifies the lead agency contacts as well as the preparers of this Final SEIR.

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State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Central Region
 1234 East Shaw Avenue
 Fresno, California 93710
 (559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director

Letter
 1

June 7, 2023

Tiffany Ho, Planner III
 Merced County Community and Economic Development Department
 2222 M Street, 2nd Floor
 Merced, California 95340

**Subject: Focused Subsequent Environmental Impact Report for the UCP Update
 and VST Specific Plan
 State Clearinghouse No. 2001021056**

Dear Tiffany Ho:

The California Department of Fish and Wildlife (CDFW) received a Draft Subsequent Environmental Impact Report (Draft SEIR) from the Merced County Community and Economic Development Department for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

After reviewing the provided CEQA document, CDFW concurs with the biological resources related analyses and measures proposed in the Draft SEIR and recommends that all such measures in the Draft SEIR be carried forward into the Final SEIR. CDFW has determined that the biological resource mitigation measures as currently documented in the Draft SEIR are sufficient for mitigation of potential project related impacts to listed species. As discussed in our previous comment letter dated February 18, 2022, UC Merced is currently the Permittee and authorized entity for development on the Project site under their Incidental Take Permit (2081-2009-010-04). An amendment to the Incidental Take Permit may be needed to add permittee(s) or update the ITP's Project description and associated Conditions of Approval.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Conserving California's Wildlife Since 1870

Letter 1 California Department of Fish and Wildlife

Krista Tomlinson for Julie A. Vance, Regional Manager
June 7, 2023

Response 1-1

Following introductory remarks, the comment states that the California Department of Fish and Wildlife (CDFW) concurs with the biological resources-related analyses and mitigation measures proposed in the Draft SEIR. The comment states that all measures in the Draft SEIR should be carried forward into the Final SEIR and that the mitigation measures are sufficient to mitigate project-related impacts to listed species. In addition, the comment states that development on the project site may require an amendment to the University of California (UC) Merced's Incidental Take Permit (ITP) (2081-2009-010-04).

Virginia Smith Trust (VST) was added to ITP 2081-2009-010-04 through Amendment 3 in June of 2020, and the University Community North/VST Specific Plan area is included in the project description. As stated on page 3.2-1 of the Draft SEIR, UC Merced's ITP provides incidental take coverage for six state-listed threatened and endangered species within the UC Merced campus and the University Community Plan (UCP) North/VST Specific Plan area (including the portion of the VST Specific Plan area not analyzed in the 2001/2004 UCP EIR). Since certification of the 2001/2004 UCP EIR, four additional special-status plant species and two additional special-status wildlife species were identified as having potential to occur within the plan area (see page 3.2-3 of the Draft SEIR). As discussed on pages 3.2-11 through 3.2-23 of the Draft SEIR, implementation of new Mitigation Measures 3.2-1 and 3.2-2a through 3.2-2f would require avoidance and mitigation for special-status plant and wildlife species, including species not covered by the existing CDFW incidental take permit. The applicant will continue to coordinate with CDFW, including preparation of annual reports in compliance with permit conditions.

Response 1-2

The comment states that any special-status species and natural communities detected during project surveys must be documented in the California Natural Diversity Database in accordance with Public Resources Code (PRC) Section 21003(e). In addition, the comment states that the lead agency is required to pay filing fees if the project has potential to impact biological resources, in accordance with California Code of Regulations, Title 14, Section 753.5; California Fish and Game Code Section 711.4; and PRC Section 21089. The comment provides closing remarks and contact information for CDFW staff.

This comment is noted and the applicant will be required to submit relevant information and pay applicable filing fees to CDFW in accordance with applicable laws and regulations. This comment is not related to the adequacy of the CEQA document; therefore, no revisions to the Draft SEIR are necessary in response to this comment.

Ms. Tiffany Ho

- 2 -

June 19, 2023

- Please discuss any new tanks or old tanks that would be incorporated into this City's public water system service area.
 - The document indicates "UC Merced maintains a 250,000-gallon ground level storage tank that receives water from the City. However, this storage tank is for UC Merced use only and is not counted as part of the City's existing distribution system" (PDF page 333). If the water storage tank will become part of the City's public water system, meeting the definition of a distribution reservoir (Title 17 California Code of Regulations, Division 1, Chapter 5, Subchapter 1, Group 4, Article 5, Section 7625[b]), it will need to be permitted by DDW's Merced District. Please discuss if this tank be added into the City's water system with the incorporation of the development into the City?
 - If so, would the size of this tank be adequate to serve the entire UC Merced development?
 - If not, given the development will be in a separate pressure zone than other City service areas, would a new tank/(s) be added to the City's water system in this service area to provide for this development? If so, what size tank/(s)? Would the tank/(s) integrate fire flow, and where would they be located?
- Please indicate the State Clearinghouse number for the CEQA document which covers the 10-million gallon per day surface water treatment plant that will help serve the development (PDF page 249). If the document is not on the State Clearinghouse website, please provide a direct link. Otherwise, if it is not yet developed, be sure to send the document to our Merced District office for review when it is being circulated.
- Please include a clearer Figure 2-10 with a readable legend and labels.
- Please clarify if one new well (PDF page 340) or two new wells will be drilled (pdf page 258, three wells were considered in total). If two wells will be drilled, please include the second one on Figure 2-10 or another system infrastructure figure.
 - Will treatment be needed for these wells and if so, will the treatment be located at the wells' sites?
- Please indicate in the document where the 2001/2004 UCP EIR may be downloaded to help support responsible agency CEQA determinations.

Once the EIR is certified, please forward the following items in support of the City of Merced's permit application to the State Water Board, DDW Merced District Office at DWPDIST11@waterboards.ca.gov:

- Copy of the draft and final EIR and Mitigation Monitoring and Reporting Plan;
- Copy of any comment letters received and the lead agency responses as appropriate;
- Copy of the Resolution or Board Minutes adopting the EIR and MMRP; and

Letter 2 State Water Resources Control Board

Lori Schmitz, Environmental Scientist
June 19, 2023

Response 2-1

Following introductory remarks, the comment identifies the State Water Resources Control Board (SWRCB) Division of Drinking Water (DDW) as the agency responsible for issuing water supply permits pursuant to the Safe Drinking Water Act. The comment states that the City of Merced is required to apply for a water supply permit amendment for changes to a water supply source, storage, or treatment and for the operation of new water system components, pursuant to Waterworks Standards (California Code of Regulations [CCR], Title 22, Chapter 16 et. seq.)

The VST Specific Plan area would be served by the City of Merced's water supply infrastructure. A parcel is set aside for development of an onsite well that would be needed to meet City fire flow and peak demands and to provide redundancy for the UC Merced well. This SEIR includes a programmatic evaluation of the construction and operation of the new well. However, modification of the City's water supply infrastructure would occur as a separate, subsequent action initiated by the City of Merced at the time such an action is proposed. As indicated in the Draft SEIR (page 3.8-21), the analysis assumes that the City would continue to construct required groundwater facilities in accordance with the City's 2014 Water Master Plan and evaluated separately in the *Mitigated Negative Declaration and Initial Study for City of Merced 2016 Water Master Plan Update* (City of Merced 2017a).

The comment requests that DDW be identified as a CEQA responsible agency in the SEIR for approval of a water supply permit amendment. DDW would have authority to approve a water supply permit amendment. For clarification, the text on page 2-43 of the Draft SEIR has been modified to include DDW. As noted above, it is anticipated that this permit amendment would be based upon project-level review conducted by the City. This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 2-2

The comment states that the Draft SEIR does not evaluate the whole project and should describe the location and impacts of the entire proposed water system infrastructure that would be needed for development under the UCP Update and VST Specific Plan.

The Draft SEIR evaluates the whole of the project action. Page 2-31 of the Draft SEIR describes all planned on-site and off-site water system improvements that would be needed to support the proposed development of the UCP Update and VST Specific Plan. The proposed water system would consist of the existing municipal well located on the UC Merced campus, an onsite municipal well to be developed in Phase 1A of the VST Specific Plan (and located in the Community Recreation Center in Phase 1D), a 16-inch main in Lake Road to be extended as part of the VST Project from the Bellevue/Lake Road intersection to the VST Specific Plan area, and water within the plan area ranging in size from 8 to 16 inches in diameter. The locations of these improvements are shown on Figure 2-10 of the Draft EIR. In addition, offsite extension of a 16-inch water line in the paved area of Lake Road from Virginia Smith Parkway to Bellevue Road to connect to the VST Specific Plan area to Well 17 is included in the VST Specific Plan area (see Draft SEIR page 2-32). The environmental effects of constructing this infrastructure are addressed on pages 3.8-16 and 3.8-17 of the Draft SEIR.

The comment also requests that the Draft SEIR discuss new or old water storage tanks that would be incorporated into the City's public water system service area, citing information about existing water supply systems in Section 3.8.2, "Environmental Setting." The UCP Update and VST Specific Plan would not involve the installation of new water storage tanks and would not include the use of UC Merced's existing water storage tank. The existing UC Merced water tank would remain separate from the City's water system.

The Draft SEIR evaluates the entire water supply system needed to support the VST Specific Plan, including the tie-in to the City well at UC Merced, the onsite well, the offsite connection line, and the onsite water lines. All other water system infrastructure necessary to serve reasonable build-out in the City of Merced's planning area would undergo

Update and VST Specific Plan. As a responsible agency under CEQA, it is expected that the City would consider the environmental effects of the UCP Update and VST Specific Plan, make appropriate findings, and file a separate Notice of Determination.

This comment is not related to the adequacy of the CEQA document. No revisions to the Draft SEIR are necessary in response to this comment.

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Page ES-4. This page presents the first mention of the 2001/2004 UCP EIR, and the reader does not know what document that is because it has not been introduced earlier.

3-6

Chapter 2 Project Description

Page 2-4. The second paragraph on this page states that the UCP predates UC Merced's first LRDP. Please check the accuracy of the statement. We understand that the UCP was adopted in 2004 (following the completion of the 2004 Supplement to the 2001 UCP EIR), whereas the first UC Merced LRDP was adopted in 2002.

3-7

Page 2-5. The first paragraph on this page also incorrectly states that UC Merced was part of the 2,133-acre UCP. The Campus is not subject to local land use planning and has never been governed by any land use plan developed by the County.

3-8

Page 2-5. The fourth paragraph on this page makes a reference to LRDP regulation. LRDP is a land use plan and policy document used by the University to guide campus development and is not a regulation.

3-9

Page 2-7. UCM LRDP. The first paragraph refers to the 2009 LRDP EIR. That reference is incorrect because the scope of the 2009 LRDP is limited to the Campus and does not cover any part of the UCP. The correct title of the document is the 2009 UC Merced/UCP EIS/EIR. The University and US Army Corps of Engineers prepared a joint NEPA and CEQA document that covered both areas – UC Merced campus and UCP.

3-10

Page 2-7. The second paragraph incorrectly states that a Section 404 permit was issued for the 2009 LRDP. The permit was issued to UC Merced and UCLC for the permit area that comprised the Campus and UCP North. Also in the same paragraph, the text states 2017 LRDP. It should be corrected to state 2017 LRDP amendment (there is no 2017 LRDP).

3-11

Page 2-7. The third paragraph incorrectly states that the Campus reduced its enrollment projection from 25,000 to 17,500 students. Please correct the text to state that the enrollment projection for the next phase of campus development to 2030, was revised from 25,000 to 15,000 students.

3-12

Page 2-7. In the fourth paragraph, please add the word "EIR" after 2020 LRDP. (The environmental impacts of campus development are reported in the 2020 LRDP EIR, and not in the LRDP which is a plan)

3-13

Page 2-29. In the section titled Infrastructure, the Draft SEIR lists a series of off-site intersection improvements to which the VST Project will contribute funding and states that these are based on a traffic study. But this list of improvements appears incomplete and inconsistent with the list in the Transportation section of the Draft SEIR (see pages 3.7-24 and -25). Further, there are roadway widening projects also listed in the Transportation section but not in the Project Description. The information needs to be consistent throughout the SEIR.

3-14

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- 2) Figure 2-7 in the Draft SEIR is identified as the VST Specific Plan Land Use Diagram, however the Campus Parkway open space, as shown on the figure on campus lands, gives the appearance that it is a part of the VST Specific Plan.
- 3) Several of the figures in the VST Specific Plan (Appendix B) including but not limited to Figures 3, 7, 25, 35, 46, 47, and 49 show an approximately 1-acre area in the northeast quadrant of the Lake Road/Meyers Gate Road intersection being developed with housing (R-4) under the Specific Plan or as being as part of the Specific Plan. That area is part of the campus and not VST property. Please exclude that area from the Specific Plan and any housing that was assumed for that area. All figures should be reviewed and updated to remove the appearance that any portion of campus lands are part of the VST Specific Plan. Also ensure that UC Merced continues to have access to that area.

3-16

3-17

Please let us know if you have any questions regarding our comments.

Sincerely,

A handwritten signature in cursive script that reads "Phillip Woods".

Phillip Woods
 Director of Physical and Environmental Planning
 UC Merced

Cc:

Luanna Putney, Associate Chancellor & Senior Advisor to the Chancellor
 Daniel T. Okoli, Vice Chancellor-Chief Operating Officer Physical Operations, Planning and Development
 Fran Telechea, Executive Director, Planning, Design & Construction Management
 Margaret Saunders, Executive Director, Space and Capital Strategies and Real Estate
 Stella Ngai, Chief Campus Counsel
 Andrew Boyd, Associate Vice Chancellor for Strategic Infrastructure, Planning and Institutional Effectiveness
 Cori Lucero, Executive Director, Government Relations & Deputy Chief of Staff, Office of the Chancellor
 Stephen Peck, Peck Planning and Development, LLC
 Steve Tietjen, Principal Officer of the Virginia Smith Trust

revised accordingly to correct an error in the adoption date of UC Merced's first LRDP and subsequent LRDP amendments (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-8

Similar to Comment 3-2, this comment identifies an error regarding the inclusion of the UC Merced campus in the description of the 2,133-acre UCP area. Page 2-5 of the Draft SEIR has been revised to remove reference to the UC Merced campus from the UCP area description (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-9

The comment states that the Draft SEIR incorrectly refers to the LRDP as a set of regulations. Page 2-5 of the Draft SEIR has been revised accordingly to acknowledge the LRDP as a land use plan and policy document rather than a set of regulations (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-10

The comment identifies the abbreviated title used to refer to the UC Merced and UCP Project Draft Environmental Impact Statement/Environmental Impact Report prepared in 2009 and states it is incorrect. The comment specifically refers to use of the abbreviated title on page 2-7 of the Draft SEIR. Note that the use of this title for reference to the joint document is introduced on page 2-5 of the Draft SEIR.

Nonetheless, to improve accuracy and clarity in response to the comment, all references to the "2009 LRDP EIR" on pages 1-9, 2-5, 2-7, 3.1-33, 3.2-17, 3.5-19, and 4-5 of the Draft SEIR have been revised to "2009 UC Merced and UCP EIS/EIR" (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-11

The comment identifies an error regarding the description of the area covered under the Section 404 permit issued to UC Merced and University of California Land Company LLC. The comment also states that the reference to the "2017 LRDP" should be revised to "2017 LRDP amendment." Page 2-7 of the Draft SEIR has been revised to make these corrections (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft is not required.

Response 3-12

The comment identifies an error in the UC Merced enrollment projection described in the Draft SEIR. Page 2-7 of the Draft SEIR has been revised to include the correct enrollment projection (refer to Chapter 3, "Revisions to the Draft SEIR"). The enrollment projections are provided for context in Section 2.3, "Background and Purpose." This revision does not result in changes to the analysis or conclusions of the Draft SEIR and is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft is not required.

Response 3-13

The comment states that a reference to the "2020 LRDP" should be revised to the "2020 LRDP EIR." Page 2-7 of the Draft SEIR has been revised accordingly to include the correct document reference (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-16

The comment indicates that Figure 2-7 of the Draft SEIR, which presents the VST Specific Plan Land Use Diagram, maps open space lands that are part of the UC Merced campus. The comment suggests that the diagram “gives the appearance” that these areas are part of the VST Specific Plan area. For improved clarity, Figure 2-7 of the Draft SEIR has been revised to remove the referenced land use mapping for the area that is not part of the VST Specific Plan area (refer to Chapter 3, “Revisions to the Draft SEIR”).

No additional revisions to the Draft SEIR are required in response to this comment. The minor modifications made in response to this comment clarify the content of the Draft SEIR and do not result in the potential for new or more substantial environmental effects. Pursuant to CCR Section 15088.5, recirculation of the Draft SEIR is not required.

Response 3-17

The comment identifies several figures in Appendix B of the Draft SEIR that show an approximately 1-acre area of land (northeast of the Lake Road and Meyers Gate Road intersection) that was included in the VST Specific Plan area but is part of the UC Merced campus. The comment requests that this area and any housing assumed for that area be excluded from the VST Specific Plan.

The VST Specific Plan area is shown in Figure 2-2 of the Draft SEIR and does not include land that is part of the UC Merced campus, including any land northeast of the Lake Road and Meyers Gate Road intersection. The development potential of the VST Specific Plan, shown in Table 2-2 of the Draft SEIR, does not assume that housing would be constructed northeast of the Lake Road and Meyers Gate Road intersection. Therefore, no revisions to the Draft SEIR are necessary in response to this comment.

Note, however, that the following figures in the VST Specific Plan have been updated in response to this comment:

- ▶ Figure 3 Land Use and Circulation Map
- ▶ Figure 7 Project Phasing
- ▶ Figure 25 Architectural Styles by Neighborhood
- ▶ Figure 35 Overall Circulation and Key Map
- ▶ Figure 49 Transit Stops

7. Lake Yosemite has an un-gated overflow/spillway located at the east end of Lake Yosemite Dam, immediately north of the Fairfield Canal, in the vicinity of the boat ramp in the park area, which will impact areas of the proposed Project.
8. Cottonwood Creek, a natural drainage channel through the existing campus area, is not maintained by any single agency. The channel as it exists today begins at the south edge of the Le Grand Canal with the storm drainage collected from the area between the Le Grand Canal and Fairfield Canals being intercepted by the Fairfield Canal. The channel continues on the south side of the Fairfield Canal and flows through the existing campus to the southwest crossing Lake Road near Cardella Road then meandering west through both County and City residential areas to its confluence with Fahrens Creek just west of Merced College.

4-1
Cont

MID would like to address safety and operational issues relating to the proposed developments' location adjacent to existing MID facilities, particularly the Le Grand and Fairfield Canals. Said safety and operational issues were communicated through MID's response to the UC Campus' EIR, correspondence, and various meetings with UC staff and consultants as early as 2000, as well as various follow-up correspondence. MID believes the following mitigation measures are still necessary and required to reduce the risk to life and property resulting from the proposed development being adjacent to these major irrigation facilities.

MID respectfully proposes that the following conditions be considered as mitigation for the proposed development:

Le Grand Canal

4-2

1. Install a concrete liner in the canal to protect proposed development where the Le Grand Canal seeps through the south bank of the canal.
2. Provide measures to prevent access or entry to MID's waterways without interfering with MID's operations and maintenance activities.
3. No storm drainage will be accepted into the Le Grand Canal.

Fairfield Canal

1. Install a concrete liner in the canal to protect proposed development where the Fairfield Canal seeps through the banks of the canal.
2. Provide measures to prevent access or entry to MID's waterways without interfering with MID's operations and maintenance activities.
3. The Fairfield Canal may accept storm drainage water from the proposed development. If utilized, the portions of the development within the MID Boundary would be required to

(209) 722-5761 744 West 20th Street Merced, California 95344-0288
Administration / FAX (209) 722-6421 • Finance / FAX (209) 722-1457 • Water Resources / FAX (209) 726-4176
Energy Resources / FAX (209) 726-7010 • Customer Service (209) 722-3041 / FAX (209) 722-1457

would need to purchase the fee strips. The developer would then grant back to MID an appropriate width exclusive easement in the relocated location.

4. Be advised that the MID does not accept landscape tail water or runoff into its canal system.
5. For drainage discharge, MID generally requests that a detention basin be used as a filter and to accommodate peak flows. Discharges are set to drain a 10-yr 24-hr storm into the reservoir in 48 hours. The discharges must be interruptible to prevent downstream over topping of the open facilities.
6. Cottonwood Creek is not under MID's jurisdiction, but has observed that under current conditions, there are capacity restrictions in Cottonwood Creek downstream of the proposed development. The capacity restrictions should be analyzed if storm water is to be discharged into the creek.
7. Paragraph 2.7 of the EIR mentions a potential annexation to MID. Be advised that there is no opportunity to be annexed by MID. MID has adopted a long-range business plan, known as the Water Resources Management Plan, that includes financial, policy and infrastructure guidance. While developing the plan, multiple alternatives were developed for consideration by the Board. Based on a detailed review, the Board selected the Balanced Approach Alternative, which does not include additional annexation beyond existing District boundaries.
8. MID reserves the right for further comment as unforeseen circumstances may arise.

4-4
Cont.

4-5

4-6

Thank you for the opportunity to comment on the above referenced document. If you have any questions, please contact me at 722-5761.

Sincerely,

Mike Morris

Mike Morris LS
Survey Project Manager
Merced Irrigation District

(209) 722-5761 744 West 20th Street Merced, California 95344-0288
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8. Cottonwood Creek: This facility is within the UCP area and would be affected by the UCP Update and the VST Specific Plan, as evaluated in the Draft SEIR. As noted on pages 3.5-20 and 3.5-21 of the Draft SEIR, flows in Cottonwood Creek are anticipated to decrease with implementation of the UCP Update and the Cottonwood Creek drainage would be preserved under the VST Specific Plan.

As described above, the facilities identified by the commenter are evaluated, as applicable, in the Draft SEIR. Therefore, no revisions to the Draft SEIR are necessary in response to this comment.

Response 4-2

The comment addresses MID's safety and operational concerns related to the proximity of the proposed development to existing MID facilities. The comment indicates that these same concerns were raised with UC Merced regarding development of the campus. The comment proposes conditions to be considered to prevent safety and operational issues with respect to existing MID facilities, which are discussed below.

- ▶ Le Grand Canal: As noted in Response 4-1 above, Le Grand Canal is located outside the northern edge of the UCP Update boundary. The project would not involve activities within MID's 150-foot-wide easement for this facility, including any modifications or disruptions in access to this facility. In addition, stormwater would not be directed into the Le Grand Canal. As discussed on page 2-31 of the Draft SEIR, stormwater drainage would be directed to onsite bioswales and basins or discharged to the Fairfield Canal, as and if permitted by MID. The Draft SEIR did not identify any potentially significant impacts to the Le Grand Canal that would warrant mitigation to this facility. No revisions to the Draft SEIR are necessary.
- ▶ Fairfield Canal: Page 2-32 of the Draft SEIR states that the VST Specific Plan includes a proposal to realign and straighten the Fairfield Canal. A bypass channel would be constructed at the location of a large oxbow in the canal, following which the oxbow would be filled and the bypass channel would function as the canal. The oxbow to be filled is approximately 0.3 mile in length, and the new canal segment would be approximately 900 feet long (see also Figure 2-10 of the Draft SEIR). Page 2-32 acknowledges that these modifications would be subject to MID approval of detailed facility designs and confirmation of conformance with MID's design specifications, which would ensure that the flowrate and flow velocities would not change substantially from existing conditions. Page 2-43 of the Draft SEIR also identifies MID authorization for modifications to the Fairfield Canal as a required discretionary approval. See also VST Specific Plan Policy 11.9 and VST Specific Plan Figure 11 for canal setback requirements. The plan does not anticipate installing a concrete liner in Fairfield Canal. Such modifications are not necessary to protect future development from the effects of seepage due to the setbacks established in the UCP Update.

As suggested in the comment, the VST Specific Plan includes measures to prevent public access to the Fairfield Canal. Specifically, Policy 1.9 states that buildings and improvements adjacent to the Fairfield Canal and Cottonwood Creek shall have adequate setbacks to ensure adequate fill and cut slopes, and transition areas. Within the structural influence area of the Fairfield Canal, the set-backs shall include a 25-foot canal service and access area from the top of bank, plus an additional area to ensure that there is no structural bearing from the project's improvements, as illustrated in Figure 21 of the UCP. There shall be a 10-foot setback to the nearest improvement with intervening planting to discourage access and vandalism, and a 20-foot setback to the nearest structure. A Wood Frame Hog Wire fence or a Metal Rail Horse Panel fence, shall be provided along these corridors to discourage pedestrians and trespassing (see Policy 12.4). These project elements address the safety and operational issues raised in the comment. No revisions to the Draft SEIR are necessary.

- ▶ Fairfield Lateral "A": As noted in Response 4-1, the project would not involve activities within MID's 60-foot-wide easement for this facility, including any modifications or disruptions in access to this facility. The Draft SEIR did not identify any potentially significant impacts to the Fairfield Lateral "A" that would warrant mitigation. No revisions to the Draft SEIR are necessary.
- ▶ Fairfield Lateral "A-A": As noted in Response 4-1, the project would not involve activities within MID's prescriptive easement for this facility, including any modifications or disruptions in access to this facility. The Draft SEIR did

when capacity is available. This would be beneficial for offsite properties subject to flooding during peak flows on Cottonwood Creek under existing conditions.

Similar to the Adopted UCP, the Draft SEIR concludes that the UCP Update would continue to adequately minimize impacts related to alteration of drainage patterns.

Response 4-6

The comment states that there is no opportunity for annexation by MID and that MID reserves the right to provide further comments. This comment is noted, and the text on page 2-41 of the Draft SEIR in Section 2.7, "Required Discretionary Actions," has been revised to remove the mention of potential annexation to MID (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft is not required. This comment does not address the adequacy of the analysis or conclusions in the Draft SEIR and does not raise a significant environmental issue requiring a response. The comment is acknowledged for the record and will be forwarded to the decision makers for consideration.

San Joaquin Valley Air Pollution Control District
District Reference No: 20230405
June 19, 2023

Page 2 of 12

emissions incorporates the use of Tier 4 engines as mitigation for all construction equipment. As such, the emission reductions may be overestimated. Therefore, the District recommends the Project air quality emissions analysis be clarified or revised to reflect the potential use of Tier 3 equipment consistent with Mitigation Measure 3.1-1a. In addition, the District recommends that Mitigation Measure 3.1-1a be expanded to include the VST portion of the Project.

5-2
Cont.

2) Voluntary Emission Reduction Agreement

According to the SEIR, criteria pollutant emissions would result in construction and operational emissions exceeding the District's significance thresholds, as such resulting in a significant impact on air quality. The SEIR includes Mitigation Measure 3.1-2b "Engage in Regional Programs to Offset Project Emissions of ROG, NOX, CO, and PM10 (UCP South and VST Specific Plan) UCP South" which states:

"....If one or more thresholds are exceeded, prior to the issuance of Certificates of Occupancy, the project applicant shall enter into a VERA through coordination with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level consistent with the direction given in SJVAPCD's GAMAQI..."

5-3

2a) Timing of VERA Execution

Based on the above, the District recommends engaging in discussion with the District much sooner than the issuance of *Certificate of Occupancy* in order to ensure the VERA is timely executed. Towards this end, it will ensure the emission reductions to be achieved under the VERA are contemporaneous with the Project's emissions occurring.

To further clarify, the District recommends the project proponent (and/or Lead Agency) engage in discussion with the District to have the VERA adopted by the District prior to the finalization of the environmental document. This process will allow the environmental document to appropriately characterize the project emissions and demonstrate that the project impact on air quality will be mitigated to less than significant under CEQA as a result of the implementation of the adopted VERA.

3) Health Risk Screening/Assessment

The County should evaluate the risk associated with the Project for sensitive receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) in the area and mitigate any potentially significant risk to help limit exposure of sensitive receptors to emissions.

5-4

San Joaquin Valley Air Pollution Control District
District Reference No: 20230405
June 19, 2023

Page 4 of 12

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the project-related health impacts would exceed the District's significance threshold of 20 in a million for carcinogenic risk, or 1.0 for either the Acute or Chronic Hazard Indices.

A project with a significant health risk would trigger all feasible mitigation measures. The District strongly recommends that development projects that result in a significant health risk not be approved by the land use agency.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: hramodeler@valleyair.org
- Calling (559) 230-5900

Recommended Measure: Development projects resulting in TAC emissions should be located an adequate distance from residential areas and other sensitive receptors in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategy-development/land-use-resources>.

4) **Ambient Air Quality Analysis**

An Ambient Air Quality Analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. The District recommends an AAQA be performed for the Project if emissions exceed 100 pounds per day of any pollutant. An acceptable analysis would include emissions from both project-specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis. Specific information for assessing significance, including screening tools and modeling guidance, is available online at the District's website: www.valleyair.org/ceqa.

In addition, the District would like to clarify the alternative language in Mitigation Measure 3.1-1b. A VERA is a mitigation measure designed to mitigate mass emissions when a project is expected to exceed the District significance thresholds

5-4
Cont.

5-5

San Joaquin Valley Air Pollution Control District
District Reference No: 20230405
June 19, 2023

Page 6 of 12

- *Recommended Measure:* All on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) utilize zero-emissions technologies.

7) Reduce Idling of Heavy-Duty Trucks

The goal of this strategy is to limit the potential for localized PM2.5 and toxic air contaminant impacts associated with the idling of Heavy-Duty trucks. The diesel exhaust from idling has the potential to impose significant adverse health and environmental impacts.

Since the Project is expected to result in HHD truck trips, the District recommends the County consider the feasibility of implementing a more stringent 3-minute idling restriction and requiring appropriate signage and enforcement of idling restrictions.

5-7
Cont.

8) Under-fired Charbroilers

The Project may have the potential to include restaurants with under-fired charbroilers. Such charbroilers may pose the potential for immediate health risk, particularly when located in densely populated areas or near sensitive receptors.

Since the cooking of meat can release carcinogenic PM2.5 species, such as polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health. The air quality impacts on neighborhoods near restaurants with under-fired charbroilers can be significant on days when meteorological conditions are stable, when dispersion is limited and emissions are trapped near the surface within the surrounding neighborhoods. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises air quality concerns.

5-8

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM2.5 standards. Therefore, the District recommends that the SEIR include a measure requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for new large restaurants operating under-fired charbroilers.

The District is available to assist the SEIR and project proponents with this assessment. Additionally, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system during a demonstration period covering two years of operation. Please contact the District at (559) 230-5800 or technology@valleyair.org for more information, or visit: <http://valleyair.org/grants/rctp.htm>

San Joaquin Valley Air Pollution Control District
District Reference No: 20230405
June 19, 2023

Page 8 of 12

12) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

5-12

12a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

The Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, the project proponents should submit to the District an application for an ATC.

Recommended Mitigation Measure: For projects subject to permitting by the San Joaquin Valley Air Pollution Control District, demonstration of compliance with District Rule 2201 shall be provided to the County before issuance of the first building permit.

San Joaquin Valley Air Pollution Control District
District Reference No: 20230405
June 19, 2023

Page 10 of 12

Information about how to comply with District Rule 9510 can be found online at:
<http://www.valleyair.org/ISR/ISRHome.htm>.

5-13
Cont.

The AIA application form can be found online at:
<http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.

12c) District Rule 9410 (Employer Based Trip Reduction)

The Project may be subject to District Rule 9410 (Employer Based Trip Reduction) if the project would result in employment of 100 or more “eligible” employees. District Rule 9410 requires employers with 100 or more “eligible” employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.

Information about District Rule 9410 can be found online at:
www.valleyair.org/tripreduction.htm.

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org

5-14

12d) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)

In the event an existing building will be renovated, partially demolished or removed, the Project may be subject to District Rule 4002. This rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Information on how to comply with District Rule 4002 can be found online at:

<http://www.valleyair.org/busind/comply/asbestosbultn.htm>.

12e) District Rule 4601 (Architectural Coatings)

The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:

<http://www.valleyair.org/rules/currnrules/r4601.pdf>

San Joaquin Valley Air Pollution Control District
District Reference No: 20230405
June 19, 2023

Page 12 of 12

13) District Comment Letter

The District recommends that a copy of the District's comments be provided to the Project proponent.

5-15

If you have any questions or require further information, please contact Cherie Reed by e-mail at Cherie.Reed@valleyair.org or by phone at (559) 230-5940.

Sincerely,

Brian Clements
Director of Permit Services



For: Mark Montelongo
Program Manager

timely executed.” It should be noted that Mitigation Measure 3.1-2b specifically states that, when thresholds are exceeded, the applicant shall “enter into the VERA” “prior to the issuance of Certificates of Occupancy” and that the applicant “shall engage in a discussion with SJVAPCD prior to the adoption of the VERA.” Mitigation Measure 3.1-b is clearly not suggesting that the applicant initiates coordination with the air district at the time of issuance of Certificates of Occupancy, but, rather, is requiring the applicant to coordinate with air district in advance of entering into the VERA.

The air district also recommends adoption of a VERA prior to certification of an environmental document “to appropriately characterize the project emissions and demonstrate that the project impact on air quality will be mitigated to less than significant under CEQA as a result of the implementation of the adopted VERA.” The County acknowledges the recommendation to engage with the air district early in the environmental review process and the suggestion about adopting a VERA prior to EIR certification. However, because entering into a VERA requires consideration of specific design issues and payment of mitigation fees after a project has been approved, it would not be appropriate to require approval of a VERA prior to certification of the SEIR. It is more appropriate as a mitigation measure to be implemented/enforced after project approval. As a mitigation measure adopted by the County and enforced through the MMRP, VERA compliance, as required by Mitigation Measure 3.1-b, is a fully enforceable mitigation. As explained in the Draft SEIR (page 3.1-36):

Through the VERA, project proponents contribute money to fund programs with measurable air quality benefits. Because reducing operational emissions below applicable thresholds can be assured through a VERA, this impact would be reduced, thus avoiding the potential for individuals to be exposed to unhealthy concentrations of criteria air pollutants that could result in adverse health outcomes.

In response to this comment, the text of Mitigation Measure 3.1-2a has been revised to require that a VERA is completed prior to issuance of grading permits for the first phase of development in the UCP South, where subsequent analysis demonstrates that thresholds would be exceeded (refer to Chapter 3, “Revisions to the Draft SEIR”). This modification to the mitigation measure would require completion of a VERA as early in the process as reasonable; there would be no change to the efficacy of the measure. This revision does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 5-4

The comment states that the county should evaluate the risk associated with the UCP Update through the preparation of a health risk assessment (HRA) and use SJVAPCD’s Prioritization Risk Screening Tool. This tool calculates potential health risk impacts from exposure to toxic air contaminants (TACs) associated with the operation of stationary equipment or industrial processes. The annual and maximum pounds of TAC emissions are the inputs to determine the maximum cancer, chronic, and acute risk impacts to receptors at different receptor distances.

The SEIR evaluated the potential impacts caused by exposure of sensitive receptors to both TACs and odors, and determined both to be less than significant (Draft SEIR, pages 3.1-37—40). Construction-related TACs would be dispersed throughout the UCP area and would not present a risk to sensitive receptors (Draft SEIR, page 3.1-38). No stationary source TAC-generating land uses are proposed within the UCP area (Draft SEIR, page 3.1-38). Mobile source TACs along roadway segments were projected to be below CARB’s recommended threshold for siting of sensitive receptors (Draft SEIR, page 3.1-38). The project would not introduce any new sources of odor that were not previously identified (Draft SEIR, page 3.1-39). Thus, the Draft SEIR adequately addressed impacts to sensitive receptors.

Given that the project represents an overall reduction in developable acreage, including a 38 percent reduction in commercial/office square footage across the UCP area (2,022,900 sf to 1,247,000 sf), the changes do not represent significant new impacts, and in fact represent a reduction in overall construction and mobile-source TACs. Thus, the SEIR adequately determined a less-than-significant impact to sensitive receptors.

Based on SJVAPCD’s guidance in using its Prioritization Risk Screening Tool, if a cancer prioritization score exceeds a value of a cancer risk of 10 (shorthand for a concentration of a cancer risk of 10 in one million) at the nearest residential receptor, construction emissions shall be incorporated into the HRA. A cancer risk score of 10 in one

would be required to comply with the SJVAPCD permitting process (which reduces the potential for sensitive receptors to be exposed to substantial pollutant concentration), and mobile source TACs were determined to result in less-than-significant impacts because the roadway modeled to support the most vehicles per day in the cumulative context would be "below CARB's [California Air Resources Board's] recommended threshold for siting sensitive receptors to mobile source emissions of TACs" (Draft SEIR, page 3.1-38). Using this threshold, the SEIR determined that the project would not expose sensitive land uses to mobile-source TACs or result in increased health risks above the SJVAPCD thresholds of a cancer score of more than 20 in 1 million (Draft SEIR, page 3.1-39) potential impacts.

The SEIR is intended to satisfy Section 15162 of the State CEQA Guidelines which posits the question of whether changes to a project would result in new or substantially more severe impacts as compared to a previously certified environmental document. The land uses proposed under the UCP Update, which includes the VST Specific Plan and its various impact-reducing project design features, would not generate more TACs than what would have occurred from the adopted land uses of the 2001/2004 UCP EIR, which did not include the VST Specific Plan project design commitments that reduce TAC and criteria air pollutant emissions, such as the prohibition of natural gas for residential land uses and investments in transportation infrastructure to reduce mobile source emissions. Also, since the certification of the 2001/2004 UCP EIR, CARB has adopted and amended various regulations that have resulted in the improved fuel efficiency that have reduced emissions generated by on-road diesel-powered vehicles and trucks including the Alternative Diesel Fuel, the Advanced Clean Fleets, and Advanced Clean Trucks regulations. These regulations promote the use of alternatively sourced diesel fuels (i.e., not fossil fuel based) and the steady transition to the electrification of medium- and heavy-duty trucks. The implementation of the standards within these regulations has produced a more fuel efficient medium- and heavy-duty truck fleet since the certification of the 2001/2004 UCP EIR. Moreover, the project represents an overall reduction in developable acreage, including a 38 percent reduction in commercial/office square footage across the UCP area, as noted above. Therefore, emissions from truck activity under the UCP Update would not produce a new or substantially more severe impact had mobile-source TAC emissions been evaluated.

As described above, a full HRA is not required, necessary, nor appropriate in this case. There is no commercial development proposed adjacent to Lake Road with potential to result in operational health effect on existing sensitive receptors, and pursuant to CEQA, the County is not required to evaluate the effects of project buildout on future occupants of the project (i.e., the effects of the project on itself). Further, lead agencies are not required to conduct an HRA where analysis concludes that emissions associated with construction and operation of the project did not exceed air quality significance thresholds. (Citizens for Responsible Equitable Environmental Development v. City of Chula Vista 197 Cal.App.4th at 333.) Here, the UCP Update and VST Specific Plan have not exceeded any applicable thresholds that have been adopted by SJVAPCD. The City and County would review all subsequent development proposals for consistency with applicable SJVAPCD regulations. No additional mitigation is necessary, and no revisions have been made to the Draft SEIR in response to this comment.

Response 5-5

The comment states that an ambient air quality analysis (AAQA) should be prepared for any project with emissions exceeding SJVAPCD's 100 lb/day screening criteria. As shown in Table 3.1-12, the UCP Update would result in fewer daily emissions of reactive organic gases (ROG), oxides of nitrogen (NO_x), carbon monoxide, sulfur oxides, and respirable particulate matter (PM₁₀) than the Adopted UCP. Emissions of fine particulate matter (PM_{2.5}) were not estimated in the 2001/2004 UCP EIR and a comparison could not be made. The emissions estimates demonstrate that implementation of the UCP Update would not result in a substantially more severe impact than what was identified in the 2001/2004 UCP EIR.

The analysis prepared for the UCP South portion of the UCP Update is intended to be programmatic given that specific details such as refined land use maps are not available for the community plan. An AAQA performed for the UCP Update would not produce results of high-accuracy given the uncertainty of the locations of emissions sources. Nonetheless, Mitigation Measure 3.1-1b will be updated to require an AAQA to confirm whether the UCP Update would violate any state or federal Ambient Air Quality Standards for future development projects in the UCP South. Mitigation Measure 3.1-b will continue to include VERA compliance as a fully enforceable mitigation measure.

from various vendors; neither the County nor the future operator would have discretion over the types of vehicles used to make these deliveries. The County also does not have a mechanism to monitor and enforce restrictions on the types of fleet vehicles and equipment used throughout the operational life of future occupants of the UCP area. Further, any additional mitigation measures in the form of requiring low and zero emission trucks is not required, as operation of these vehicles has not been determined to result in an environmental impact. Mitigation is only required if there are significant environmental effects. (PRC § 21100(b)(3).) An EIR is not required to discuss mitigation measures for impacts when the EIR had determined that such impacts would be less than significant. (North Coast Rivers Alliance v. Marin Municipal Water District (2013) 216 Cal.App.4th 614, 649.)

Response 5-8

The comment summarizes the potential contribution of PM_{2.5} from the operation of charbroilers and recommends that the County consider measures requiring the assessment and potential installation of particulate emissions control systems for new restaurants that may use charbroilers. As shown in Table 3.1-12, the UCP Update (which includes the VST Specific Plan), operational emissions of PM_{2.5} would be below SJVAPCD's thresholds of significance. While future restaurants in the plan area may seek to coordinate with SJVAPCD regarding particulate emissions control systems for charbroilers, the UCP Update's projected emissions of PM_{2.5} would not be significant and use of these emissions control systems are not recommended as formal CEQA mitigation.

Although PM_{2.5} emissions are not the focus of the VERA required by Mitigation Measure 3.1-2b because emission levels would be not exceed established thresholds, additional discussion of appropriate particulate measures for subsequent projects that include charbroilers may occur during the VERA process. No modifications to the SEIR are required.

Response 5-9

The comment recommends that the County consider the implementation of vegetative barriers and urban greening as measures to reduce further air pollution exposure to sensitive receptors. The VST Specific Plan proposes landscaping that is compatible with each community and surrounding uses, and the VST Specific Plan includes a requirement for such landscape buffering in Table 3, Policy 8.1, Policy 8.1.1 and Policy 8.1.2. In response to this comment, the language of Mitigation Measure 3.1-2a on page 3.1-34 of the Draft SEIR has been amended to include additional vegetative barriers, and this recommendation will be factored into subsequent landscaping plans. See Chapter 3, "Revisions to the Draft SEIR." This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 5-10

The comment recommends that the project proponent consider participation in SJVAPCD's Clean Green Yard Machines program to reduce the emissions from gas-powered lawn and gardening equipment. While it is foreseeable that some future residents of the plan area would use electrical landscaping equipment, it is infeasible for the County to enforce a prohibition of the use of natural gas-powered landscaping equipment in the future since there is no permit process associated with consumer purchases of yard maintenance equipment. Future residents of the plan area may elect to participate in the Clean Green Yard Machine's program; however, participation is not considered a feasible mitigation strategy under CEQA. The comment does not make any specific reference to the analysis prepared in the Draft SEIR, nor does it affect the conclusions made in the SEIR. No further response is required.

Response 5-11

The comment states that the project may be eligible for funding through SJVAPCD's Bikeway Incentive Program. In response to this comment, the text has been added to Mitigation Measure 3.1-2a on page 3.1-34 of the Draft SEIR indicating that future project applicants for development of the UCP South would be required to apply for grant funding through SJVAPCD's Bikeway Incentive Program prior to issuance of development permits.

See Chapter 3, "Revisions to the Draft SEIR." The text edits made in response to this comment do not alter the conclusions of the Draft SEIR. This revision is made for the purposes of clarification and amplification of information

employers to establish an Employer Trip Reduction Implementation Plan that encourages employees to reduce single-occupancy vehicle trips to reduce emissions associated with worker commute trips. In response to this comment, a description of Rule 9410 has been added to Section 3.1.1, "Regulatory Setting," on page 3.1-5 of the Draft SEIR following the bullet point that summarizes Rule 8021 and preceding the bullet point that summarizes Rule 9510.

The added text does not alter the significance determinations made in the Draft SEIR. Development under the project would be required to comply with the applicable rules and regulations established and enforced by SJVAPCD as conditions of project approval. Compliance with this rule would occur prior to the issuance of a Permit to Operate by future tenants of commercial properties meeting the standards of Rule 9410 through SJVAPCD's permit application process.

The comment also states that development under the project would be subject to SJVAPCD's Rules 4004, "National Emissions Standards for Hazardous Air Pollutants" and 4601, "Architectural Coatings," and Regulation VIII, "Fugitive Dust Prohibitions." Compliance with these rules would occur prior to the issuance of an Authority to Construct permit through SJVAPCD's permit application process. These rules and regulations are disclosed on page 3.1-5 of the Draft SEIR.

For CEQA purposes, it is assumed that future development would be required to comply with mandatory regulatory mechanisms, such as those rules enforced by SJVAPCD. The lead agency would confirm compliance with adopted regulations during review of any subsequent discretionary development in the plan area. No revisions to the Draft SEIR are required in response to this comment.

Response 5-15

The comment recommends that this comment letter be submitted to the project applicant for consideration. The comment does not address the adequacy of the Draft SEIR and no further response is required.

Tiffany Ho
June 12, 2023
Page 2

have regional environmental impacts and further inequality in the City of Merced, especially regarding water, transportation, and air quality.

6-1
Cont.

I. The Project Exemplifies Sprawl and Fails to Include Adequate Affordability

The planned housing would disproportionately skew towards attracting high-income residents as much of the housing would be R-1 low-density residential and lacks meaningful requirements for deed-restricted affordable housing for lower-income households. The City's zoning code divides the R-1 zone classification into several subcategories depending on density, including R-1 Low, R-1 Low Medium, R-1 Medium, and R-1 Medium Cluster. On a per-acreage basis, the Project's R-1 zones would require the most land and infrastructure to house the least residents. Due to the size, infrastructure, and location, these homes are designed to be more expensive than more centrally located smaller homes. The homes would be disconnected from the City of Merced, without transit, the Project would be largely unreachable without a vehicle.

R-1 "R-1 Low" housing units would average 3,250 sq ft on lots of 12,500 sq ft or greater near the edges of the VST Specific Plan. Currently, a home this size in Merced ranges from \$519,00 to \$759,00.¹ Next is the "R-1 Low-Medium" units averaging 2,750 sq ft on lots ranging in size from 7,000 sq ft to 10,000 sq ft. Following is "R-1 Medium" units which would be on a minimum lot size of 4,500 sq ft. Additionally, there are the "R-1 Medium, Cluster" units which would be 1,200 sq ft to 2,000 sq ft on lots of about 5,000 sq ft. Collectively, these R-1 types would house 1,277 of the 3,857 total VST Specific Plan area residents (33%) yet require almost 62% of the total acreage of the VST Specific Plan. The outsized costs of these properties alone would ensure that the VST Specific Plan area perpetuates and exacerbates segregated living patterns based on income, race, language, and other characteristics. The large lot developments proposed in the R-1 portion of the Project are incapable of being affordable or environmentally efficient and will not qualify for subsidies available for the development of deed-restricted housing affordable to lower-income households. They incentivize higher vehicle miles travelled, undermine the potential for an efficient and financially-viable public transportation network, and promote increased water use and higher social isolation.

6-2

Although sprawling low-density housing would ensure it remains largely unaffordable for most City of Merced residents, the Project attempts to assuage those worries by providing R-2 housing. The SEIR claims that R-2 housing would provide small lot "workforce" housing with varying housing sizes and corresponding initial sales prices aimed at families with incomes equal to 80-160% of the area median family income, but with only 480 units total, these encompass a relatively small component of the total units projected by the project, and the DEIR provides no actual assurance that the project will achieve any certain affordability level across the wide range predicted, such as through deed-restricted affordability requirements. Likely, home sales would largely favor the higher end of the area median family income given the proximity to high-resource areas and amenities and the lack of deed-restricted affordability guarantees for these homes. Importantly, these units will be totally inaccessible to lower-income households who bare the greatest housing cost burdens and have the greatest immediate need for housing.

¹ <https://www.zillow.com/merced> (Accessed June 9, 2023)
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Tiffany Ho
June 12, 2023
Page 4

South Merced by diverting resources, limited city services capacity, and staff time. As development expands towards the north, it has led to a concentration of resources, amenities, and infrastructure in the newly developed areas. Existing lower-income areas like South Merced are further marginalized because of public and private disinvestment, exacerbating inequalities, and sapping the area of further investment potential. This feedback loop, coupled with the City, County, and State's long-standing failure to invest in South Merced, has created the existing situation in South Merced, an area without essential services and infrastructure, quality schools, parks, and quality transit. To add insult to injury, the City is considering funding an industrial Park Study in South Merced directly adjacent to residential areas in a census tract that is 90% residents of color, according to CalEnviroScreen 4.0. Although the City is willing to invest in studies to further industrial buildout, it has been unwilling thus far to conduct a needs analysis as required by SB 244. Despite clear and active resident engagement in South Merced advocating for greater investment, the City has chosen to pursue placing polluting land uses in South Merced. In comparison, North Merced, and this Project would continue a practice of investing and planning for continued growth in North Merced. This project and the City's other planning actions are clear examples of environmental racism.

The proposed Northward city sprawl will increase segregation and isolation of the underinvested southern areas. As is evident through demographic dispersion within the City of Merced, South Merced has a much lower average income and much larger minority populations when compared to the northern portion of the city. As development moves away, it can reinforce the physical and psychological barriers between different parts of the city. This isolation limits access to job opportunities, educational resources, and social networks, further deepening the disparities between the northern and southern areas.

To address these concerns, it is crucial to adopt inclusive and equitable development strategies that prioritize the needs of South Merced, including the neighborhoods in South Merced both within and just beyond city boundaries. This could involve targeted investment in South Merced infrastructure, including investment in pedestrian safety, road repairs, water, wastewater, and stormwater drainage infrastructure; economic development initiatives that are shaped by and designed to benefit residents of South Merced; and community-driven land use planning in South Merced aimed at bringing more resources, services, green space, affordable housing, and community-serving amenities to the community. Commitments to improve transportation connectivity and public transportation options can bridge the divide between different parts of the city to promote integration and social cohesion.

To lessen economic disparities between North and South Merced, the Project must commit to robust affordability requirements in high-resource areas. We recommend the County require deed-restricted affordability for low, very low, and extremely low income households according to the share of the housing needs of those income categories as assigned to the County in its 6th Cycle RHNA. Specifically, 25% of new housing built in North Merced must be restricted to very low-income and extremely low-income residents, while an additional 15% should be deed restricted to low-income residents. The amount of currently proposed deed-restricted units is insufficient to provide a fully integrated living pattern in the VST Specific Plan. Therefore, the State in proposing the inequitable Project, the County in approving the VST Specific Plan in its

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6-2
Cont.

Tiffany Ho
June 12, 2023
Page 6

levels by 25 to 35 feet in the area of the rural residences west of Lake Road. Despite this acknowledgment, the SEIR failed to identify mitigation measures to address significant drawdown from the new wells for the existing shallow residential wells or consider alternatives to avoid this impact, instead finding that the impact was less than significant. Further, South Merced is in the same subbasin as the Project, therefore through continued drawdown of groundwater in North Merced, this may also impact shallow groundwater wells that are not connected to the City's system. The impact to shallow groundwater wells outside the immediate vicinity of the new proposed wells must also be analyzed.

6-5
Cont.

Finally, the SEIR failed to analyze the possibility and use of a water recycling treatment facility, simply stating it could be used in the future if necessary. To address the limited water availability, the Project applicant proposes reliance on additional surface water allocations from the Merced Irrigation District beginning in 2030. This assumes water will be available. Throughout several areas in California, even senior water rights holders have not received their full water allocations; therefore, it is unclear if MID will be able to supply the City with the requested water. With more expected years of prolonged drought on the horizon due to climate change, and multiple Groundwater Sustainability Agencies throughout the San Joaquin Valley already critically overdrafted, Merced will surely have to rely on additional water supplies. Merced must ensure that these future supplies are a guarantee, not simply a possibility. Surface water from MID is not certain.

6-6

The SEIR must analyze the full scope of impacts that the Project would have on groundwater supply regionally, on local domestic wells in the area, on the future water quality of the proposed residential system, and on the City of Merced's municipal water system capacity. The County must consider existing impacts and the incremental nature of Merced's increasing population on limited water supplies in light of the groundwater basin's vulnerability. Each additional subdivision and master planned community will strain those limited supplies, especially without full and adequate consideration. To mitigate potential impacts, the County must agree to connect residents that lose access to shallow well water to available networks, or pursue state funding for groundwater consolidation projects.

6-7

B. Transportation and Circulation - The SEIR's VMT analysis and methodology underestimate the operational VMT associated with the VST Specific plan

The VMT analysis significantly underestimates the potential number of daily VMTs that the project would generate. In the absence of local guidelines and regulations, the Project relies on those prepared by the Governor's Office of Planning and Research. Although those may be used, the SEIR made assumptions that are not based on current observations or studies. CEQA requires factual analysis through substantial evidence.⁷ For example, the project assumes that 30% of internal trips will be made up of cycling or walking. The claim relies on engineering 'judgment.' The Project argues "[t]he mode of travel (especially the non-vehicular travel modes) are substantially influenced by the proximity of work and shopping destinations to the residential units, and the diversity of land uses."⁸ The SEIR did not demonstrate that similar developments

6-8

⁷ Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 409.

⁸ Virginia Smith Charitable Trust (VST), Vehicle Miles Traveled (VMT) Analysis April 14, 2023) Page 7
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Tiffany Ho
June 12, 2023
Page 8

approach to modeling assumes that such analysis would produce estimates of meaningful accuracy.”¹² The SEIR then goes on to restate amicus curiae received during the court proceedings, which explains the “feasibility” of regional dispersion modeling for ozone. The SEIR acknowledges SJVAPCD has not developed a dispersion model to evaluate resulting human health impacts for project level emissions with resulting concentrations of ozone precursor within the SJVAB, but that it is foreseeable that such a model could be developed to quantify potential human health impacts in connection with locations of nonattainment of an air basin. In fact, the Bay Area Air Quality Management District (BAAQMD) has developed such a tool that several projects have successfully used over the years.¹³ Despite this, the SEIR describes no attempt to develop or use such a tool to evaluate the project’s potential public health impacts resulting from air emissions generated by the project.

6-11
Cont.

Despite the amicus curiae’s assertions and the SJAPCD’s lack of initiative in developing a model, the Court’s holding is the same. Here, the SEIR has failed to meet those obligations. Instead, it attempts to meet its requirement using a qualitative analysis, giving itself greater discretion than permitted and understating the Project’s health impacts. An air quality analysis that uses a qualitative approach must be conducted to adequately capture the Project’s effects on human health and comply with the holding in *Sierra Club v. County of Fresno*. Here, it is clear the Project had access to guidelines and thresholds that would surely comply with the Court’s holding, but instead chose to make assumptions that are less clear and likely underestimate air pollution on public health.

Regardless of further analysis, the proposed air quality mitigation proposed by the SEIR would not adequately mitigate air quality impacts. If any SJVAPCD annual mass emission thresholds are exceeded the SEIR proposes to use a voluntary emission reduction agreement (VERA) in coordination with SJVAPCD. Current guidelines allow the funds to be used anywhere in the San Joaquin Valley. Any VERA entered into must ensure that a majority of funds created through it are spent within the City of Merced. Doing so would ensure locally created air emissions are adequately targeted, specifically to reduce emissions in neighborhoods with high emission levels. A VERA entered into without these additional conditions would not adequately mitigate the impact of the Project. A mitigation measure must avoid or adequately lessen significant effects. If funds from the VERA may be used anywhere in the SJV, the Project’s impacts would not be adequately addressed.

6-12

The County’s failures to comply with CEQA by conducting an accurate and complete analysis of potential environmental impacts associated with the project and identifying enforceable mitigation measures that avoid and reduce those impacts compound the Project’s tension with the County’s civil rights mandates by exposing Merced County residents to harm.

* * * * *

Due to the deficiencies described above, both in the inadequate CEQA analysis, and the current proposal’s failure to affirmatively further fair housing we ask that the Project undergo

6-13

¹² UCP Update and VST Specific Plan Focused SEIR, 3.1-12

¹³ <https://cms6.revize.com/revize/burlingamecity/App%20B%20-%20HRA%20ASMBLD.pdf>
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Letter 6 Leadership Counsel for Justice and Accountability

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June 12, 2023

Response 6-1

After providing introductory remarks and a summary of the project description, the comment suggests that the City of Merced is prioritizing investment in North Merced over South Merced. The comment also suggests that the Draft SEIR is deficient in analyzing and mitigating land use impacts under CEQA and that the project would result in inequality and regional environmental impacts related to water, transportation, and air quality. The SEIR evaluates the UCP Update and VST Specific Plan impacts to these resources in Section 3.5, "Hydrology and Water Quality," Section 3.7, "Transportation and Circulation," and Section 3.1, "Air Quality," of the Draft SEIR. This comment does not elaborate on the claim that the project has not had a "full environmental analysis and mitigation" of impacts to these resources. In fact, Merced County has prepared several CEQA documents since 2001 to evaluate the impacts of developing the UCP area in accordance with the County's plans to develop this area following the development of the UC Merced campus.

Response 6-2

The comment suggests that development under the UCP Update and VST Specific Plan would skew towards high-income residents and would not provide sufficient affordable housing for lower-income households. According to the UCP Update, developments in the UCP would accommodate all economic segments of the university community including students and Above Moderate, Moderate, Low and Very Low Income households. The VST Specific Plan contains housing in accordance with those policies to maximize the capture of university students, staff, and instructors. The comment also includes commentary on the merits of the VST Specific Plan, including the effects of housing density on home price and potential to "perpetuate and exacerbate segregated living patterns." The comment suggests that the development would contribute to sprawl, social isolation, economic disparity, and segregated living patterns. The comment also states that the project does not align with regulations governing fair housing.

CEQA does not require that housing affordability, sprawl, social isolation, economic disparity, segregation, and fair housing be evaluated in environmental documents. State CEQA Guidelines Section 15131 allows the approving agency to include or present economic or social information in an EIR, but Section 15131(a) limits the consideration of such factors in the assessment of significant impacts, stating:

Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.

The VST Specific Plan would include the construction of a wide range of housing, including affordable housing units, and 500 deed restricted units for Extremely Low, Very Low, Low and Moderate Income households. For the purpose of community planning, the usual "nexus" approach for affordable housing is that project provide an appropriate amount of housing relative to the need for affordable housing that the project generates, not the regional "need" as established in the regional housing needs assessment (RHNA) for the County. The County addresses regional housing needs as part of its Housing Element in accordance with State housing laws. Based on an analysis of the wage levels for onsite and the demand for goods and services generated by UC Merced and the UCP South, the VST Specific Plan would generate a need for 62 very low income units, 646 low income units, and 817 moderate income units. The VST Specific Plan exceeds this anticipated demand by 163 very low income units, 268 low income units, and 1,249 moderate income units. It also complies with City's RHNA Unit Production Policy. Thus, there is no evidence that the VST Specific Plan would not provide affordable housing.

the Draft EIR. This comment does not identify specific concerns related to the adequacy of the analysis or conclusions in the Draft SEIR and does not raise a significant environmental issue requiring further response.

Response 6-4

The comment states that the Draft SEIR did not adequately analyze impacts related to groundwater quality or quantity. The comment identifies water quality impairments in the Merced subbasin and suggests that project-related drilling of groundwater wells has potential to contaminate the water supply. The comment suggests that water quality testing should be conducted to evaluate potential groundwater quality impacts.

As support for this claim, the comment cites the description of existing distribution system reliability in the Water Supply Assessment (WSA) prepared for the project (Appendix I to the Draft SEIR, page 2-8). The WSA indicates that the City's municipal water system has historically been a reliable water source and that there is now a Groundwater Sustainability Plan in place to address declining groundwater levels. Nonetheless, "existing wells may need to be deepened, as recommended in the 2014 WMP." And, if deeper wells increase water quality problems, the City could address this issue with increased water treatment to ensure removal of contaminants before distribution to customers. The WSA does not indicate that the quality of the water delivered to municipal customers or the quality of the water in nearby private wells (which are typically drilled into the shallow water table) would be impaired if some existing wells are deepened in the future as envisioned in the City's 2014 Water Master Plan. The WSA also does not indicate that the municipal well located within the VST Specific Plan would need to be made deeper than proposed.

Pages 3.5-15 through 3.5-17 of the Draft SEIR evaluate the potential for the project to substantially degrade surface water or groundwater quality. As noted in Response 2-1, the Draft SEIR includes a programmatic evaluation of the construction and operation of the proposed onsite municipal well. (Also as noted in the Draft SEIR, the existing groundwater usage from existing agricultural operations is approximately 2,400 acre-feet (AF) per year, which is 100 percent from groundwater. Full development of the project would result in the consumption of approximately 1,500 AF per year, a 900-AF reduction.) Modification of the City's water supply infrastructure (including drilling the onsite municipal well), would occur as a subsequent action initiated by the City of Merced. As indicated on page 3.8-21 of the Draft SEIR, the analysis assumes that the City would continue to construct required groundwater facilities as outlined in the City's 2014 Water Master Plan and evaluated separately in the *Mitigated Negative Declaration and Initial Study for City of Merced 2016 Water Master Plan Update* (City of Merced 2017b). Compliance with regulatory requirements would ensure that drilling activities related to the onsite municipal well would not contaminate the water supply. Chapter 8.12, "Water Wells" of the City of Merced Municipal Code, was established to provide standards for the location, construction, maintenance, rehabilitation, sealing, abandonment, and destruction of all wells, test wells, and certain exploration holes so the quality of the groundwater is not polluted, contaminated, or otherwise impacted in a manner that would jeopardize the health, safety, or welfare.

Pages 3.8-19 through 3.8-21 of the Draft SEIR describe whether there are sufficient water supplies available to serve the UCP Update and VST Specific Plan and other reasonably foreseeable future development during normal, dry, and multiple dry years. The Draft SEIR concludes that the anticipated water demand from the amended UCP area is anticipated to be less than what was evaluated in the 2001/2004 UCP EIR because of the reduced development potential and increased concentration of land uses. Based on the findings of a Water Supply Assessment prepared pursuant to Senate Bill 610, the Draft SEIR concludes that the City has adequate water supply available to meet city-wide water demand, including water demand from the VST Specific Plan. The Draft SEIR, therefore, concludes that the UCP Update and VST Specific Plan would not result in new or more severe significant effects beyond those identified in the 2001/2004 UCP EIR and the impact would be less than significant.

The Draft SEIR, therefore, provides an updated analysis of the proposed UCP Update that is based on current groundwater conditions and the City's 2014 Water Master Plan. There is no evidence that the well constructed in the VST Specific Plan area would be deeper than evaluated in the Draft SEIR, or that regional effects to groundwater quality would occur as a result. No changes have been made to the Draft SEIR in response to this comment.

Response 6-5

The comment states that the Draft SEIR failed to identify mitigation measures to address significant drawdown from the installation of new wells or consider alternatives to avoid this impact. The comment also suggests that the impact

In preparing this SEIR, the County proceeded in a stepwise manner to identify the environmental impacts of the UCP Update that were previously disclosed and certified in the EIR, identify whether the setting in which the UCP was evaluated has substantially changed since its preparation such that those changes could result in new or substantially more severe environmental effects, and provided a comparison of whether the UCP Update would result in new or substantially more severe environmental effects compared to the environmental effects that were previously disclosed and certified in the 2001/2004 UCP EIR. Specifically, the County assessed whether the details of the UCP Update or changes in circumstance substantially differ from what was previously evaluated and whether those changes resulted in any new or substantially more severe environmental impacts. This stepwise analysis and substantiation follows the requirements of CCR Sections 15162-15164 for supplemental analyses. The results of this stepwise analysis concluded that the UCP update would not result in any new or substantially more severe environmental impacts from those evaluated and certified in the GP EIR. The same is true for the VST Specific Plan as it covers only a portion of the entire UCP area approved for development for more than 20 years. Because the impact would remain less than significant, no mitigation or alternatives are warranted. Therefore, no revisions to the Draft SEIR are necessary in response to this comment.

Response 6-6

The comment states that the Draft SEIR did not analyze the possibility and use of a water recycling treatment facility. As discussed on page 3.8-13 and 3.8-17 of the Draft SEIR, the construction of onsite wastewater treatment infrastructure identified in the Adopted UCP is no longer being considered under the UCP Update because the plan area would be annexed by the City of Merced and served by the City's existing sewer system. Use of recycled water requires an onsite treatment plant, or proximity to treatment plant and recycled water distribution lines. The wastewater treatment plant is 13 miles away from the project site and there are no recycled water lines.

The comment also suggests that there is uncertainty regarding the availability of water supplies. Based on the findings of the Water Supply Assessment prepared for the VST Specific Plan (MKN 2021), page 3.8-21 of the Draft SEIR concludes that the City would be capable of supplying the water required to meet the city's water demands, including the demand from the VST Specific Plan, through the year 2040. This determination assumes that the City would continue to utilize groundwater as the main source of water through the year 2030 and add surface water by 2035, as assumed in the City of Merced's Urban Watershed Management Plan (UWMP). The UWMP was developed in coordination with MID and other appropriate agencies and meets the requirements of the Urban Water Management Planning Act.

Response 6-7

The comment states that the Draft SEIR must consider the impacts that the project would have on local and regional groundwater supplies, including impacts resulting from population growth and other planned development within the city. The comment also suggests that mitigation would be needed to offset potential groundwater impacts.

Pages 3.8-19 through 3.8-21 evaluate whether the City has sufficient available water supply to serve future development under the UCP Update and VST Specific Plan in combination with other reasonably foreseeable future development in the city. As noted in Response 6-6, the Water Supply Assessment prepared for the VST Specific Plan determined that the City would be capable of supplying the water required to meet the city's water demands, including the demand from the VST Specific Plan, through the year 2040. The analysis evaluates the effects on groundwater supply (Impact 3.5-2), groundwater quality (Impact 3.5-1) and the capacity of the City of Merced's municipal water system (Impact 3.8-2). Existing conditions and the incremental effects of future projects are evaluated in the cumulative impact analysis (Impact 3.8-5). These analyses are informed by the supplemental, updated setting information provided in Section 3.5, "Hydrology and Water Quality," and Section 3.8, "Utilities and Service Systems." The Draft SEIR concludes that the impact related to water supplies from the UCP Update and VST Specific Plan would be less than significant, and no mitigation measures are warranted.

Response 6-8

The comment recognizes the appropriate application of the Governor's Office of Planning and Research's (OPR's) VMT guidelines, and requests additional support for the assumptions applied in the analysis. Specifically, the comment suggests that the Draft SEIR does not provide substantial evidence to support the assumption that 30

including the UC Merced campus” and Policy T 5.3 to establish stops that facilitate timed transfers between local campus/community transit service and regional transit connections serving the City of Merced, the rest of Merced County, and major interregional destinations. As indicated in the Draft SEIR (page 3.7-17):

The policies contained in the UCP Update have been designed and verified to be consistent with the Merced County Regional Bicycle Transportation Plan (MCAG 2008) and the City’s 2013 BTP [Bicycle Transportation Plan], as well as relevant policies in the County and City general plans. The UCP Update would develop bicycle, pedestrian, and transit facilities in a manner that encourages increased use of alternative modes of transportation by providing an integrated network of facilities to facilitate these types of trips and are supported by the UCP policies referenced above. Therefore, there would not be new significant effects or more severe impacts than identified in the 2001/2004 UCP EIR.

Within the VST Specific Plan, new bus stops are proposed for City and UC transit buses, as shown on Figure 49 of the Specific Plan. In addition, information and/or incentive packages would be provided for transit ridership. Pages 3.7-18 and 3.7-19 of the Draft SEIR describe the potential for the UCP Update and VST Specific Plan to conflict or be inconsistent with CEQA Guidelines, CCR Section 15064.3, Subdivision(b), which describes considerations for evaluating a project’s transportation impacts using VMT as a metric. The UCP Update and VST Specific Plan would result in less-than-significant impact related to VMT because the project is designed to (1) encourage the use of alternative modes of transportation by providing pedestrian, bicycle, and transit facilities and (2) limit the number and length of vehicle trips by containing higher-density development and locating various land uses within closer proximity to one another. The comment suggests that mitigation in the form of “greater commitments to deed restricted affordability” should be considered to reduce VMT. As explained above, there is no evidence that there is potential for greater VMT impacts than disclosed in the Draft SEIR.

Response 6-10

The comment summarizes existing air quality conditions and suggests that effects related to air quality, greenhouse gas emissions, and public health could be greater than disclosed in the Draft SEIR due to the perceived inaccuracies in the VMT analysis. However, as explained above in Responses 6-8 and 6-9, there is no evidence that the project would result in greater VMT than disclosed in the Draft SEIR. The methodology applied in the VMT analysis was appropriately informed by study of similar developments in proximity to university campuses and internal trip rates generated by published, industry standard sources, and was reviewed and approved by the City of Merced, County of Merced, and Caltrans staff who have technical training and regulatory responsibilities for these matters. Therefore, no changes have been made to the Draft SEIR in response to this comment.

Response 6-11

The comment suggests that the analysis prepared for the Draft SEIR fails to meet the direction provided by the California Supreme Court in *Sierra Club v. County of Fresno* (referred to as the Friant Ranch Decision), which held that a nexus must be made between a project’s emissions of air pollution and adverse human health impacts. The comment disagrees with the decision to not attempt to estimate or quantify the project’s contribution of air pollutant to potential health effects, and cites a tool developed by the Bay Area Air Quality Management District. The citation provided in the comment directs the reader to an HRA conducted for a project located in the City of Burlingame. Importantly, in the Friant Ranch Decision, the California Supreme Court considered the air quality analysis of the Friant Ranch Specific Plan as it pertained to the emissions of criteria air pollutants, not TACs. As discussed in response to Comment 5-4, due to the programmatic nature of the SEIR, an HRA was not prepared.

The Friant Ranch Court held that CEQA analyses should more robustly make the connection between a project’s emissions of criteria air pollutants to future adverse health impacts; however, the Court did not offer a tool or methodology for assessing these impacts. As stated in the Draft SEIR, the photochemical models available to estimate the project’s potential generation of ozone and PM_{2.5} in the SJVAB are highly speculative, and due to a compounding of assumptions necessary to perform such modeling exercises yields results of low certainty. Moreover, the Draft SEIR was prepared to satisfy the requirements of CEQA Guidelines, CCR Section 15162 as subsequent analysis.

As discussed in Section 3.1, “Air Quality,” through the application of additional mitigation, the project would reduce the previously significant and unavoidable impacts identified in the 2001/2004 UCP EIR. Because emissions would be



Letter
7

June 12, 2023

County of Merced Planning Department
Attn: Ms. Tiffany Ho, Deputy Director of Planning
2222 M Street
Merced, CA 95340
Tiffany.Ho@countyofmerced.com

Re: Draft Focused Subsequent Environmental Impact Report for the UCP Update
and VST Specific Plan (State Clearinghouse No. 2001021056)

Dear Ms. Ho:

Thank you for the opportunity to comment on the Draft Focused Subsequent Environmental Impact Report (SEIR) for the University Community Plan (UCP) and the Virginia Smith Trust (VST) Specific Plan, dated April, 2023 ("the Project"). We would like to submit the following comments on the Draft Focused SEIR for the record:

1. Section 3, *Environmental Impacts and Mitigation Measures*, Table 3-2, *Cumulative Project List* includes a list of reasonably foreseeable projects to address changes since certification of the 2001/2004 UCP Environmental Impact Report (EIR). The Table does not include Annexation Pre-Application Projects that received favorable votes by the City of Merced in accordance with the City's Annexation Pre-Application Process (approved by City Council on July 6, 2021). These projects include but are not limited to the following:
 - a. UC Villages;
 - b. University Vista;
 - c. Branford Point; and
 - d. Yosemite Lakes Estates.

The above projects are "reasonably foreseeable projects" as each have been through the City's Annexation Pre-Application process and are now assumed to be moving forward with formal application submittal, including annexation to the City of Merced as allowed under Assembly Bill 3312 ("AB 3312"). The Cumulative Project List should be revised to include, at a minimum, the above projects and that associated analysis updated.

7-1

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wait a considerable amount of time to cross the intersection. This may increase the likelihood that pedestrians will cross the intersection while vehicles are entering the roundabout which may increase the chance of a vehicle and pedestrian collision.

7-2
Cont.

3. The Traffic Impact Study ("TIS") dated February 22, 2022, Section 4.0, *2042 Horizon Year Traffic Impacts*, Sub-Section 4.3, *Approved/Pending Project Traffic*, states that "Contact was made with Merced County and the City of Merced to gather current information on approved and pending projects. These projects were reviewed to determine any projects that had not been incorporated into the 2030 Near Term traffic analysis. Three major projects were identified, the UC Merced Long Range Development Plan (LRDP), the Hunt project located immediately to the south of the VST project site, and the University Vista project located north of Bellevue Road and west of Lake Road."

7-3

The 2042 Horizon Year Condition does not take into account additional projects within the UC Merced area, such as UC Villages, located at the southwest corner of Bellevue Road and Lake Road and Branford point, located west of the VST Project on Lake Road, and the Yosemite Lakes Estates Project, located northwest of the UC Merced campus. Additionally, the TIS states that "these projects were reviewed to determine any projects that had not been incorporated into the 2030 Near Term traffic analysis" but the TIS does not provide a list of projects that were included in the 2030 Near Term analysis (Section 3.0). The TIS should be revised to provide additional details on the 2030 Near Term and 2042 Horizon Year Condition as it relates to the projects included in the analysis.

4. The Vehicle Miles Traveled (VMT) Analysis, dated April 14, 2023 states that "Neither Merced County nor the City of Merced has developed its own VMT analysis guidelines or thresholds. The preparation of countywide guidelines and thresholds are in the process of being developed as part of a project sponsored by the Merced County Association of Governments (MCAG), but it is unlikely that the MCAG thresholds and guidelines will be available in time for use on the VST project" As such, the VMT analysis utilizes the guidelines and thresholds prepared by the Governor's Office of Planning and Research (OPR) in 2018 as the basis for the analysis in the document.

7-4

However, according to MCAG's website (<https://www.mcagov.org/365/SB743-Regional-Guidelines-and-Toolkit>), MCAG prepared and adopted the *VMT Thresholds and Implementation Guidelines* in 2022 for the seven (7) jurisdictions in the County: City of Atwater, City of Dos Palos, City of Gustine, City of Livingston, City of Los Banos, City of Merced, and County of Merced. The VMT Analysis should

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Joanna Julian, Thomson|Dorman Partners, LLC
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does not identify any potential for the four listed projects to either result in a new adverse cumulative condition not considered in the Draft SEIR or to substantially change the contribution of the UCP Update and VST Specific Plan to a cumulative impact. No revisions have been made to the Draft SEIR in response to this comment.

Response 7-2

The comment identifies incorrect figure references, inconsistencies in the descriptions of circulation system improvements, and safety concerns related to a proposed roundabout at the Lake/Bellevue intersection as illustrated in the Circulation Framework section of the VST Specific Plan (Appendix B to the Draft SEIR). The comment is specific to the details of the proposed VST Specific Plan. Minor revisions to figure numbering and labels have been made in the VST Specific Plan in response to this comment.

The Lake/Bellevue intersection is not part of the VST Specific Plan and is not being undertaken by the applicant. A safety and traffic operations analysis will be performed by UC Merced and/or the City of Merced when the intersection is planned to be improved. The roundabouts in the VST Specific Plan have been designed by a registered civil engineer in conformance with all applicable AASHTO, Caltrans Highway Design Manual, County, and City standards. County and City staff, and the project's traffic impact analysis, determined that there were no safety issues associated with the usage of roundabouts for intersection control as proposed in the VST Specific Plan. CEQA requires that traffic safety impacts be considered in the EIR, and a determination was made in the Draft EIR that the project does not generate any safety impacts by using roundabouts in lieu of signalized intersections. This comment does not address the adequacy of the analysis or conclusions in the Draft SEIR and does not raise a significant environmental issue requiring a response. Based on subsequent discussions with the commenter, minor revisions have been made in the VST Specific Plan graphics that address these concerns. These revisions do not affect the analysis in the Draft SEIR.

Response 7-3

The comment indicates that projects, such as UC Villages, were not included in the 2042 horizon year analysis for the project and suggests that the Traffic Impact Study should be revised to provide additional details about the cumulative development assumed for the future traffic operations analysis.

As indicated in Response 7-1, the County worked with the City of Merced to identify reasonably foreseeable projects to include in the analysis of future conditions, based available data at the time the NOP for this SEIR was prepared (January 2022). The environmental conditions that existed when the NOP was published are the baseline conditions against which environmental impacts assessed. (14 CCR § 15125(a).) The traffic analysis modeled the traffic effects of projects that were large and close to the project site as distinct projects based on current development plans at the time of the study. The traffic effects of cumulative projects that were smaller and/or farther away from the project site were incorporated into an overall annual percentage growth rate that was applied to existing traffic. The comment does not provide evidence that additional detail is necessary to support the conclusions in the TIS. The study was reviewed by Merced County Department of Public Works and subsequently approved by the Department of Community and Economic Development on March 22, 2022.

Notably, although the VST TIS that provides analysis of traffic operations (e.g., intersection and freeway level of service [LOS] analysis for the project) is attached as Appendix E to the Draft SEIR, impacts to traffic operations are not within the scope of the impact analysis. As explained in the Draft SEIR (page 3.7-1), pursuant to Senate Bill (SB) 743, PRC Section 21099, and CCR Section 15064.3(a), generally, VMT is the most appropriate measure of transportation impacts and a project's effect on automobile delay shall no longer constitute a significant impact under CEQA. Therefore, the transportation analysis evaluates impacts using VMT and does not include LOS analysis. LOS analysis was provided for informational purposes.

Information regarding the project's VMT impacts is included as Appendix H to the Draft SEIR. The Vehicle Mile Traveled Analysis was prepared by VRPA Technologies, a transportation planning firm based in Fresno, California that was founded in 1988 and has completed over 1,000 successful transportation planning/modeling, environmental, air quality planning, engineering and Intelligent Transportation Systems projects.

documented model that identifies traffic patterns associated with all existing developments, including traffic within and between counties. Additionally, OPR recommends that thresholds based on "...a per capita or per employee VMT that is fifteen percent below that of existing development may be a reasonable threshold" (OPR 2018: 10). Therefore, the use of these thresholds based on the CSTDM is considered the most appropriate methodology for analyzing VMT of the project.

The VMT analysis for the project is consistent with MCAG's VMT Thresholds and Implementation Guidelines other than the differences described above. The VMT analysis for the project is consistent with the CEQA Guidelines, OPR's Technical Advisory, and the proposed methodology prepared by VRPA in November 2020 which was reviewed and approved by the City, County, and Caltrans.

As noted in the comment, Merced County Association of Governments (MCAG) developed VMT thresholds in 2022. As indicated at the website linked in the comment:

Each lead agency should consult with CEQA experts and legal counsel regarding local CEQA practices and updates to local policies. These documents provide guidance but are not legal documents or legal interpretations of the law.

The Draft SEIR (page 3.7-8) explains:

When the County conducted the VMT analysis, the County, City, and regional transportation agencies had yet to adopt VMT guidelines and thresholds to meet the State requirements set by SB 743 and address CEQA Guidelines Section 15064.3. Therefore, in the absence of adopted guidelines and thresholds of significance, the VMT analysis herein relies on the guidance provided in CEQA Guidelines Section 15064.3 and the OPR Technical Advisory (OPR 2018).

Therefore, the MCAG VMT thresholds were adopted by MCAG after the NOP for this SEIR was released and analysis had begun. The thresholds were adopted by the City and County in April and May of 2023, respectively. The Draft SEIR for the UCP Update and VST Specific Plan was released in April of 2023 and was prepared prior to adoption of the MCAG thresholds. Nonetheless, the Draft SEIR includes a discussion of the most appropriate thresholds for evaluation of a community plan and a comparison to the MCAG guidelines to disclose the effect of the alternative threshold on the analysis. For the reasons provided above, it is not required, necessary, or appropriate to revise the VMT Analysis to reflect the MCAG thresholds. No revisions to the Draft SEIR or technical appendices have been made in response to this comment.

Response 7-5

The comment notes that the Merced Wastewater Collection System Analysis 2021 Update (Appendix J to the Draft SEIR) updated wastewater projections based upon the City's list of planned and approved projects available at that time. Identifying this data as "old information," the comment suggests that the Merced Wastewater Collection System Analysis 2021 Update should be revised to include the annexation pre-application projects referenced in Comment 7-1.

The Merced Wastewater Collection System Analysis 2021 Update was prepared based on reasonably available data and appropriately reflects the baseline conditions. These baseline conditions include the approved and pending projects identified by the City, full buildout of UC Merced to 25,000 students (above the "official" estimate of 15,000), and buildout of all properties in the North Merced Sewer Assessment District in accordance with CEQA's requirements. Further update of the City's Wastewater Collection System Analysis is not required to evaluate the effects of the proposed UCP Update and VST Specific Plan. As indicated in the Draft SEIR (page 3.8-22), the City has indicated that the report provides a reasonable worst case assumption for the purpose of the EIR analysis. No revisions have been made to the Draft EIR in response to this comment.

Response 7-6

The comment is related to specific data presented in the Merced Wastewater Collection System Analysis 2021 Update (Appendix J to the Draft SEIR). The comment requests clarification regarding the purpose of providing existing and estimated flows from UC Merced in the text that are substantially less than the Bellevue Road (from UC Merced to

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use plan and site design to provide ~~3,857~~^{3,950} residential units at varying densities and supporting commercial uses. It also adjusts timing and phasing for installation of parks and public services to appropriately meet demand. Transportation facilities, including roads and bike paths, would be reconfigured in the VST Specific Plan to better serve the VST plan area and existing and planned surrounding land uses. Also, with the passage of AB 3312, VST is now seeking annexation into the City of Merced.

The text in Table ES-1 on pages ES-8 and ES-9 is revised as follows:

Impacts	Significance before Mitigation NI = No impact	Adopted Mitigation Measures LTS = Less than significant	New Mitigation Measures S = Significant	Significance after Mitigation	2001/2004 UCP EIR Significance after Mitigation
	LTS = Less than significant	PS = Potentially significant	<p>SU = Significant and unavoidable</p> <p>Mitigation Measure 3.1-2b: Engage in Regional Programs to Offset Project Emissions of ROG, NO_x, CO, and PM₁₀ (UCP South and VST Specific Plan) UCP South</p> <p>Once the on-site reduction measures listed above under Mitigation Measure 3.1-2a have been incorporated, an air quality assessment shall be prepared to determine whether any SJVAPCD annual mass emissions thresholds are exceeded. If no thresholds are exceeded, no further action is necessary. If one or more thresholds are exceeded, prior to the issuance of Certificates of Occupancy <u>grading permits</u> for the first phase of development, the project applicant shall enter into a VERA through coordination with SJVAPCD to reduce emissions to meet SJVAPCD's annual mass emissions thresholds for any pollutant that exceeds their respective threshold. The project applicant shall engage in a discussion with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level consistent with the direction given in SJVAPCD's GAMAQI. As allowed by SJVAPCD, the project applicant shall be provided the opportunity to perform an additional quantification of the project's operational emissions following the implementation of the proposed measures listed above under Mitigation Measure 3.1-2a to estimate the TPY needed to reduce emissions to meet SJVAPCD's annual thresholds of significance.</p> <p>VST Specific Plan</p> <p>A project-level evaluation of potential emissions has been performed for the VST Specific Plan. Based on SJVAPCD's guidance, various project design features have been incorporated into the design of the VST Specific Plan to reduce emissions, such as transportation management strategies and the elimination of onsite natural gas infrastructure for residential land uses. Based on this data (see Table 3.1-13), the applicant shall enter into a VERA with SJVAPCD to fully compensate for ROG, NO_x, and CO emissions that exceed SJVAPCD's CEQA annual mass emissions thresholds of significance.</p>		

UCP did not contemplate annexation of the property to the City. Annexation of the UCP area was not permissible pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 because the plan area was not contiguous with the incorporated city.

In response to a comment on the Draft SEIR, the following text in the fourth paragraph on page 2-5 of the Draft SEIR has been revised as follows to acknowledge the LRDP as a land use plan and policy document rather than a set of regulations:

Changes to the Adopted UCP would revise the extent of the UCP area to reflect existing land ownership (deleting the areas that are exclusively owned by the State of California and subject to LRDP land use plans and policies ~~regulations~~), conform to current development regulations, modify and adopt a revised land use plan and circulation plan for the amended UCP area, amend and modify the policies of the Adopted UCP to conform with changing development regulations, and include new development policies that have been developed subsequent to the Adopted UCP (such as mitigation measures in the joint EIR/Environmental Impact Statement for the LRDP [referred to herein as the "2009 LRDP EIR"] that apply to the UCP area, and to bring the UCP into alignment with the 2020 LRDP). Policy changes to the UCP are summarized in Appendix C. Many policies have been rendered moot by new local or state regulations, or changes in local and state regulations, that have achieved the purposes of the policy. For example, current California Energy Code, California Green Building Standards Code (CALGreen), and other regulations meet or exceed the 2004 UCP requirements for energy conservation. By way of further examples, water conservation, stormwater management, and effluent generation are all more heavily regulated under state and local regulations than by the Adopted UCP. The City and County have also adopted new general plans, groundwater plans, and other documents to which the UCP area is subject that meet or exceed the Adopted UCP policies. Finally, because it is now envisioned that the property would be annexed to the City before any development occurs, many of the policies related to establishment of new utility districts and "governance" provisions are no longer necessary.

In response to a comment on the Draft SEIR, the following text in the first paragraph on page 2-7 of the Draft SEIR has been revised as follows to provide the correct title for the joint CEQA and NEPA document that evaluated the UC Merced campus and UCP area. Similar references to the 2009 LRDP EIR appear on pages 1-9, 2-5, 3.1-33, 3.2-17, 3.5-19, and 4-5 of the Draft SEIR. For the sake of brevity, all instances of this document title in the Draft SEIR are modified in the same way, although these duplicate revisions are not repeated herein.

In 2009, the UC Regents adopted a land use plan for an 815-acre campus located north of the VST plan area. The LRDP established a UCP North area within the existing Adopted UCP that included the VST plan area. The 2009 LRDP modified the planned development area designated in the Adopted UCP to include 177 additional acres east of the Fairfield Canal (and a concurrent reduction of acreage north of the Le Grand Canal). The UC Regents evaluated the UCP North area as part of the 2009 LRDP EIR/2009 UC Merced and UCP EIS/EIR. The southern boundary of the UCP North area analyzed in the 2009 LRDP is Cardella Road, which is coterminous with the southern boundary of the VST Specific Plan (Figure 2-4).

The text in the second paragraph on page 2-7 has also been revised as follows to make a correction to the area covered by the Section 404 permit and to correct the reference to the 2017 LRDP amendment:

Based on the 2009 LRDP EIR/2009 UC Merced and UCP EIS/EIR, the university and VST jointly completed Section 7 consultation with USFWS in furtherance of a biological opinion. UC and VST obtained certain permits and authorizations, including a Section 2081 Incidental Take Permit, a Section 401 Water Quality Certification, and a Section 404 permit for the UC Merced campus and UCP North areas covered by the 2009 LRDP. The UC Regents approved amendments to the LRDP in May 2013, July 2016, and April 2017. The 2017 LRDP amendment was primarily focused on dissolving the UCLC and changing the ownership areas for VST and the university so that VST is now the exclusive owner of the VST plan area, and UC Merced is the exclusive owner of the UCP area north of Meyers Gate Road.

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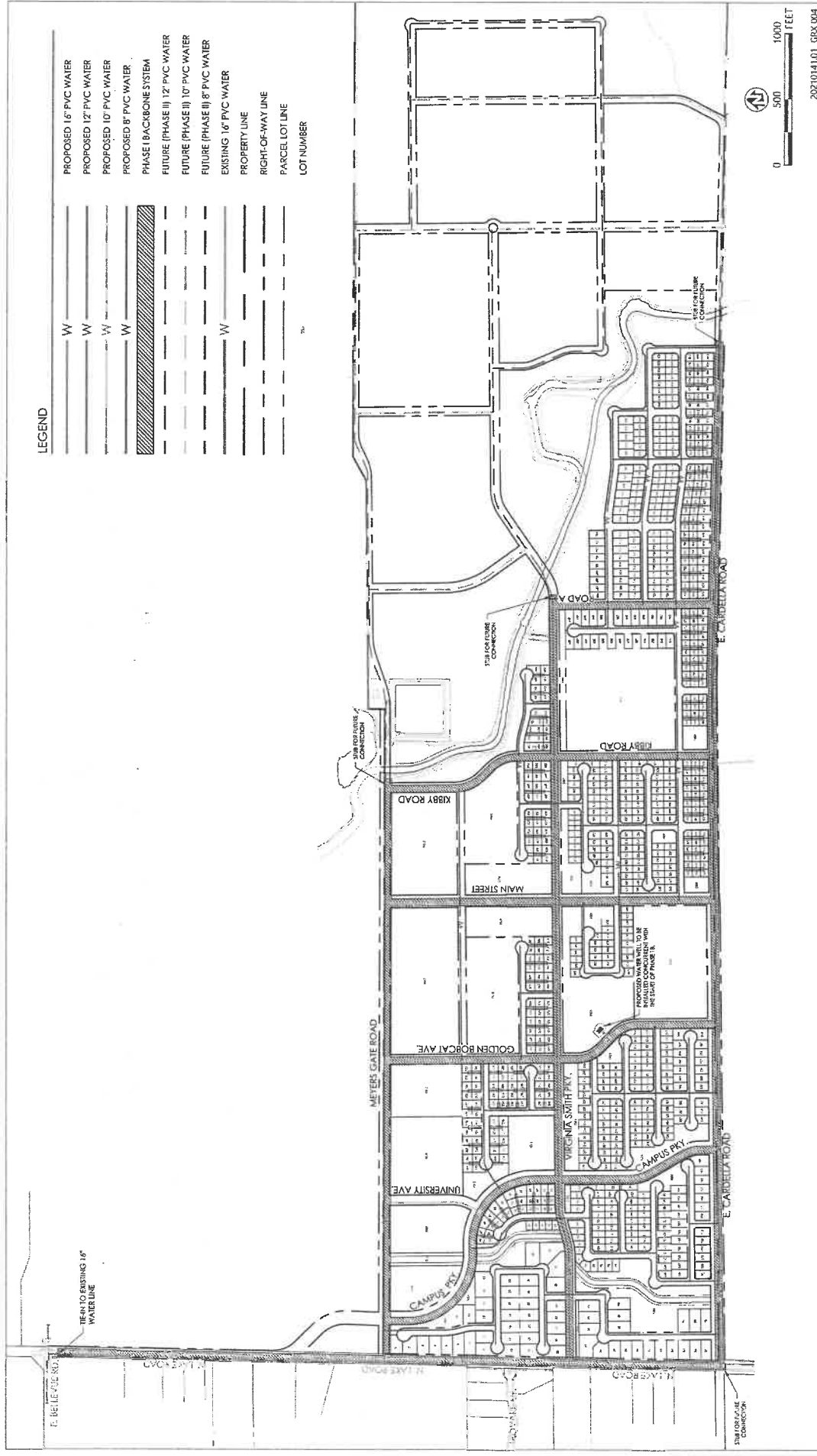
Page 2-29 of the Draft SEIR has been revised as follows to correct the list of offsite intersection improvements required to support the VST Specific Plan:

The traffic study (VRPA 2020) also identified the following off-site improvements that may be addressed through the payment of citywide impact fees, special specific plan impact fees, or by direct improvement and construction.

- Snelling Highway/Bellevue Road: Install a traffic signal.
- G Street/Bellevue Road: Widen the northbound approach to add one right turn lane and widen the eastbound approach to add one through lane and one right turn lane.
- G Street/Cardella Road: Widen the northbound approach to add one through lane; widen the southbound approach to add one through lane; and restripe the eastbound approach to one left turn lane, one through lane, and one right turn lane.
- Snelling Highway/Yosemite Avenue: Provide westbound right overlap phasing.
- G Street/Yosemite Avenue: Provide northbound right overlap phasing; widen the eastbound approach to add one through lane and one right turn lane; widen the westbound approach to add one left turn lane.
- Gardner Avenue/Yosemite Avenue: Install a traffic signal; widen the northbound approach to add one left turn lane; restripe the southbound approach to add one left turn lane; widen the westbound approach add one left turn lane and one through lane.
- Snelling Highway/Olive Avenue: Widen the northbound approach to add one through lane; widen the southbound approach to add one through lane and one right turn lane; widen the westbound approach to add one left turn lane.
- R Street/Olive Avenue: Widen the northbound approach to add one left turn lane and one right turn lane; widen the westbound approach add one left turn lane.
- M Street/Olive Avenue: Widen the northbound approach to add one right turn lane; widen the southbound approach add one left turn and one right turn lane; widen the westbound approach to add one right turn lane.
- G Street/Olive Avenue: Provide southbound right overlap phasing; widen the eastbound approach add one left turn lane; widen the westbound approach to add one right turn lane.
- Snelling Highway/16th Street: Install a traffic signal; widen the southbound approach to add one right turn lane.
- Martin Luther King Jr/SR 99 NB Ramps: Install a traffic signal.
- McKee Road/Yosemite Avenue: widen the eastbound approach to two through lanes and add one right turn lane, and widen the westbound approach to two left turn lanes and two through lanes and one right turn lane.

In addition, Figure 2-9 on page 2-30 has been updated to identify the McKee Avenue/Yosemite Avenue intersection as a location for offsite improvements. The revised figure is provided on the following page.

The text in Figure 2-10 on page 2-33 of the Draft SEIR has been revised for improved legibility. The revised figure follows.



Source: Image provided by Peck Planning and Development in 2022.

Figure 2-10 Water Master Plan

Merced County
UCP Update and VST Specific Plan Subsequent Final EIR

The project also would require various ministerial grading permits, building permits, and certificates of occupancy.

The City of Merced would also be required to obtain the following permits for modifications to its water supply system to accommodate subsequent development under the proposed project:

- Water Supply Permit Amendment (State Water Resources Control Board, Division of Drinking Water) for the operation of new water system components.

Revisions to Section 3.1, “Air Quality”

The following text has been added to page 3.1-5 of the Draft SEIR in Section 3.1.1, “Regulatory Setting,” following the bullet point that summarizes Rule 8021 and preceding the bullet point that summarizes Rule 9510:

Rule 9410—Employer Based Trip Reduction: The purpose of this rule is to reduce vehicle miles traveled (VMT) from private vehicles used by employees to commute to and from their worksites to reduce emissions of oxides of nitrogen (NOx), volatile organic compounds (VOC) and particulate matter (PM) through the establishment of an Employer Trip Reduction Implementation Plan (eTRIP). This rule applies to each employer in the San Joaquin Valley Air Basin with at least 100 Eligible Employees at a worksite for at least 16 consecutive weeks during the employer’s previous fiscal year, that is located either incorporated or unincorporated areas of a county. The modified Phase 2 project includes commercial land uses that could generate employees to the degree that compliance with this rule would be required.

The language of Mitigation Measure 3.1-2a has been amended on page 3.1-34 as follows:

Mitigation Measure 3.1-2a: Implement On-Site Project Design Features to Reduce Emissions of Criteria Air Pollutants (UCP South)

Prior to the issuance of any development permits, the project applicant shall implement the following measures to reduce the project’s emissions:

- Use low-VOC (50–100 grams per liter) paint for external residential applications on all construction drawings for review and approval by staff of the discretionary land use authority (City of Merced or Merced County).
- Incorporate traffic calming measures including marked crosswalks, count-down signal timers, curb extensions, speed tables, raised crosswalks, raised intersections, median islands, tight corner radii, roundabouts, and on-street parking throughout the site plan. Specific calming measures and locations shall be identified by a qualified transportation specialist.
- Electric water heaters in all residences (no gas storage tank heaters).
- Electric heating, ventilation, and air conditioning (HVAC) units in residences (no gas units).
- Meet Tier 2 electric vehicle charging standards of the most recent version of Part 11 of the Title 24 California Building Code (CalGreen Code) for all land use types.
- Restrict idling times for heavy heavy duty trucks accessing the project site to 3 minutes or less through the signage indicating that idling must be limited to this duration.
- Plant vegetation throughout the project site near areas of high pollution generation (e.g., heavily traveled roadways, sites of truck idling) to reduce the dispersion of air pollutants.
- Apply for grant funding through SJVAPCD’s Bikeway Incentive Program, which offers funding for Class I, Class II, and Class III bicycle paths for projects within the SJVAB.

- G Street / Cardella Road
- ~~Lake Road / Cardella Road~~
- Snelling Highway / Yosemite Avenue
- G Street / Yosemite Avenue
- Gardner Avenue / Yosemite Avenue
- McKee Road / Yosemite Avenue
- ~~Lake Road / Yosemite Avenue~~
- Snelling Highway / Olive Avenue
- R Street / Olive Avenue
- M Street / Olive Avenue
- G Street / Olive Avenue
- Snelling Highway / 16th Street
- Martin Luther King Jr / SR 99 NB Ramps
- ~~G Street / SR 99 NB Off Ramp~~
- ~~Campus Pkwy / Yosemite Avenue~~
- ~~Campus Parkway / Olive Avenue~~
- ~~Campus Parkway / Connector Road~~
- ~~SR 140 / Connector Road~~
- ~~Campus Parkway / Childs Avenue~~
- ~~Campus Parkway / Gerard Avenue~~
- ~~Campus Parkway / Coffee Street~~
- ~~Sr 99 NB Ramps / Campus Parkway~~
- ~~Meyers Gate Road / Lake Street~~
- ~~Meyers Gate Road / Campus Parkway~~
- ~~Virginia Smith Parkway / Lake Road~~
- ~~Virginia Smith Parkway / Campus Parkway~~
- ~~Virginia Smith Parkway / Golden Bobcat~~
- ~~Virginia Smith Parkway / Center Street~~
- ~~Virginia Smith Parkway / Kibby Road~~

Roadway Segments

- ~~Bellevue Road—Snelling Hwy to G~~
- ~~Bellevue Road—G to Lake~~
- ~~Lake Road—Bellevue to Meyers Gate Road^{d2}~~
- ~~Lake Road—Meyers Gate Road to Cardella~~
- ~~Lake Road—Cardella to Yosemite~~

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Findings for the University Community Plan Update and Virginia Smith Trust Specific Plan Project

REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (Public Resources Code, Section 21000 et seq.)

1 INTRODUCTION

The California Environmental Quality Act (CEQA) (Public Resources Code [PRC], Section 21000 et seq.) requires the County of Merced (County), when approving a project for which an environmental impact report (EIR) has been prepared to: (1) make written findings with regard to the disposition of each significant impact, and, if significant unavoidable impacts remain after mitigation, to (2) identify overriding considerations explaining why the County will continue to move ahead with the project.

The County intends to approve the proposed changes to the UCP Update and VST Specific Plan Project (the Project). This document explains the County's findings regarding the significant and potentially significant impacts identified in the Subsequent EIR (SEIR) prepared for the UCP Update and VST Specific Plan Project. Despite mitigation, certain significant environmental impacts of the project would not be mitigated to less-than-significant levels. Thus, the County is required to adopt a Statement of Overriding Considerations for the project.

As required under CEQA, the SEIR describes the project, adverse environmental impacts of the project, and mitigation measures and alternatives that would substantially reduce or avoid those impacts. The information and conclusions contained in the SEIR reflect the County's independent judgment.

The Final SEIR (which includes the Draft SEIR, comments, responses to comments, and revisions to the Draft SEIR) for the project examined several alternatives to the project; however, none of these alternatives were selected as part of the approved project because the proposed project is the environmentally superior alternative that feasibly attains project objectives. The alternatives consist of the No Project/No Development Alternative and the Project/No UCP Update, No VST Specific Plan Alternative.

The Findings are presented for adoption by the Board of Supervisors, as the County's Findings under CEQA and the State CEQA Guidelines (California Code of Regulations [CCR], Title 14, Section 15000 et seq.) regarding the project. The Findings provide the written analysis and conclusions of this Planning Commission regarding the project's environmental impacts, mitigation measures, and alternatives to the project, which in this Commission's view, justify approval of the project, despite its environmental effects.

2 GENERAL FINDINGS AND OVERVIEW

2.1 UCP UPDATE AND VST SPECIFIC PLAN PROJECT

2.1.1 Project Location

The UCP area is located in unincorporated Merced County, northeast of the City of Merced (City) and within the City's sphere of influence (SOI). The UCP area is bounded by Lake Road on the west, UC Merced property on the north, the Orchard Drive alignment (north of Cardella Road) and the Fairfield Canal (south of Cardella Road) on the east, and

Yosemite Avenue on the south. The UCP area would be divided by an extension of Cardella Road; the land north of Cardella Road to UC Merced (previously referred to as the "UCP North") would encompass the VST plan area, and the land south of Cardella Road to Yosemite Avenue would remain in the portion of the UCP area referred to as the "UCP South" area.

2.1.2 Project Background

The selection and development of the UC Merced campus led to a comprehensive effort to plan both the campus and a prospective community to the south. That process started with the development of the UCP in 2004 and the formation of the University of California Land Company LLC ("UCLC"), a joint venture between the VST and the UC Regents. At that time, the UCLC owned a portion of the UCP area referred to as UCP North. The proposed VST Specific Plan ("Specific Plan") facilitates the VST's final entitlement and sale of the remaining 654 acres of Virginia Smith's original 3,000 acres of property. The County adopted the UCP to be an area plan or community plan to address a specific geographic area of the county and to be a strategic plan for development of the UCP area. The VST Specific Plan implements the UCP and provides the next level of entitlements for the development of the VST portion of the UCP.

Merced County completed an extensive community planning process for the UCP, including certification of an EIR, in 2004. As previously analyzed, the UCP consisted of a community plan for a 2,133-acre area that encompassed the UC Merced campus and the UCP area. As originally conceived, the UCP was to be physically intertwined and abutting the UC Merced campus center so that there would be a seamless transition between the campus to the supporting community area. The Adopted UCP established goals and policies for development of a community to support the UC Merced campus, and included conceptual land use, circulation, parks, and public facility plans for the area. Due to the proposed modifications to the Adopted UCP, the County has prepared a subsequent EIR (SEIR) per the requirements of State CEQA Guidelines Section 15162.

New development in the northern portion of the City, as well as recent state legislative enactments have permitted the City to move forward with annexation of the UC Merced campus. Following annexation, the Specific Plan area would become eligible for the City's annexation because of its contiguity to the university.

2.1.3 Project Objectives

ADOPTED UCP OBJECTIVES

The purpose of the UCP is to provide a planning framework for how lands are to be developed and important resources are to be protected and conserved, in anticipation of the growth and development associated with UC Merced.

The established objectives of the Adopted UCP are to:

- ▶ To support the successful development of the University of California, Merced, campus by providing for a community that is physically contiguous to the campus and that includes appropriate and sufficient housing, commercial, industrial/business park, civic, and open space uses to meet the long-term needs of the campus and population;
- ▶ To provide adequate land and development opportunities to absorb the equivalent of 100 percent of the new growth demand generated by UC Merced over time;
- ▶ To provide a community that can be developed in an integrated fashion through a master developer rather than a fragmented subdivision process;
- ▶ To provide a community with patterns of land use and urban form that support principles of livable communities and environmental sustainability;

- ▶ To provide adequate circulation and utility infrastructure that supports the long-term sustainability of the UC Merced campus and University Community;
- ▶ To establish and support linkages and transitions that will integrate the University Community with greater Merced;
- ▶ To complement and support the economy on the City of Merced and the greater Merced region;
- ▶ To support the educational goals of the Virginia Smith Trust by enhancing its scholarship fund;
- ▶ To support regional programs to conserve and protect the County's important agricultural and natural resources as development of UC Merced and the University Community proceeds;
- ▶ To be configured and planned so that environmental permitting allows community development to proceed at the pace necessary to support campus development;
- ▶ To be affordable and financially feasible; and
- ▶ To support implementation of the Merced County General Plan.

UCP UPDATE OBJECTIVES

In addition, the proposed project modifications are intended to:

- ▶ amend the Adopted UCP boundaries to reflect current land ownership;
- ▶ reallocate the potential housing units attributed to land now owned exclusively by UC Merced to within the amended UCP boundaries without substantially changing the range of unit types;
- ▶ improve consistency between County, City, and UC planning documents;
- ▶ revise the Adopted UCP to conform to current development regulations;
- ▶ update the Adopted UCP land use plan to be compatible with adjacent development;
- ▶ update the Adopted UCP circulation plan to be compatible with current standards and plans for regional infrastructure, including Campus Parkway;
- ▶ update the phasing program to reflect current market conditions and changes to the UCP boundaries; and
- ▶ provide a "university community" that meets the needs of UC's staff and students, as currently projected, including providing a range of housing opportunities appropriate for the local demographics and lifestyles.

VST SPECIFIC PLAN OBJECTIVES

The objectives of the VST Specific Plan are to:

- ▶ provide a mix of uses and a financially feasible phasing and implementation plan that will maximize the contribution to the VST scholarship endowment to provide college scholarships to county residents per the provisions of the VST;
- ▶ provide a master planned community with community amenities that will attract students and retain highly skilled and educated staff;
- ▶ provide diverse town and neighborhood centers to offer local shopping and service opportunities for people of different ages, income levels, cultures, and education levels;
- ▶ provide increased housing density next to town centers and overall housing densities in conformance with Adopted UCP policies;
- ▶ provide a diversity of housing sizes, prices, and types to serve the full range of employees, instructors, staff, and students at UC Merced, consistent with the vision of the Adopted UCP;

- ▶ comply with the City of Merced’s inclusionary housing standards by providing sufficient units that would be restricted for affordability;
- ▶ provide diverse multimodal and active transportation alternatives and a network of bike paths, pedestrian paths, and transit connections;
- ▶ connect to UC Merced’s existing and planned circulation facilities to provide a seamless connection between the VST plan area and the UC Merced campus for pedestrian, bicycle, vehicle, and transit modes;
- ▶ create a continuous network of parks and open spaces; and
- ▶ prioritize livability, activity, and shared community space, with neighborhoods centered around parks and schools.

2.1.4 Project Description

The proposed update to the Adopted UCP would modify the UCP boundary to exclude land within the planning boundary of UC Merced; revise the policy plan to reflect current conditions, regulations, and best practices; and update the land use and circulation diagram to reflect the land uses proposed within the VST Specific Plan and the approved alignment of Campus Parkway.

The VST Specific Plan consists of the development of 440 acres of residential land uses, 113 acres of parks, recreation, and open space, 20 acres for a K–8 elementary school and an additional charter school, 44 acres for commercial development, and 79 acres for roads and other improvements with approximately 3,857 residential units, including 500 deed-restricted affordable units, and 862,000 square feet of commercial buildings.

2.1.5 Discretionary Approvals

Project approval requires the County, as lead agency, as well as certain responsible agencies to take discrete planning and regulatory actions to approve the overall project. In addition to adopting these findings and the associated Mitigation Monitoring and Reporting Program (MMRP) (CEQA requirements), the County will consider approving a number of related project-level entitlements, including the following:

- ▶ County of Merced General Plan Amendments for Land Use and Circulation,
- ▶ UCP Amendment,
- ▶ Zoning Map and Text Amendment,
- ▶ VST Specific Plan,
- ▶ Development Agreement between County, City, and VST, and
- ▶ Vesting Tentative Map

2.2 ENVIRONMENTAL REVIEW PROCESS

In accordance with PRC Section 21092 and 14 CCR Section 15082, the County circulated a Notice of Preparation (NOP) of an SEIR on January 14, 2022 for a minimum 30-day period of public and agency comment that ended on February 14, 2022 (total circulation period of 30 days). The NOP was submitted to the State Clearinghouse and posted on the County’s website. A copy of the NOP and comments received on the NOP are included in the SEIR (Appendix A). The County held a public scoping meeting on January 20, 2022. The purpose of the NOP and the scoping meeting was to provide notification that an SEIR for was being prepared for the project and to solicit input on the scope and content of the environmental document. The NOP and responses to the NOP are included in Appendix A of the draft SEIR.

The County published a public Notice of Availability (NOA) for the Draft SEIR on April 28, 2023, inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (State Clearinghouse No. 2001021056) and the Merced County Clerk, and a notice was published in the Merced County Times, a newspaper of regional circulation pursuant to the public noticing requirements of CEQA. The 45-day public review period extended from April 28, 2023 through June 12, 2023.

A public meeting for the Project was conducted by the County Planning Commission on July 12, 2023; no public comments were provided related to the adequacy of the Draft EIR or impacts to the environment.

The County of Merced received five comment letters on the Draft SEIR during the public review period. After the public review period concluded, two additional comment letters were received. In accordance with State CEQA Guidelines Section 15088, the Final SEIR responds to the comments received during the public review period. Comments received after the public review period closed were also considered by the County of Merced in their review of the proposed project. The late comments and responses thereto are also included in the Final SEIR.

2.3 RECORD OF PROCEEDINGS AND CUSTODIAN OF RECORD

For purposes of CEQA and the findings set forth herein, the record of proceedings for the County's findings and determinations consists of the following documents, materials and testimony, at a minimum:

- ▶ The NOP, comments received on the NOP, and all other public notices issued by the County regarding the project (e.g., NOA).
- ▶ The UCP Update and VST Specific Plan Draft Focused SEIR and Final SEIR, including comment letters, and technical materials cited in the documents.
- ▶ All official reports and memoranda prepared by the County of Merced and consultants in relation to the SEIR.
- ▶ Minutes and transcripts of the discussions regarding the project and/or project components at public meetings held by the County.
- ▶ Staff reports associated with Planning Commission and Board of Supervisors meetings on the project.
- ▶ Those categories of documents, materials, and testimony included in the record or proceedings identified in PRC Section 21167.6.

The County Community and Economic Development Department is the custodian of the administrative record. The documents and materials that constitute the administrative record are available for review at: the County of Merced at 2222 M Street, 2nd Floor, Merced, California 95340.

2.4 FINDINGS REQUIRED UNDER CEQA

PRC Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" Further, the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." (Id.) Section 21002 also provides that "in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof," subject to a statement of overriding considerations.

The mandate and principles adopted by the Legislature in PRC Section 21002 are implemented, in part, through the requirement in PRC Section 21081 that agencies must adopt findings before approving projects for which an EIR is required.

State CEQA Guidelines Section 15091 provides the following direction regarding findings:

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

(See also PRC Section 21081, subd. (a)(1)-(3).)

As defined by CEQA, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors. (PRC Section 21061.1; see also State CEQA Guidelines Section 15126.6(f)(1) [determining the feasibility of alternatives].) The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (See *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1400 [court upholds findings rejecting a "reduced herd" alternative to a proposed dairy as infeasible because the alternative failed to meet the "fundamental objective" of the project to produce milk]; *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1507-1508 [agency decision-makers, in rejecting alternatives as infeasible, appropriately relied on project objective articulated by project applicant].) Moreover, "'feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors." (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002.)

With respect to a project for which significant impacts cannot be feasibly avoided or substantially lessened, a public agency may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons that the project's benefits outweigh its significant unavoidable adverse environmental effects. (PRC Sections 21001, 21002.1[c], 21081[b].) As noted above, despite mitigation, certain significant environmental impacts of the project will not be mitigated to less-than-significant levels. Thus, the County is required to adopt a Statement of Overriding Considerations for the project.

2.5 MITIGATION MONITORING AND REPORTING PROGRAM

An MMRP has been prepared for the project and has been adopted concurrently with these Findings. (See PRC Section 21081.6(a)(1).) The County will use the MMRP to track compliance with project mitigation measures.

2.6 CONSIDERATION OF THE ENVIRONMENTAL IMPACT REPORT

In adopting these Findings, the Board of Supervisors, the decision-making body of the lead agency, has reviewed and considered the information in the Final SEIR prior to approving the project. By these findings, the Board of Supervisors ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the Final SEIR. The Board of Supervisors finds that the Final SEIR was completed in compliance with CEQA. The Final SEIR represents the independent judgment of the County.

2.7 SEVERABILITY

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the project, shall continue in full force and effect unless amended or modified by the County.

3 FINDINGS REGARDING IMPACTS THAT CANNOT BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE

This section identifies those new impacts that cannot be mitigated below a level of significance. For these impacts, there are no feasible mitigation measures or feasible alternatives that would reduce the impacts to a less-than-significant level and the impacts would remain significant and unavoidable.

GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE

Impact 3.4-1: Conflict with an Applicable Plan, Policy or Regulation Adopted for the Purpose of Reducing the Emissions of Greenhouse Gases (UCP Update only)

Potential Impact: The potential for the UCP Update and VST Specific Plan Project to generate greenhouse gas (GHG) emissions and contribute to climate change is discussed on pages 3.4-19 through 3.4-22 of the Draft SEIR.

Mitigation Measure: The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: New Mitigation Measure 3.4-1 "Implement the Bay Area Air Quality Management District's On-Site Project Design Features to Demonstrate the Project's Fair Share in Meeting the State's Long-Term GHG Reduction Targets (UCP South)."

Findings: The UCP North/VST Specific Plan has implemented project-design features as described in Section 3.4.3, pages 3.4-19 to 3.4-22 of the Draft SEIR. Implementation of New Mitigation Measure 3.4-1 in the UCP South portion of the Project by future specific plans or other development in that area would help ensure that the UCP Project would eliminate all on-site natural gas infrastructure, adhere to the most recent Tier 2 requirements of the Title 24 California Building Code's electric vehicle charging standards, and demonstrate consistency with regional VMT standards. If these design features cannot be incorporated into future plans and development proposals, applicants must include other relevant project design characteristics, such that additional emissions can be offset. As described in Mitigation Measure 3.4-1, these include: implementation of a solid waste program, exceedance of the most recent version of Part 6 of the Title 24 California Building Code, use of low-flow appliances, use of energy star appliances, and implementation of ZNE buildings. While it is foreseeable that application of Mitigation Measure 3.4-1 would be sufficient to reduce impacts to a less-than-significant level, the specific project design features recommended above may not be deemed feasible for all future development proposals. The impacts of the UCP Update are cumulatively considerable and are considered significant and unavoidable due to these uncertainties.

In accordance with PRC Section 21081, New Mitigation Measure 3.4-1 is an appropriate change or alteration that has been required in, or incorporated into, the UCP portion of the Project by the County of Merced, which lessens, though not to a less-than-significant level, the significant environmental effect as identified in the SEIR. Specific economic, legal, social, and technological, or other considerations make infeasible any further mitigation, and the effect therefore remains significant and unavoidable. The Board of Supervisors concludes, however, based upon the SEIR and the entire record before this Board of Supervisors, that the project's benefits outweigh the significant and unavoidable effects of the project resulting from the generation of GHG emissions, as set forth in the Statement of Overriding Considerations in **Section 7**, below.

Impact 3.4-3: Conflict with or Obstruct a State or Local Plan for Renewable Energy or Energy Efficiency

Potential Impact: Impacts caused by energy consumed from electricity and natural gas serving the UCP Update and VST Specific Plan is discussed on pages 3.4-25 through 3.4-26 of the Draft SEIR.

Mitigation Measure: The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: New Mitigation Measure 3.4-3 "On-Site Project Design Features that Address Building Carbonization and Energy Efficiency (UCP South)"

Findings: The UCP North/VST Specific Plan portion of the UCP has implemented this mitigation measure. Implementation of New Mitigation Measures 3.4-3 in the UCP South portion of the Project would help ensure that the UCP South portion of the project would provide the necessary infrastructure to do its fair share in assisting the state in meeting its long-term GHG reduction goal of achieving carbon neutrality by 2045. While it is foreseeable that application of Mitigation Measure 3.4-3 would be sufficient to reduce impacts to a less-than-significant level, the specific project design features identified in Mitigation Measure 3.4-3 may not be feasible for all plans and project proposed in this area in the future. The impacts of the UCP Update are cumulatively considerable and are considered significant and unavoidable due to these uncertainties.

In accordance with PRC Section 21081, New Mitigation Measure 3.4-3 is an appropriate change or alteration that has been required in, or incorporated into, the UCP portion of the Project by the County of Merced, which lessens, though not to a less-than-significant level, the significant environmental effect as identified in the SEIR. Specific economic, legal, social, and technological, or other considerations make infeasible any further mitigation, and the effect therefore remains significant and unavoidable. The Board of Supervisors concludes, however, based upon the SEIR and the entire record before this Board of Supervisors, that the project's benefits outweigh the significant and unavoidable effects of the project resulting from the generation of GHG emissions, as set forth in the Statement of Overriding Considerations in **Section 7**, below.

NOISE AND VIBRATION

Impact 3.6-1: Short-Term Construction-Generated Noise Levels

Potential Impact: The UCP Update and VST Specific Plan would generally result in similar types of construction activities (e.g., grading, site preparation, building construction) using similar types of equipment to those discussed in the 2001/2004 UCP EIR, and thus, would generate similar levels of noise which could result in the exposure of off-site noise-sensitive receptors to excessive noise levels. This impact is discussed on pages 3.6-20 through 3.6-23 of the Draft SEIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: New Mitigation Measure 3.6-1, "Revise Policy N 2.6 for Managing Noise from Construction Activities of the Adopted UCP."

Findings: New Mitigation Measure 3.6-1 modifies adopted UCP Policy N 2.6, in order to minimize noise generated by construction activities. Changes to this policy would require modifications to construction activities and construction equipment to minimize noise generation. Although construction-generated noise levels would not be substantially different in magnitude or type from those described in the 2001/2004 UCP EIR, and noise reduction would be achieved with implementation of these measures, reductions of the magnitude needed to ensure that substantial temporary increases in ambient noise levels does not occur at any nearby sensitive receptor is not expected to be achieved under all circumstances with implementation of Mitigation Measure 3.6-1.

In accordance with PRC Section 21081, New Mitigation Measure 3.6-1 is an appropriate change or alteration that has been required in, or incorporated into, the project by the County of Merced, which lessens, though not to a less-than-significant level, the significant environmental effect as identified in the SEIR. Specific economic, legal, social, and technological, or other considerations make infeasible any further mitigation, and the effect therefore remains significant and unavoidable. The Board of Supervisors concludes, however, based upon the SEIR and the entire record

before this Board of Supervisors, that the project's benefits outweigh the significant and unavoidable effects of the project resulting from the generation of construction noise, as set forth in the Statement of Overriding Considerations in **Section 7**, below.

Impact 3.6-3: Long-Term, Operational Noise (Traffic)

Potential Impact: The UCP Update and VST Specific Plan would generally result in levels of operational noise impacts to sensitive receptors caused by traffic, similar to those discussed in the 2001/2004 UCP EIR. Therefore, this Project would generate similar levels of noise which could result in the exposure of off-site noise-sensitive receptors to excessive noise levels. This impact is discussed on pages 3.6-26 through 3.6-28 of the Draft SEIR.

Mitigation Measure: The following mitigation measure previously adopted is now determined to be legally and technically infeasible: Old Mitigation Measure 4.10-3(a), "Construction of Noise Barriers and/or Retrofitting of Noise-Affected Homes." No new feasible mitigation is available for this impact.

Findings: Old Mitigation Measure 4.10-3(a) assumes that the County would have unlimited access to private property, and that all affected parties would consent to the referenced improvements. However, the necessity for this mitigation is limited by the fact that traffic from the UCP and VST Specific Plan would be along Campus Parkway, Bellevue Road, G Street, and Yosemite Avenue. Further, the implementation of the Project and the related construction of Campus Parkway from Yosemite Avenue to Bellevue Road would reduce traffic on Lake Road (a road with residences fronting on it) from 6,500 average daily trips (ADT) to 4,000 ADT, according to Figures 2-6 and 4-5 of the VST Traffic Impact Study (2022) contained in Appendix E of the SEIR. Development along these roads is designed with appropriate noise attention or mitigation features, and these areas are primarily non-residential uses which are not considered noise sensitive land uses. Although operational traffic-generated noise levels would not be substantially different in magnitude or type from those described in the 2001/2004 UCP EIR, the previously-approved mitigation measure cannot be implemented for legal and technical reasons. Reductions of the magnitude needed to ensure that substantial temporary increases in ambient noise levels does not occur at any nearby sensitive receptor is not expected to be achieved under all circumstances.

In accordance with PRC Section 21081, revision of Old Mitigation Measure 4.10-3(a) is a necessary change or alteration that has been required in, or incorporated into, the project by the County of Merced. Specific economic, legal, social, and technological, or other considerations make infeasible this old mitigation measure, and the effect therefore remains significant and unavoidable. The Board of Supervisors concludes, however, based upon the SEIR and the entire record before this Board of Supervisors, that the project's benefits outweigh the significant and unavoidable effects of the project resulting from the generation of construction noise, as set forth in the Statement of Overriding Considerations in **Section 7**, below.

Impact 3.6-4: Generate Excessive Groundborne Vibration or Groundborne Noise Levels (UCP Update only)

Potential Impact: The potential for the UCP update to generate groundborne vibration caused by pile-driving is discussed on pages 3.6-28 and 3.6-30 of the Draft SEIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: New Mitigation Measure 3.6-4, "Amend the UCP to Include Provisions for Potential Vibration-Inducing Activities."

Findings: Implementation of New Mitigation Measure 3.6-4 would be effective in reducing impacts associated with groundborne vibration or groundborne noise by limiting such impact-causing activities. However, given this programmatic level of analysis, it is not possible to conclude that vibration levels in all locations associated with all future development under the UCP Update would be reduced below the County threshold levels for human annoyance even after implementing New Mitigation Measure 3.6-4. The VST Specific Plan would generate reduced impacts. However, the VST Specific Plan covers only a portion of the UCP area and the VST Project includes measures that reduce the impact of pile-driving. However, it is not possible to ensure that pile driving elsewhere in the UCP

would not occur within 630 feet of sensitive receptors. Accordingly, this impact would remain significant and unavoidable for the UCP Update but less than significant for the VST Specific Plan .

In accordance with PRC Section 21081, New Mitigation Measure 3.6-4 is an appropriate measure that has been required in, or incorporated into, the project by the County of Merced, which lessens, though not to a less-than-significant level, the significant environmental effect as identified in the SEIR. Specific economic, legal, social, and technological, or other considerations make infeasible this old mitigation measure, and the effect therefore remains significant and unavoidable. The Board of Supervisors concludes, however, based upon the SEIR and the entire record before this Board of Supervisors, that the project's benefits outweigh the significant and unavoidable effects of the project resulting from the generation of construction noise, as set forth in the Statement of Overriding Considerations in **Section 7**, below.

CUMULATIVE IMPACTS

Noise and Vibration (Increases in Non-Traffic Noise Levels)

Potential Impact: The potential for the UCP Update and VST Specific Plan Project to contribute to cumulative impacts related to non-traffic noise at land uses within and near the UCP is discussed on pages 3.6-30 and 3.6-32 of the Draft SEIR.

Mitigation Measure: The following mitigation measures were adopted and will be implemented as provided by the MMRP: Old Mitigation Measures 4.10-3(a), 4.10-3(b), 4.10-4, and 4.10-5. However, Mitigation Measure 4.10-3(a) is now considered to be legally and technically infeasible.

Findings: As described in the SEIR, Mitigation Measure 4.10-3(a), assumes that the County would have unlimited access to private property, and that all affected parties would consent to the referenced improvements. However, it has since been determined that this mitigation measure is legally and technically infeasible, as noted above. Nevertheless, adopted Mitigation Measures 4.10-3(b), 4.10-4, and 4.10-5 would help to reduce project impacts. Buildout of the UCP would result in increased noise levels that would contribute to the cumulative noise in the region, however.

In accordance with PRC Section 21081, elimination of Mitigation Measure 4.10-3 and maintenance of previously-approved mitigation measures are appropriate changes or alteration that have been required in, or incorporated into, the project by the County of Merced, which lessens, though not to a less-than-significant level, the significant environmental effect as identified in the SEIR. Specific economic, legal, social, and technological, or other considerations make infeasible any further mitigation, and the effect therefore remains significant and unavoidable. The Board of Supervisors concludes, however, based upon the SEIR and the entire record before this Board of Supervisors, that the project's benefits outweigh the significant and unavoidable effects of the project resulting from the generation of construction noise, as set forth in the Statement of Overriding Considerations in **Section 7**, below.

Biological Resources

Potential Impact: The potential for the UCP Update and VST Specific Plan Project to contribute to cumulative impacts related to habitat conversion within and near the UCP is discussed on pages 3.2-27 of the Draft SEIR.

Mitigation Measure: The following mitigation measures were adopted and will be implemented as provided by the MMRP: Old Mitigation Measures 4.4-2, 4.4-4(a), and 4.4-4(b) and 4.4-5. The SEIR also includes new Mitigation Measures 3.2-2a, 3.2-2b, 3.2-2c, 3.2-2d, 3.2-2e, and 3.2-2f, which would also be implemented.

Findings: As described in the SEIR, implementation of old Mitigation Measures 4.4-2, 4.4-4(a), and 4.4-4(b), as well as implementation of new Mitigation Measures 3.2-2a, 3.2-2b, 3.2-2c, 3.2-2d, 3.2-2e, and 3.2-2f would reduce project impacts to a less-than-significant level. Nonetheless, buildout of the UCP would result in the loss of grassland habitat that would contribute to the cumulative loss of this habitat in the region in the same manner described in the 2001/2004 UCP EIR.

In accordance with PRC Section 21081, maintenance of previously-approved mitigation measures are appropriate that have been incorporated into the Project by the County of Merced, which lessens, though not to a less-than-significant level, the significant cumulative environmental effect as identified in the SEIR. Specific economic, legal, social, and technological, or other considerations make infeasible any further mitigation, and the effect therefore remains significant and unavoidable. The Board of Supervisors concludes, however, based upon the SEIR and the entire record before this Board of Supervisors, that the project's benefits outweigh the significant and unavoidable effects of the project resulting from the cumulative impact to the loss of habitat land, as set forth in the Statement of Overriding Considerations in **Section 7**, below.

4 FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT IMPACTS THAT CAN BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

This section identifies those impacts that can be mitigated below a level of significance.

AIR QUALITY

Impact 3.1.1: Generation of Short-Term, Construction-Related Emissions of ROG, NO_x, PM₁₀, and PM_{2.5}

Potential Impact: The potential for the UCP Update and VST Specific Plan Project to result in construction emissions of criteria pollutants is discussed on pages 3.1-21 through 3.1-32 of the Draft SEIR.

Mitigation Measure: The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: Old Modified Mitigation Measure 4.3-1 "Limit traffic speeds on unpaved roads to 15 mph," Old Mitigation Measure 4.3-2, "Implementation of Construction Measures," and New Mitigation Measure 3.1-1a "Utilization of Clean Off-Road Equipment," New Mitigation Measure 3.1-1b "Preparation of an Ambient Air Quality Analysis (UCP South only)."

Findings: Implementation of Mitigation Measures 4.3-1, 4.3-2, 3.1-1a, and 3.1-1b would reduce emissions of criteria air pollutants through the application of recognized construction emission control measures and certification of an ambient air quality analysis (AAQA). Emissions would be mitigated to below applicable San Joaquin Valley Air Pollution Control District (SJVAPCD) thresholds. Therefore, there is no new significant impact and the impact is not substantially more severe than the impact identified in the 2001/2004 UCP SEIR. The UCP Update and VST Specific Plan Project would have a less-than-significant impact to air quality from construction activities, thus avoiding the potential for individuals to be exposed to unhealthy concentrations of criteria air pollutants that could result in adverse health outcomes. The VST Specific Plan would generate reduced impacts, however compared to the UCP Update because the VST Specific Plan covers a portion of the UCP area and the VST Project includes measures as part of the Project to further reduce potential impacts.

In accordance with PRC Section 21081, Mitigation Measures 4.3-1, 4.3-2, 3.1-1a, and 3.1-1b are an appropriate change or alteration that has been required in, or incorporated into, the project by the County of Merced, which avoids or substantially lessens the significant environmental effect as identified in the SEIR. Based upon the SEIR and the entire record before this Board of Supervisors, this Board of Supervisors finds that the potential for adverse effects related to regional criteria air pollutants during construction will be mitigated to a less-than-significant level.

Impact 3.1-2: Long-Term, Operational (Regional) Emissions of Criteria Air Pollutants and Precursors

Potential Impact: The potential for the UCP Update and VST Specific Plan Project to result in exposure of sensitive receptors to of ROG, NO_x, CO, PM₁₀, and PM_{2.5} in exceedance of SJVAPCD's operational thresholds of significance is discussed on pages 3.1-32 through 3.1-36 of the Draft SEIR.

Mitigation Measure: The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: Old Mitigation Measure 4.3-4 "Implementation of Building Efficiency Measures," New Mitigation Measure 3.1-2a, "Implement On-Site Project Design Features to Reduce Emissions of Criteria Air Pollutants (UCP South)," and New Mitigation Measure 3.1-2b "Engage in Regional Programs to Offset Project Emissions of ROG, NOX, CO, and PM10 (UCP South and VST Specific Plan) UCP South

Findings: Implementation of New Mitigation Measure 3.1-2a would reduce emissions in UCP South by implementing efficiency and low VOC measures in the project development. The VST Specific Plan would generate reduced impacts, however compared to the UCP Update because the VST Specific Plan covers a portion of the UCP area and the VST Project includes measures as part of the Project to further reduce potential impacts. Implementation of New Mitigation Measure 3.1-2b, by participating in SJVPACD's VERA, would mitigate the Project's emissions impacts by providing funds for the SJVPACD's incentives programs. These funds are disbursed by SJVPACD in the form of grants for projects that achieve emission reductions. With implementation of these mitigation measures, this impact would be less than significant.

In accordance with PRC Section 21081, New Mitigation Measures 3.1-2a and 3.1-2b are an appropriate change or alteration that has been required in, or incorporated into, the project by the County of Merced, which avoids or substantially lessens the significant environmental effect as identified in the SEIR. Based upon the SEIR and the entire record before this Board of Supervisors, this Board of Supervisors finds that the potential for adverse effects related to operational emissions of criteria air pollutants will be mitigated to a less-than-significant level.

BIOLOGICAL RESOURCES

Impact 3.2-1: Result in Disturbance to or Loss of Special-Status Plant Species

Potential Impact: The potential for the UCP Update and VST Specific Plan Project to result in disturbance to or loss of special-status plants is discussed on pages 3.2-11 through 3.2-15 of the Draft SEIR.

Mitigation Measures: The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: Old Mitigation Measure 4.4-2 "Grassland Preservation," Old Mitigation Measure 4.4-6 "Seed Collection from Shining Navarretia," and New Mitigation Measure 3.2-1 "Implement Avoidance Measure and Mitigation for Special-Status Plant Species Not Covered by the Existing CDFW Incidental Take Permit or USFWS Biological Opinion."

Findings: Implementation of Mitigation Measures 4.4-2, 4.4-6, and 3.2-1 would avoid and minimize the loss of special-status plant species by expressly preserving native upland grassland, by dispersing seeds from shining navarretia, and by conducting pre-construction surveys of the site. Therefore, implementation of this mitigation measure would reduce the potential impact to special-status plants to a less-than-significant level, as identified in the SEIR. There is no new significant impact and the impact is not substantially more severe than the impact identified in the 2001/2004 UCP EIR.

In accordance with PRC Section 21081, Mitigation Measures 4.4-2, 4.4-6, and 3.2-1 are an appropriate change or alteration that has been required in, or incorporated into, the project by the County of Merced, which avoids or substantially lessens the significant environmental effect as identified in the SEIR. Based upon the SEIR and the entire record before this Board of Supervisors, this Board of Supervisors finds that the potential for adverse effects related to special-status plant species will be mitigated to a less-than-significant level.

Impact 3.2-2: Result in Disturbance to or Loss of Special-Status Wildlife Species and Habitat

Potential Impact: The potential for the UCP Update and VST Specific Plan Project to result in disturbance to or loss of special-status wildlife species and habitat is discussed on pages 3.2-15 through 3.2-23 of the Draft SEIR.

Mitigation Measures: The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: Old Mitigation Measure 4.4-2 "Grassland Preservation," Old Mitigation Measure 4.4-4(a) "Swainson's Hawk Foraging Habitat Preservation," Old Mitigation Measure 4.4-4(b) "Pre-Construction Survey Requirement," Old Mitigation Measure 4.4-5 "Surveys for Dens/Burrows," New Mitigation Measure 3.2-2a "Conduct Preconstruction

Surveys for Western Spadefoot, Implement Avoidance Measures, and Relocate Individuals," New Mitigation Measure 3.2-2b "Conduct Preconstruction Surveys for Western Pond Turtle, Implement Avoidance Measures, and Relocate Individuals," New Mitigation Measure 3.2-2c "Conduct Focused American Badger Survey and Establish Protective Buffers," New Mitigation Measure 3.2-2d "Conduct Focused Surveys for Crotch Bumble Bee and Implement Avoidance Measures If Listed under CESA," New Mitigation Measure 3.2-2e "Conduct Focused Bat Surveys and Implement Avoidance Measures," and New Mitigation Measure 3.2-2f "Conduct Protocol-Level Surveys for Burrowing Owl, Implement Avoidance Measures, and Compensate for Loss of Occupied Burrows."

Findings: Implementation of Mitigation Measures 4.4-2, 4.4-4(a), 4.4-4(b), 4.4-5, 3.2-2a, 3.2-2b, 3.2-2c, 3.2-2d, 3.2-2e and 3.2-2f would avoid and minimize the loss of special status species and wildlife habitat through of the implementation of preservation, preconstruction surveys, construction setbacks, translocation, and compensation. The VST Specific Plan would generate reduced impacts, however compared to the UCP Update because the VST Specific Plan covers a portion of the UCP area and the VST Project includes measures as part of the Project to further reduce potential impacts. Therefore, implementation of this mitigation measure would reduce the potential impact to special status species and wildlife habitat to a less-than-significant level, as identified in the SEIR. There is no new significant impact and the impact is not substantially more severe than the impact identified in the 2001/2004 UCP EIR.

In accordance with PRC Section 21081, Mitigation Measures 4.4-2, 4.4-4(a), 4.4-4(b), 4.4-5, 3.2-2a, 3.2-2b, 3.2-2c, 3.2-2d, 3.2-2e and 3.2-2f are an appropriate change or alteration that has been required in, or incorporated into, the project by the County of Merced, which avoids or substantially lessens the significant environmental effect as identified in the SEIR. Based upon the SEIR and the entire record before this Board of Supervisors, this Board of Supervisors finds that the potential for adverse effects related to special status species and wildlife habitat will be mitigated to a less-than-significant level.

HYDROLOGY AND WATER QUALITY

Impact 3.5-3: Substantially Alter the Existing Drainage Pattern of Project Area

Potential Impact: The potential for the UCP Update and VST Specific Plan Project to result in alterations to drainage patterns is discussed on pages 3.5-20 through 3.5-22 of the Draft SEIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: New Mitigation Measure 3.5-3 "Implement Altered Channel Cross Section Subject to MID Approval (VST Specific Plan Only)."

Findings: Implementation of New Mitigation Measure 3.5-3, which requires the developer of Phase 2 of the VST Specific Plan to provide evidence that: (1) the proposed modification of the Fairfield Canal is designed such that no change would occur in the hydraulic flow rates and velocities of the canal, and (2) necessary permits have been obtained from Merced Irrigation District. The UCP Update overall would result in a less than significant impact to existing drainage patterns. After implementation of New Mitigation Measure 3.5-3, the VST Specific Plan portion of the Project would have a less-than-significant impact related to the alteration of existing drainage patterns, consistent with the impact conclusion in the 2001/2004 UCP EIR.

In accordance with PRC Section 21081, New Mitigation Measure 3.5-3 is an appropriate change or alteration that has been required in, or incorporated into, the project by the County of Merced, which avoids or substantially lessens the significant environmental effect as identified in the SEIR. Based upon the SEIR and the entire record before this Board of Supervisors, this Board of Supervisors finds that the potential for adverse effects related to existing drainage patterns will be mitigated to a less-than-significant level.

NOISE AND VIBRATION

Impact 3.6-2: Long-Term, Operational Noise (Stationary and Area Sources)

Potential Impact: The potential for the UCP Update and VST Specific Plan Project to generate long-term operational noise that exceeds City of Merced's noise source criteria is discussed on pages 3.6-24 through 3.6-25 of the Draft SEIR.

Mitigation Measure: The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: New Mitigation Measure 3.6-2 "Amend the UCP to Include Provisions for Operational Stationary Source Noise Generating Activities."

Findings: Implementation of New Mitigation Measure 3.6-2 would revise policies in the UCP Update, such that buildings and noise generating appliances and activities will be set back, such that noise-generating land uses do not cause excessive exterior or interior noise for noise-sensitive land uses on any location of nearby residential properties. Further, these policy updates will ensure that loading docks are located and designed such that noise generated by activity at the loading dock would not exceed the City's stationary noise source criteria. There is no new significant impact and the impact is not substantially more severe than the impact identified in the 2001/2004 UCP SEIR. After implementation of New Mitigation Measure 3.6-2, the Project would have a less-than-significant impact related to long-term operational noise, consistent with the impact conclusion in the 2001/2004 UCP EIR. The VST Specific Plan would generate reduced impacts, however compared to the UCP Update because the VST Specific Plan covers a portion of the UCP area and the VST Project includes measures as part of the Project to further reduce potential impacts.

In accordance with PRC Section 21081, New Mitigation Measure 3.6-2 is an appropriate change or alteration that has been required in, or incorporated into, the project by the County of Merced, which avoids or substantially lessens the significant environmental effect as identified in the SEIR. Based upon the SEIR and the entire record before this Board of Supervisors, this Board of Supervisors finds that the potential for adverse effects related to long-term operational noise will be mitigated to a less-than-significant level.

5 FINDINGS AND RECOMMENDATIONS REGARDING THOSE IMPACTS THAT ARE LESS THAN SIGNIFICANT OR LESS THAN CUMULATIVELY CONSIDERABLE

This section identifies those impacts that were determined to be less than significant or less than cumulatively considerable.

Air Quality

- ▶ Impact 3.1.1: Generation of Short-Term, Construction-Related Emissions of ROG, NO_x, PM₁₀, and PM_{2.5} (VST Specific Plan only)
- ▶ Impact 3.1-3: Increases in Local Mobile Source CO Concentrations
- ▶ Impact 3.1-4: Exposure to Sensitive Receptors to TACs

Biological Resources

- ▶ Impact 3.2-3: Result in Degradation or Loss of Riparian Habitat or Other Sensitive Natural Communities
- ▶ Impact 3.2-4: Result in Degradation or Loss of State or Federally Protected Wetlands
- ▶ Impact 3.2-5: Interfere with Wildlife Movement Corridors or Impede the Use of Wildlife Nurseries

Tribal Cultural Resources

- ▶ Impact 3.3-1: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource
- ▶ Impact 3.3-2: Cumulative Tribal Cultural Resources Impacts

Greenhouse Gas Emissions and Climate Change

- ▶ Impact 3.4-1: Conflict with an Applicable Plan, Policy or Regulation Adopted for the Purpose of Reducing the Emissions of Greenhouse Gases (VST Specific Plan only)
- ▶ Impact 3.4-2: Wasteful, Inefficient, or Unnecessary Consumption of Energy during Project Construction or Operation
- ▶ Impact 3.4-3: Conflict with or Obstruct a State or Local Plan for Renewable Energy or Energy Efficiency (VST Specific Plan only)

Hydrology and Water Quality

- ▶ Impact 3.5-1: Substantially Degrade Surface Water or Groundwater Quality
- ▶ Impact 3.5-2: Substantially Decrease Groundwater Supplies or Interfere with Groundwater Recharge Such That the Project May Impede Sustainable Groundwater Management of the Basin
- ▶ Impact 3.5-3: Substantially Alter the Existing Drainage Pattern of Project Area (UCP Update only)
- ▶ Impact 3.5-4: Water Quality Control Plan Compliance
- ▶ Impact 3.5-5: Cumulative Impacts to Water Quality
- ▶ Impact 3.5-6: Cumulative Impacts to Hydrology and Flooding

Noise and Vibration

- ▶ Impact 3.6-4: Generate Excessive Groundborne Vibration or Groundborne Noise Levels (VST Specific Plan only)

Transportation

- ▶ Impact 3.7-1: Conflict with a Program, Plan, Ordinance, or Policy Addressing the Circulation System, Including Transit, Roadway, Bicycle and Pedestrian Facilities
- ▶ Impact 3.7-2: Conflict or Be Inconsistent with CEQA Guidelines Section 15064.3, Subdivision (b)
- ▶ Impact 3.7-3: Substantially Increase Hazards Due to a Geometric Design Feature (e.g., Sharp Curves or Dangerous Intersections) or Incompatible Uses (e.g., Farm Equipment)
- ▶ Impact 3.7-4: Result in Inadequate Emergency Access
- ▶ Impact 3.7-5: Cumulative Transportation Impacts

Utilities and Service Systems

- ▶ Impact 3.8-1: Environmental Effects due to Construction of New or Expanded Infrastructure
- ▶ Impact 3.8-2: Insufficient Water Supply in Normal, Dry, and Multiple Dry Years
- ▶ Impact 3.8-3: Wastewater Treatment Capacity
- ▶ Impact 3.8-4: Generate Solid Waste that Exceeds the Capacity of Local Infrastructure or Conflicts with Waste Reduction Regulations
- ▶ Impact 3.8-5: Cumulative Water Demand Impacts
- ▶ Impact 3.8-6: Cumulative Impacts to Wastewater and Stormwater Systems
- ▶ Impact 3.8-7: Cumulative Impacts to Electric Power, Natural Gas, and Communications Infrastructure

- Impact 3.8-8: Cumulative Impacts to Solid Waste

6 PROJECT ALTERNATIVES

6.1 BASIS FOR ALTERNATIVES FEASIBILITY ANALYSIS

PRC Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.”

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. Although an EIR must evaluate this range of *potentially* feasible alternatives, an alternative may ultimately be deemed by the lead agency to be “infeasible” if it fails to fully promote the lead agency’s underlying goals and objectives with respect to the project. (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 999–1000 (CNPS); *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 314–315; *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417; *Los Angeles Conservancy v. City of West Hollywood* (2017) 18 Cal.App.5th 1031, 1041-1043.) “‘Feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*Ibid.*; see also *CNPS, supra*, 177 Cal.App.4th at p. 1001.) Thus, even if a project alternative will avoid or substantially lessen any of the significant environmental effects of the project, the decision-makers may reject the alternative if they determine that specific considerations make the alternative infeasible.

Under the State CEQA Guidelines Section 15126.6, the alternatives to be discussed in detail in an EIR should be able to “feasibly attain most of the basic objectives of the project[.]” For this reason, the project objectives described above under **Section 2.1.3** provided the framework for defining possible project alternatives. (See *In re Bay-Delta* (2008) 43 Cal.4th 1143, 1166.) Alternatives also were evaluated based on general feasibility criteria suggested by the State CEQA Guidelines.

Based on the requirements of State CEQA Guidelines Section 15126.6 and the project objectives, the following alternatives to the project were identified in the Draft SEIR:

- No Project—No Development Alternative, which assumes no development occurs on the project site; and
- No Project/No UCP Update, No VST Specific Plan Alternative, which assumes that the proposed UCP Update and VST Specific Plan is not approved and that development occurs consistent with the approved UCP as described in the 2001/2004 UCP EIR.

In addition, the evaluation of alternatives included in the 2001/2004 UCP EIR is incorporated by reference into the SEIR and is part of the range of reasonable alternatives included in the CEQA analysis for the project (see Draft SEIR Section 4 and the discussion of 2003 SEIR alternatives below).

The County finds that a good-faith effort was made in the SEIR to evaluate a reasonable range of alternatives that could feasibly attain most of the basic objectives of the program, but that would avoid or substantially lessen any of the significant effects associated with the proposed project, even when the alternatives might impede the attainment of the project objectives and might be more costly. One of the comments received on the Draft SEIR requested that the VST provide more affordable housing units than the number of affordable units included in the Project. This requested alternative would not further lessen significant environmental impacts. As a result, the scope of alternatives

analyzed in the SEIR (and incorporated by reference from the 2001/2004 UCP EIR) is not unduly limited or narrow. (See Draft SEIR, Chapter 4.)

6.1.1 Scope of Necessary Findings and Considerations for Project Alternatives

As noted above, these Findings address whether the various alternatives substantially lessen or avoid any of the significant impacts associated with the proposed project and then consider the feasibility of each alternative. Under CEQA, as noted earlier, “[f]easible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” (State CEQA Guidelines, Section 15364.) The concept of feasibility permits agency decisionmakers to consider the extent to which an alternative can meet some or all of a project’s objectives. In addition, the definition of feasibility encompasses “desirability” to the extent that an agency’s determination of infeasibility represents a reasonable balancing of competing economic, environmental, social, and technological factors supported by substantial evidence. As such, these Findings consider the extent to which the alternatives can meet the program objectives, as described in the SEIR and in **Section 2.1.3**, above.

6.2 ALTERNATIVE ANALYSIS IN THE 2001/2004 UCP EIR

As discussed in the Draft SEIR, the 2001/2004 UCP SEIR included an analysis of project alternatives that could feasibly attain most of the basic objectives of the project while reducing or eliminating any significant environmental impacts of the proposed project. The analysis of the alternatives from the 2001/2004 UCP EIR is summarized in the Draft SEIR, and the alternatives are listed below. In accordance with Section 15150 of the State CEQA Guidelines, the Draft SEIR incorporates by reference the 2001/2004 UCP EIR. Therefore, the full alternatives analysis from the 2001/2004 UCP EIR is considered to be part of the text of the current SEIR. In addition, as indicated in Section 15162 of the State CEQA Guidelines, an SEIR is considered a revision to the original certified EIR that the SEIR is “subsequent” to. The 2001/2004 UCP EIR is part of the overall record of proceedings for the project, as evidenced by the same State Clearinghouse Number continuing to be used for each CEQA document (State Clearinghouse No. 2001021056). This SEIR is the next document in that overall CEQA record for the project. Therefore, the past CEQA documents are part of the overall CEQA analysis for the project, and the analysis of alternatives from the 2001/2004 UCP EIR is part of the “range of reasonable alternatives” to be considered per State CEQA Guidelines Section 15126.6(a).

ON-SITE ALTERNATIVES EVALUATED IN THE 2001/2004 UCP EIR

- ▶ No Loss of Prime Farmland Alternative
- ▶ No Loss of Prime Farmland/Reduced Community Size Alternative
- ▶ Limited Loss of Prime Farmland Alternative
- ▶ Reduced Residential Density Alternative
- ▶ Reduced Community Size and Population Alternative
- ▶ Increased Community Size and Population Alternative
- ▶ No Project Alternative

OFF-SITE ALTERNATIVES EVALUATED IN THE 2001/2004 UCP EIR

- ▶ Refined Concept Plan Alternative
- ▶ Two Village Alternative

- ▶ Lakefront Alternative
- ▶ Relocated Campus Alternative
- ▶ Campus Designer Preferred Southwest Alternative
- ▶ Other Off-Site Alternatives:¹
 - North Merced/Bellevue Ranch
 - Castle Airport
 - South Merced City Infill
 - North Merced Rangeland
 - Southern Highway 99
 - Delhi Area

ENVIRONMENTALLY SUPERIOR ALTERNATIVE IDENTIFIED IN THE 2001/2004 UCP EIR

Of the alternatives evaluated in the 2001/2004 UCP EIR, the No Loss of Prime Farmland/Reduced Community Size Alternative and Reduced Community Size and Population Alternative (which are identical in configuration, acreage, and population projections) would be the environmentally superior alternatives. These alternatives would reduce impacts on important productive agricultural land and loss of Prime Farmland. They could also reduce the magnitude of impacts related to adjacency to agricultural operations and visual buffers along Yosemite Avenue. Further, because these alternatives would reduce the population and development capacity of the UCP by approximately 40 percent, impacts related to transportation, vehicular emissions and air quality, transportation noise, public services, and water supply would be substantially diminished.

Notwithstanding the determination that the No Loss of Prime Farmland/Reduced Community Size Alternative and Reduced Community Size and Population Alternative would be the environmentally superior alternatives, these alternatives would fail to achieve most of the basic objectives of the Adopted UCP. In particular, these alternatives would (1) fail to provide adequate land and development opportunities to absorb the equivalent of 100 percent of the new growth demand generated by UC Merced and (2) fail to provide adequate circulation that supports the long-term sustainability of the UC Merced campus.

6.3 ALTERNATIVES SELECTED FOR DETAILED ANALYSIS IN THE UCP UPDATE AND VST SPECIFIC PLAN SEIR

6.3.1 No Project/No Development Alternative

The No Project/No Development Alternative for the current UCP Update and VST Specific Plan Project is described and evaluated on page 4-8 of the Draft SEIR. The 2001/2004 UCP EIR evaluated a No Project Alternative. Although development of UC Merced has occurred since certification of the 2001/2004 UCP EIR, other conditions within and adjacent to the UCP have not changed substantially.

Under the No Project/No Development Alternative evaluated in the UCP Update and VST Specific Plan SEIR, although this alternative would eliminate the potential for several significant and unavoidable effects of development related to

¹ These sites were alternative locations in eastern Merced County that the County and UC identified as potential sites for a university community. They reflect prior agency and public discussion of proposed campus development options.

visual resources, agricultural resources, biological resources, land use conflicts, and noise, these impacts would occur based on the Adopted UCP and the UCP Update and VST Specific Plan do not result in any new or substantially greater impacts related to these resource areas than the Adopted UCP. Development of a No Project/No Development Alternative would not impede demand for housing and commercial services as a result of the development of the UC Merced campus. Thus, under the No Project/No Development Alternative, housing and commercial development would occur elsewhere in the region, further from the campus. This would result in a lack of integration with the UC Merced campus that could result in effects associated with increased traffic, air quality, noise, GHG emissions, energy and other similar impacts.

Findings: The No Project/No Development Alternative would avoid all adverse impacts resulting from construction and operation of the UCP Update and VST Specific Plan on properties in the immediate vicinity of the Specific Plan area, and would displace those impacts to areas elsewhere in the region. The development planned for in the UCP would be displaced to other areas of the community that are more remote than the project site and would result in greater environmental impacts. The UCP North/VST Specific Plan project has conserved agricultural land to the north and east of the UCP area and UC Merced, consistent with the objectives of the Adopted UCP to support regional programs to conserve and protect the county's important agricultural and natural resources. Both the City and County General Plans recognize that the development of the UCP area is necessary to support UC Merced, and to provide Campus Parkway as an essential element of the Merced-Atwater Expressway. This alternative would not meet any of the other basic objectives of the project. The No Project Alternative would not meet the objective of the UCP Update to provide a "university community" that meets the needs of UC's staff and students, as currently projected, including providing a range of housing opportunities appropriate for the local demographics and lifestyles. Further, none of the VST Specific Plan objectives related to provision of housing and circulation facilities and services that connect to UC Merced would be achieved. Accordingly, the No Project Alternative would not meet the objectives the project. When the environmentally superior alternative is the No Project Alternative, the State CEQA Guidelines section 15126(d)(2) require selection of an environmentally superior alternative from among the other action alternatives evaluated.

6.3.2 No Project/No UCP Update, No VST Specific Plan Alternative

The No Project/No UCP Update, No VST Specific Plan Development Alternative is described and evaluated on page 4-8 of the Draft SEIR. This SEIR evaluates the 2001/2004 UCP EIR compared to the proposed UCP Update and VST Specific Plan. As explained throughout this SEIR, the effects of implementing the UCP Update and VST Specific Plan are anticipated to be similar to the impacts of the Adopted UCP.

Without update to the UCP boundary, as proposed in the UCP Update, the VST Specific Plan area would not extend east of the Fairfield Canal as provided in the City's SUDP and SOI. The addition of land east of the Fairfield Canal is proposed to offset loss of development capacity on lands now owned exclusively by UC Merced (refer to page 2-5 in Chapter 2, "Project Description" in the Draft SEIR). The No Project/No UCP Update, No VST Specific Plan Alternative would not meet any of the objectives established for the UCP Update, which are intended to amend the UCP to reflect current land ownership and adjacent development, as well as improve consistency between planning documents. Without the UCP Update and VST Specific Plan's boundary change, the project objective related to providing a mix of uses and a financially feasible phasing and implementation plan that will maximize the contribution to the VST scholarship endowment to provide college scholarships to county residents per the provisions of the VST would not be met.

Findings: This alternative would result in many of the same impacts as where evaluated of the Adopted UCP and would be more intense because of the greater number of housing units and commercial buildings provided for in the Adopted UCP. Implementation of the UCP Update and VST Specific Plan would result in a reduction of some impacts, compared to the Adopted UCP. However, these reductions are attributable to the reduction in the number of dwelling units and reduced commercial building area, and to changes in circumstances that would also apply to the Adopted UCP, if implemented. A notable exception is related to GHG emissions. The UCP Update and VST Specific Plan include a number of progressive requirements related to vehicle miles traveled, water conservation, and energy

efficiency that would not be applied to development under the Adopted UCP. Therefore, related impacts could be greater under the No Project/No UCP Update, No VST Specific Plan Alternative.

This alternative would not meet most of the project objectives, with respect to developing a cohesive community that complements the development of the UC Merced campus. Furthermore, the No Project/No UCP Update, No VST Specific Plan Alternative would not provide for the mix of uses and phasing of development that would maximize funding for the VST scholarship endowment. This objective of maximizing the scholarship endowment would, therefore, not be met under this alternative.

While this alternative is anticipated to result in impacts that are generally consistent with the UCP Update and VST Specific Plan, due to the potential for greater impacts related to vehicle miles traveled, water usage, and greenhouse gases, this alternative is not considered environmentally superior.

6.3.3 No Loss of Prime Farmland/Reduced Community Size Alternative and Reduced Community Size and Population Alternative

The 2001/2004 UCP EIR evaluated the No Loss of Prime Farmland/Reduced Community Size Alternative and Reduced Community Size and Population Alternative as one of the environmentally superior alternatives. This alternative included the area east of Fairfield Canal that is now included in the VST Specific Plan area with the UCP Update and would eliminate the UCP South/Hunt property south of Cardella Road from the UCP. Population and development capacity would be reduced by 40 percent. The 2001/2004 UCP EIR indicates that several impacts would be reduced under these alternatives. Also of note, the 2001/2004 UCP EIR indicated that the eastern expansion of the UCP would result in the potential for greater impacts to biological and cultural resources than the Adopted UCP. Since certification of the 2001/2004 UCP EIR, however, VST obtained permits and completed mitigation actions related to loss of habitat east of Fairfield Canal and site site-specific cultural resources evaluations have indicated no increased potential to encounter cultural resources in the area. Therefore, development of this area is no longer anticipated to result in greater impacts than the impacts identified for the Adopted UCP.

The UCP Update proposes to reduce the size of the UCP area from 2,100 acres to 1,841 acres (amounting to a 22 percent reduction). Within the revised UCP boundary, the total number of dwelling units would decrease from 11,616 to 9,700 units (a 16 percent reduction), and the potential area for non-residential development would decrease from 2,022,900 square feet to 1,247,000 square feet (38 percent reduction). The UCP Update has a development capacity between that of the Adopted UCP and No Loss of Prime Farmland/Reduced Community Size Alternative and Reduced Community Size and Population Alternative. It is anticipated that the No Loss of Prime Farmland/Reduced Community Size Alternative and Reduced Community Size and Population Alternative would result in impact reductions compared to the UCP Update. The alternative essentially limits the UCP to the boundaries proposed for the VST Specific Plan. With the No Loss of Prime Farmland/Reduced Community Size Alternative and Reduced Community Size and Population Alternative development capacity in the VST Specific Plan area would be reduced. Within the VST Specific Plan area, impacts would be similar.

Findings: while under this alternative, development capacity in the VST Specific Plan would be reduced, this alternative would result in less impacts and fewer impacts compared to the UCP update. Development planned for the UCP South property would be displaced to other areas of the community. However, impacts within the VST Specific Plan area would be similar although slightly reduced given the small development footprint compared to the UCP development area for the northern portion of the UCP. Therefore, overall, the No Loss of Prime Farmland/Reduced Community Size Alternative and Reduced Community Size and Population Alternative remain environmentally superior. However, as described in the 2001/2004 UCP EIR analysis, two key project objectives would not be met related to providing adequate housing to support buildout of UC Merced and providing adequate transportation. This alternative would not achieve any of the eight objectives of the UCP Update. Accordingly, this alternative must be rejected.

7 STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to PRC Section 21081 and the State CEQA Guidelines Section 15093, this Board of Supervisors adopts and makes the following Statement of Overriding Considerations regarding the remaining significant unavoidable impacts of the project, as discussed above, and the anticipated economic, social, and other benefits of the project:

7.1 FINDINGS AND STATEMENT

The Board of Supervisors determines that the majority of the significant impacts of the modified UCP Update and VST Specific Plan Project will be reduced to acceptable levels by the mitigation measures recommended in these Findings. However, as set forth above, the County's approval of the modified UCP Update and VST Specific Plan Project as proposed will result in several significant adverse environmental effects that cannot be avoided even with the incorporation of all feasible mitigation measures into the project, and there are no feasible project alternatives which would mitigate or avoid the significant environmental effects. The significant effects that have not been mitigated to a less-than-significant level consist of:

- ▶ **Greenhouse Gas Emissions and Climate Change:**
 - Conflict with an Applicable Plan, Policy or Regulation Adopted for the Purpose of Reducing the Emissions of Greenhouse Gases (UCP Update only)
 - Conflict with or Obstruct a State or Local Plan for Renewable Energy or Energy Efficiency
- ▶ **Noise and Vibration:**
 - Short-Term Construction-Generated Noise Levels
 - Long-Term, Operational Noise (Traffic)
 - Generate Excessive Groundborne Vibration or Groundborne Noise Levels (UCP Update only)
- ▶ **Cumulative Impacts:**
 - Noise and Vibration (Increases in Non-Traffic Noise Levels)
 - Biological Resources

In light of the environmental, social, economic, and other considerations identified in the prior 2001/2004 UCP EIR findings for the Adopted UCP, and the considerations set forth below related to the UCP Update and VST Specific Plan Project, this Board of Supervisors chooses to approve the UCP Update and VST Specific Plan Project because, in its view, the economic, social, technological, and other benefits resulting from the project will render the significant effects acceptable.

The following statement identifies the reasons why, in the Board of Supervisors' judgment, the benefits of the UCP Update and VST Specific Plan Project outweigh the significant and unavoidable effects. The substantial evidence supporting the enumerated benefits of the project can be found in the 2001/2004 UCP EIR findings, which are herein incorporated by reference and summarized below; in the UCP Update and VST Specific Plan Project itself; and in the record of proceedings as defined in **Section 2.3**, above. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the UCP Update and VST Specific Plan Project outweigh its significant adverse environmental effects and is an overriding consideration warranting approval.

The Board of Supervisors finds that the UCP Update and VST Specific Plan Project, as conditionally approved, would have economic, social, technological, and environmental benefits described in the section below.

7.2 2001/2004 STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO THE UCP PROJECT FINDINGS

On December 21, 2004, the County Board of Supervisors adopted CEQA Findings of Fact, Statement of Overriding Considerations, and MMRP via Resolution No. 2004-239, and certified the EIR via Resolution No. 2004-238 when it approved the UCP.

These Findings incorporate by reference the 2001/2004 Findings. Therefore, the 2001/2004 Findings are considered to be part of the text of these Findings. The 2001/2004 Findings are part of the overall record of proceedings for the project, as evidenced by the same State Clearinghouse Number continuing to be used for each CEQA document.

The 2001/2004 Findings identify the following benefits of the UCP, as summarized below.

COMMUNITY BENEFITS

The 2001/2004 Findings stated that the UCP Project would be a sustainable, comprehensively designed community where residents could live, work, and play. The UCP would further the County's General Plan policies and the goals and objectives for new residential land use by providing a variety of residential land use designations to meet the future needs of the County and the region, while ensuring compatibility with existing and planned land uses. The scale of development would allow for great variety in the type of neighborhood amenities associated with the various housing types and income levels.

The Project would contribute a variety of mixed-use/commercial land uses that could become a citywide and regional economic focal point. For example, the UCP included development of affordable housing. Sixty percent of the apartment units (850 units) are programmed for student housing and are capable of serving 3,400 students are included. It also contains adequate Above Moderate and Moderate Income housing in conformance with the salaries and wages reported for UC Merced in 2020. Over forty percent (1,596 units) of the total project units are at densities of 20 units per net acre or greater. Based on the proposed unit size and distribution of dwelling units, 1,139 units (29.5%) would be affordable to Lower Income households, and 1,495 units (38.8%) would be affordable by Moderate Income households. Five hundred units (13%) will be deed-restricted for very low, low and moderate income households.

The Project also contains 124,300 SF of commercial area, including 10,000 SF of Neighborhood Commercial space, 56,000 SF of Community Commercial space, and 5700 SF of space in the Village Commercial area. The housing and commercial that is intended to serve the University is integrated into the Village Center and are supported by the same network of trails, bike paths, parks and community facilities as the remainder of the community.

JOB CREATION

The 2001/2004 Findings stated that the UCP, through its phased implementation and ability to generate revenues for the County and the City, would play a strong role in achieving the General Plan's goal of developing tax revenue-creating activities necessary to implement other county objectives. The fiscal impact report prepared for the VST Specific Plan determined that, after annexation, the development associated with the UCP North property would generate a net fiscal benefit (direct revenues in excess of service costs) to the City of Merced of \$3.8 million, and \$2.1 million to the County of Merced. On a pro rata basis (scaling up VST Specific Plan revenues to the entire UCP area), the UCP would generate \$10.6 million to the City of Merced and \$5.9 million to the County of Merced. No costs associated with the development of the UCP area or the VST Specific Plan area, specifically, would be borne by existing County residents. In addition, the development in the UCP area would contribute its fair share toward the cost of community facilities that would be constructed including parks, roadways, public works facilities, a fire and police station, and schools through either the City's Public Facilities Financing Plan impact fees, or special Specific Plan impact fees. In short, the Project would increase tax revenues to the County and the City of Merced through the

addition of property value, the expansion of the housing market and commercial activities, and the overall enhancement of the County's economic base.

PUBLIC REVENUES

The 2001/2004 Findings stated that the UCP, through its phased implementation and ability to generate revenues for the County, would play a strong role in achieving the General Plan's goal of developing tax revenue-creating activities necessary to implement other county objectives. No costs associated with the development of the UCP area or the VST area, specifically would be borne by existing County residents. In addition, the development in the UCP area would contribute its fair share toward the cost of Countywide community facilities that would be constructed outside of the project area, including a fire station, and various roadway improvements. In short, the Project would increase tax revenues to the County and the City of Merced through the addition of property value, the expansion of the housing market and commercial activities, and the overall enhancement of the County's economic base.

NATURAL RESOURCES

The 2001/2004 Findings described that habitat preservation and restoration were important benefits of the UCP Project because the natural Delta setting that nurtures wildlife also contributes to resident's quality of life.

7.3 STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO THE UCP UPDATE AND VST SPECIFIC PLAN PROJECT FINDINGS

In the Board of Supervisors' judgment, the project and its benefits outweigh its unavoidable significant effects. The following statement identifies the reasons why, in the Board of Supervisors' judgment, the benefits of the project as approved outweigh its unavoidable significant effects. The Board of Supervisors finds that the noted benefits are individually meritorious, and taken together, provide substantial public benefits that are sufficient to justify approval of the UCP Update and VST Specific Plan Project.

COMMUNITY BENEFITS

Similar to the Adopted UCP, the UCP Update and VST Specific Plan Project designate a variety of residential land use categories to meet the future needs of the City, County, and adjacent UC Merced campus, and would be compatible with existing and planned land uses in the City of Merced and County of Merced. Between 2018 and 2030, the County population is expected to increase by 54%, to 431,300 residents. (Draft SEIR, p. 1-19.) Further, the UC Merced 2020 Long Range Development Plan ("LRDP") plans for long-term enrollment projections to reach 15,000 students by 2030. An adequate supply and mix of residential units will provide housing for existing and future students, university staff, as well as for other residents the university's growth will attract. The UCP Update and VST Specific Plan Project would also provide a variety of recreational opportunities focused on outdoor use. Specifically, the project includes 113.3 acres of parks, recreation, and open space.

The UCP intends to absorb 100% of the new growth demand generated by UC Merced. (Draft SEIR, p. 2-9.) At buildout, the Specific Plan will accommodate a population of up to 12,103 persons (11,106 residents plus 2,160 employees). (VST Specific Plan, p. 112.) Accordingly, the UCP update and Specific Plan provide flexibility within the community to meet fluctuations in demand for different housing types across a varied cross-section of the community. If the UCP update and VST Specific Plan is not approved, university growth will further strain demand for badly-needed housing.

Moreover, the UCP update and VST Specific Plan provide for a wide range of housing densities and types, which will enable the community to accommodate changing households. Housing types would range from single-family detached units, to clustered units, to townhomes, flats, and apartments that can accommodate a diverse range of

residents. The UCP update and VST Specific Plan proposes to develop approximately 1,621 dwelling units that are suitable and available for Low and Very Low Income households, as defined by Section 65583.2 of the California Government Code. Five hundred (500) of the VST Specific Plan housing units are proposed to be deed-restricted affordable housing, in excess of the City's RHNA Unit Production Policy. (VST Specific Plan, Table 2, p. 339.) In addition, the variety of housing types and densities will allow for a diverse range of units that are naturally more affordable for middle-income households.

The VST Specific Plan is necessary to extend the acreage that can be developed as part of the UCP. Proceeds from this development will flow to the VST scholarship program in support of higher education, increasing the annual awards in the scholarship fund from approximately \$500,000 per year to \$8,000,000 per year. Completion of the project would allow the extension of the program from high schools located in the City of Merced to all high schools in Merced County. The Virginia Smith Trust Scholarship program currently benefits 1,399 students and the project would allow the project to be expanded to all 4,675 graduating seniors in the County. Accordingly, development of the VST Specific Plan will dramatically increase this endowment, expanding the reach of the program to even more college-bound County students. Without the project, the scholarship program would continue to be limited to students attending high schools in the City of Merced.

Similar to the Adopted UCP, the VST Specific Plan would contribute a variety of mixed-use/commercial land uses that could become an economic focal point for not only the City, but for the UC Merced campus, as well as the region. The VST Specific Plan project includes a commercial/mixed use employment center at the gateway to the UC Merced campus, which would not only complement the campus itself, but would blend residential land uses together into the adjacent public university use.

The VST Specific Plan would also include the implementation of a Community Foundation Program. VST would set up a Community Educational Enhancement Fee that would levy a percentage or fixed fee on property sales and resales (including residential and commercial property) equal to 0.25% of the sales price. The funds would be used to pay programs that are proven to enhance educational success and career training, including early childhood education and cultural enhancement, Camp Green Meadows, technical training that does not qualify under the VST Scholarship programs, enhancement of community and neighborhood facilities, STEM education, and similar programs. The 0.25% contribution fee would generate approximately \$150,000-\$200,000 per year in the early years of the buildout of the project (2025-2030), with that increasing to over \$750,000 per year after year ten (2035).

Because the UC Regents have already approved the UC Merced 2020 LRDP, UC Merced is committed to accommodating 15,500 students and the necessary university staff to support them. This development and population increase is assured, whether or not the County approves this project. Thus, students, faculty, and staff will be forced to compete for housing across the City and the County, or potentially further. Long commutes to the UC Merced campus would result in a dramatic increase in VMT, causing environmental impacts, such as to GHG emissions and air quality. The UCP update and VST Specific Plan propose to develop an extensive community of mixed housing types, directly adjacent to the campus, and which specifically meet the needs to UC's students, staff and instructors. The Specific Plan will permit higher density development and will locate land uses closer to each other, reducing VMT. Project infrastructure will encourage shared transportation methods, public transit, and commuting via bike. Those who do commute by single-occupancy vehicle will be within close proximity to the campus, ensuring VMT remains low.

Implementation of the UCP Update and VST Specific Plan Project would provide an expanded roadway network would result in increased connectivity. The UCP Update and VST Specific Plan would develop a transportation network for all modes of transportation including for pedestrians, bicycles, and transit. Policies proposed under the UCP Update and VST Specific Plan encourage the construction of a fully integrated bicycle and pedestrian system with supportive amenities and transit improvements. The Specific Plan would locate new transit bus stops throughout the plan area and design Class I bicycle paths and Class IV bicycle lanes to meet or exceed the minimum standards established by the Caltrans Highway Design Manual and City design standards.

LEGAL

The UCP update is necessary to establish consistency between the VST Specific Plan, with the City of Merced General Plan, and the UC Merced 2020 LRDP. The property subject to the UCP is located within the City's sphere of influence, and the City has expressed an intent to annex the UCP area in the future. Consistency between all of these planning documents is necessary to provide a uniform plan for development, as well as to provide consistent resources for landowners seeking to develop their properties.

The UCP was adopted on December 21, 2004 and was adopted to be consistent with then-current standards. In the nearly two decades since, the State of California has updated its planning standards and development regulations. Much of this was done to reduce environmental impacts, by locating residential uses near job centers and by encouraging multiple modes of transportation. Updates to other standards, including for circulation and for environmental regulations have likewise rendered the 2004 UCP out of date. For example, the UCP must be updated to accommodate regional infrastructure, such as Campus Parkway. This update is necessary to bring the UCP to modern planning standards and to ensure the project can be lawfully developed at modern standards.

NATURAL RESOURCES

Natural lands planned as part of the overall UCP Update and VST Specific Plan Project would provide a variety of functions, including flood control, recreation, and habitat for sensitive species. Project mitigation includes that at least 551 acres of upland annual grassland is preserved, in conjunction with, and to support at least 61.2 acres of vernal pool fairy shrimp habitat (for a total of 612 acres). Seed collection from the shining navarretia located within the UCP area will occur and distribution of those seeds will be dispersed in suitable habitats where shining navarretia does not currently occur to avoid impacts on the genetic composition of existing populations.

Mitigation further requires that Swainson's hawk foraging habitat will be preserved offsite in sufficient quality and quantity, as determined through consultation with the California Department of Fish and Game, in order to mitigate for the loss resulting from the proposed UCP.

7.4 CONCLUSION

The Board of Supervisors has balanced these benefits and considerations against the potentially significant unavoidable environmental effects of the project and has concluded that the impacts are outweighed by these benefits, among others. After balancing environmental costs against project benefits, the Planning Commission has concluded that the benefits the County will derive from the project, as compared to existing and planned future conditions, outweigh the risks. The Planning Commission believes the project benefits outlined above override the significant and unavoidable environmental costs associated with the project.

In sum, the Board of Supervisors adopts the mitigation measures in the MMRP for the project and finds that any residual or remaining effects on the environment resulting from the project, identified as significant and unavoidable in the Findings of Fact, are acceptable due to the benefits set forth in this Statement of Overriding Considerations.

MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE

University Community Plan Update and VST Specific Plan Project

State Clearinghouse No. 2001021056

County of Merced
Planning Department
2222 M Street, 2nd Floor
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Contact:
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July 28, 2023

TABLE OF CONTENTS

Section	Page
List of Abbreviations.....	3
1. Mitigation Monitoring and Reporting Program	5
1.1. Purpose of Mitigation Monitoring and Reporting Program	5
1.2. 2001/2004 UCP EIR and relationship to the UCP Update and VST Specific Plan MMRP	5
1.3. Roles and Responsibilities.....	6
1.4. Mitigation Monitoring and Reporting Program Table.....	6

List of Abbreviations

AAQA	Ambient Air Quality Analysis
BESD	Banta Elementary School District
BMP	best management practice
CALGreen	State Building Energy Efficiency Standards
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CFR	Code of Federal Regulations
City	City of Merced
CNEL	community noise equivalent level
County	County of Merced
dBA	A-weighted decibel
ESA	federal Endangered Species Act
ghg	greenhouse gas
lb/day	pounds per day
L _{dn}	day-night average noise level
L _{eq}	energy-equivalent noise level
MMRP	mitigation monitoring and reporting program
MSDS	Material Safety Data Sheets
MTCO _{2e}	metric tons of carbon dioxide equivalent
NAHC	Native American Heritage Center
NMFS	National Marine Fisheries Service
NPDES	National Pollutant Discharge Eliminate System

PCC	Public Contract Code
PRC	Public Resources Code
RWQCB	regional water quality control board
SJVAPCD	San Joaquin Valley Air Pollution Control District
SWPPP	storm water pollution prevention plan
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
Valley CAN	Valley Clean Air Now
VELB	valley elderberry longhorn beetle
VERA	Voluntary Emission Reduction Agreement
ZNE	zero net energy

1. Mitigation Monitoring and Reporting Program

In accordance with the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] Section 21000 et seq.), the County of Merced (County) prepared a Focused Subsequent Environmental Impact Report (SEIR) for the UCP Update and VST Specific Plan Project (the Project). The Project is located in unincorporated Merced County, northeast of the City of Merced, south of UC Merced, and within the City's sphere of influence (SOI). The proposed UCP Update area encompasses 1,841 acres and includes two properties; the Hunt and VST properties. The VST Property consists of 654 acres immediately south of the UC Merced Campus and is bounded generally by Lake Road on the west, UC Merced to the north, Cardella Road on the south and the Orchard Drive alignment on the east. The Hunt property is referred to as UCP South in the Adopted UCP, and includes approximately 1,187 acres of land south of UC Merced and is bounded by Lake Road on the west, Cardella Road to the north, Fairfield Canal to the east and Yosemite Road to the south. The Project includes modifications to the University Community Plan as part of the UCP Update and a Specific Plan for the 654-acre VST Property.

The SEIR evaluates the program-level impacts of the proposed changes to the Adopted UCP, and the project specific impacts associated with the VST Specific Plan. The SEIR (State Clearinghouse No. 2001021056) identified significant impacts and mitigation measures that would reduce the identified impacts to less-than-significant levels, where feasible, and concluded that some environmental impacts would be significant and unavoidable. CEQA (PRC Section 21081.6) and the State CEQA Guidelines (Sections 15091[d] and 15097) require public agencies to "adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment." This mitigation monitoring and reporting program (MMRP) has been prepared for the Project because the SEIR identifies significant adverse impacts related to project implementation, and mitigation measures have been identified to reduce or eliminate most of those impacts. Adoption of this MMRP would occur in conjunction with approval of the Project.

1.1. Purpose of Mitigation Monitoring and Reporting Program

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed in a satisfactory manner before and during project construction and operation, as applicable.

The MMRP table provided below has been prepared to assist the responsible parties in implementing the mitigation measures applicable to the Project. The table identifies the impact; the individual mitigation measures; the specific actions required before, during, and after construction; the implementing party; and mitigation timing. The table also includes a column to confirm implementation of the mitigation measures after project approval. The numbering of mitigation measures follows the numbering sequence found in the project SEIR. Mitigation measures that are referenced more than once in the SEIR are not duplicated multiple times in the MMRP table.

1.2. 2001/2004 UCP EIR and relationship to the UCP Update and VST Specific Plan MMRP

In 2004, the County adopted the UCP, which covered a 2,133-acre area that included most of the VST property, just south of the UC Merced campus (Adopted UCP). A program EIR was certified with adoption of the UCP in 2001 and a supplemental EIR, which focused on hydrology and water quality, was certified on December 21, 2004 via Resolution No. 2004-238 (referred to collectively herein as the 2001/2004 UCP EIR; State Clearinghouse No. 2001021056). The 2001/2004 UCP EIR was identified as the appropriate document to base the subsequent CEQA analyses upon because it describes the potential environmental impacts of the planning documents that would be amended by the VST Specific Plan and was certified by the County.

The County adopted an MMRP as part of the 2001/2004 UCP EIR approvals and those mitigation measures are incorporated herein by this reference. This MMRP is focused specifically on the UCP Update and VST Specific Plan

Project. Where mitigation measures applicable to the Project remain the same as those adopted in the 2001/2004 UCP EIR, the title, "Adopted Mitigation Measure," is used as the mitigation measure was "adopted" as part of the 2001/2004 UCP EIR; where mitigation measures would be modified or eliminated from those identified in the 2001/2004 UCP EIR, the title, "Modified Mitigation Measure," is used; and where new mitigation measures were developed for the modified Phase 2 Project, the title, "New Mitigation Measure," is used.

This MMRP only applies to activities associated with implementation of the UCP Update and VST Specific Plan Project applicable to the portions of the Project detailed in each measure. In addition, if the UCP Update and VST Specific Plan Project does not proceed, and the Project as approved through the 2001/2004 UCP EIR is implemented across the UCP area, the 2001/2004 UCP EIR mitigation measures would be applied to those activities.

1.3. Roles and Responsibilities

The County is responsible for overall administration of the MMRP and for verifying that the applicant, builder, construction contractor, or other designated party has completed the necessary actions for each measure. The party responsible for implementing each item will identify the staff members responsible for coordinating with the County on the MMRP.

1.4. Mitigation Monitoring and Reporting Program Table

Table 1, which identifies the mitigation measures applicable to the UCP Update and VST Specific Plan Project, includes the table columns identified and described below:

- ▶ **Impact:** This column presents all the impacts disclosed in the SEIR for which mitigation was identified.
- ▶ **Mitigation Measure:** This column presents all the mitigation measures identified in the UCP Update and VST Specific Plan Project SEIR, each of which has been adopted and incorporated into the project.
- ▶ **Action(s):** For every mitigation measure, one or more actions are described. The actions delineate the means by which the mitigation measures will be implemented and, in some instances, the criteria for determining whether a measure has been successfully implemented. Where mitigation measures are particularly detailed, the action may refer back to the measure.
- ▶ **Implementing Party:** This column identifies the entity responsible for undertaking the required action.
- ▶ **Timing:** Implementation of the action must occur before or during some part of project approval, project design, or project construction or on an ongoing basis. This column identifies the timing for implementation of each mitigation measure.
- ▶ **Completion of Implementation:** The County is responsible for ensuring that mitigation measures are successfully implemented with respect to work implemented within the County's jurisdiction. The "Completion of Implementation" column is to be used by the County to indicate when implementation of a mitigation measure has been completed. The County, at its discretion, may delegate implementation responsibility or portions thereof to qualified consultants or contractors. Upon annexation, the County's responsibility to ensure that the mitigation measures are successfully implemented will be transferred to the City of Merced. The "Completion of Implementation" column is to be used by the City to indicate when implementation of a mitigation measure has been completed.

Table 1 UCP Update and VST Specific Plan Mitigation Monitoring and Reporting Program

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
Air Quality Impact 3.1.1: Generation of Short-Term, Construction-Related Emissions of ROG, NO_x, PM₁₀, and PM_{2.5}	Adopted Mitigation Measure 4.3-1 Compliance with the following SIVAPCD mitigation measure listed in Table 6-3 of the GAAMAQD would further reduce dust created during construction activities: <ul style="list-style-type: none"> ▶ Limit traffic speeds on unpaved roads to 15 mph. 	Prepare an AAQA for all construction and operational emissions that exceed 100 lb/day.	Project applicant, construction contractor, SIVAPCD	During preparation of the EIR for UCP South	
	Adopted Mitigation Measure 4.3-2 Construction contracts shall include the following specifications: <ul style="list-style-type: none"> ▶ Minimize idling time to a maximum of ten minutes when construction equipment is not in use; ▶ Employ construction activity management techniques such as extending the construction period outside the ozone season of May through October, reducing the number of hours of construction and scheduling activities during off peak hours; ▶ Tuning engines to manufacturer's specifications; ▶ When feasible, schedule equipment usage to avoid simultaneous use of equipment. 	Confirm that construction equipment measures are implemented	County of Merced	Before grading	
	New Mitigation Measure 3.1-1a: Utilize the cleanest available off-road construction equipment, including the latest Tier diesel or electric equipment (e.g. scrapers, graders, trenchers, tractors, loaders, backhoes, etc.) (UCP South only) All construction specifications shall require use off-road construction equipment that meet EPA's Tier 4 emission standards as defined in 40 CFR 1039 and comply with the appropriate test procedures and provisions as contained in 40 CFR Parts 1065 and 1068. Tier 3 models can be used if a Tier 4 version of the equipment type is not yet produced by manufacturers. This measure can also be achieved by using battery-electric off-road equipment as it becomes available. Implementation of this measure shall be required in the				

¹ The County's obligation to implement or confirm that implementation has been satisfied will transfer to the City of Merced upon annexation.

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>contract the project applicant establishes with its construction contractors. The applicant shall demonstrate its plan to fulfill the requirements of this measure in a report or in project improvement plan details submitted to the discretionary land use authority (City of Merced or Merced County) prior to the use of any off-road, diesel-powered construction equipment.</p> <p>New Mitigation Measure 3.1-1b: Preparation of an Ambient Air Quality Analysis (UCP South only)</p> <p>SJVACPD recommends that construction and operational emissions that exceed 100 lb/day prepare an AAQA to assess whether a project would violate an AAQS. Prior to the approval of a Final Map, the project applicant shall prepare a project-level analysis of emissions for development in the UCP area that is subject to SJVAPCD oversight to confirm whether the particular land use development would result in emissions that exceed this 100 lb/day screening criterion. In cases where a project's construction activity would generate emissions above this screening criterion (i.e., 100 lb/day) s, the project applicant shall prepare an AAQA. If, following the preparation of an AAQA, emissions are found to contribute to an exceedance of an AAQS, the project applicant shall either implement additional emission reduction measures as part of the project or, once all feasible on-site reduction measures have been exhausted, engage in regional programs that serve to reduce air pollution in the San Joaquin Valley. An example of a potential program includes the Valley Clean Air Now (Valley CAN) organization, which improves public health through investments in vehicle repair and replacement programs. Emissions reduction programs must demonstrate a quantifiable reduction and must be located within the SJVAB so air pollution reductions are realized in the basin. Alternatively, if regional air pollution reduction programs are unavailable, the project applicant may enter into a Voluntary Emission Reduction Agreement (VERA) with SJVAPCD to reduce emissions to below 100 lb/day for any pollutant that exceeds the screening criteria. If conditions warrant participation in a VERA, the VERA shall demonstrate a pound-for-pound reduction in emissions</p>				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	that exceed 100 lb/day through a process that funds and implements emissions reduction projects within the SIVAB. The types of emission reduction projects that could be funded include electrification of stationary internal combustion engines (such as well pumps), replacing old heavy-duty trucks with cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors. If a VERA is found to be required to meet thresholds, and the applicant elects to enter into one, the project applicant shall engage in a discussion with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level.				
Impact 3.1-2: Long-Term, Operational (Regional) Emissions of Criteria Air Pollutants and Precursors	Adopted Mitigation Measure 4.3-4 (a) Outdoor electrical outlets shall be installed in the front and backyards of all housing units. (b) Use solar or low emission water heaters. (c) Orient buildings to take advantage of solar heating and natural cooling and use passive solar design. (d) Increase wall and attic insulation.	Implement construction design features to minimize impacts.	Project applicant, construction contractor	Before building permit issuance	
		Preparation of air quality assessment to determine whether any SJVAPCD annual mass emissions thresholds are exceeded.	Project applicant, SJVAPCD	Before building permit issuance	
	New Mitigation Measure 3.1-2a: Implement On-Site Project Design Features to Reduce Emissions of Criteria Air Pollutants (UCP South) Prior to the issuance of any development permits, the project applicant shall implement the following measures to reduce the project's emissions: ► Use low-VOC (50–100 grams per liter) paint for external residential applications on all construction drawings for review and approval by staff of the discretionary land use authority (City of Merced or Merced County). ► Incorporate traffic calming measures including marked crosswalks, count-down signal timers, curb extensions, speed tables, raised crosswalks, raised intersections, median islands, tight corner radii, roundabouts, and on-street parking				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>throughout the site plan. Specific calming measures and locations shall be identified by a qualified transportation specialist.</p> <ul style="list-style-type: none"> ▶ Electric water heaters in all residences (no gas storage tank heaters). ▶ Electric heating, ventilation, and air conditioning (HVAC) units in residences (no gas units). ▶ Meet Tier 2 electric vehicle charging standards of the most recent version of Part 11 of the Title 24 California Building Code (CalGreen Code) for all land use types. ▶ Restrict idling times for heavy heavy duty trucks accessing the project site to 3 minutes or less through the signage indicating that idling must be limited to this duration. ▶ Plant vegetation throughout the project site near areas of high pollution generation (e.g., heavily traveled roadways, sites of truck idling) to reduce the dispersion of air pollutants. ▶ Apply for grant funding through SJVAPCD's Bikeway Incentive Program, which offers funding for Class I, Class II, and Class III bicycle paths for projects within the SJVAB. <p>Mitigation Measure 3.1-2b: Engage in Regional Programs to Offset Project Emissions of ROG, NO_x, CO, and PM₁₀ (UCP South and VST Specific Plan)</p> <p>UCP South</p> <p>Once the on-site reduction measures listed above under Mitigation Measure 3.1-2a have been incorporated, an air quality assessment shall be prepared to determine whether any SJVAPCD annual mass emissions thresholds are exceeded. If no thresholds are exceeded, no further action is necessary. If one or more thresholds are exceeded, prior to the issuance of grading permits for the first phase of development, the project applicant shall enter into a VERA through coordination with SJVAPCD to reduce emissions to meet SJVAPCD's annual mass emissions thresholds for any pollutant that exceeds their respective threshold. The project applicant shall engage in a discussion with SJVAPCD prior to the adoption of the</p>				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level consistent with the direction given in SIVAPCD's GAMAQI. As allowed by SIVAPCD, the project applicant shall be provided the opportunity to perform an additional quantification of the project's operational emissions following the implementation of the proposed measures listed above under Mitigation Measure 3.1-2a to estimate the TPY needed to reduce emissions to meet SIVAPCD's annual thresholds of significance.</p> <p>VST Specific Plan</p> <p>A project-level evaluation of potential emissions has been performed for the VST Specific Plan. Based on SIVAPCD's guidance, various project design features have been incorporated into the design of the VST Specific Plan to reduce emissions, such as transportation management strategies and the elimination of onsite natural gas infrastructure for residential land uses. Based on this data (see Table 3.1-13), the applicant shall enter into a VERA with SIVAPCD to fully compensate for ROG, NO_x, and CO emissions that exceed SIVAPCD's CEQA annual mass emissions thresholds of significance.</p>				

Biological Resources

Impact 3.2-1: Result in Disturbance to or Loss of Special-Status Plant Species	Adopted Mitigation Measure 4.4-2: The County shall ensure that at least 551 acres of upland annual grassland is preserved in conjunction with and to support at least 61.2 acres of vernal pool fairy shrimp habitat (for a total of 612 acres).	Preservation of upland annual grassland.	Project applicant, County of Merced	Before construction	This has been completed for VST.
	Adopted Mitigation Measure 4.4-6: Seed collection from the shining navarretia located within the UCP area shall be conducted prior to the loss of the populations in the UCP area. Seed collection shall be conducted by a qualified botanist or restoration biologist. Collected seeds shall be dispersed within suitable habitat (i.e., seasonally moist	Collection of shining navarretia seeds within UCP area.	Project applicant, construction contractor	Before construction	
		Pre-construction surveys of special-status species.	Project applicant, construction contractor	Before construction	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>clay flats in grassland). Seeds shall be dispersed only within suitable habitats where shining navarretia does not currently occur to avoid impacts on the genetic composition of existing populations.</p> <p>Seed from shining navarretia shall be dispersed in suitable habitat within the annual grassland preserved in conjunction with loss of vernal pool habitat (Impact 4.4.1) and/or Swainson's hawk habitat (Impact 4.4.4) if feasible. However, if mitigation lands to serve both purposes cannot be found, the applicant will be responsible for negotiating a conservation easement with a land owner in the vicinity such that a minimum of seven populations of shining navarretia receive long-term protection.</p> <p>Mitigation Measure 3.2-1: Implement Avoidance Measure and Mitigation for Special-Status Plant Species Not Covered by the Existing CDFW Incidental Take Permit or USFWS Biological Opinion</p> <ul style="list-style-type: none"> ▶ During implementation of preconstruction surveys required under the CDFW ITP and USFWS Biological Opinion Conservation Measures, a qualified botanist will target additional special-status plant species not covered by these permits. Surveys will follow survey methods from CDFW's Protocols for Surveying and Evaluating Impacts on Special-Status Native Plant Populations and Natural Communities (CDFW 2018) and will be conducted during the blooming period for these species (Table MM 3.2-1). ▶ If special-status plant species are not found, the botanist will document the findings in a report to the discretionary land use authority (City of Merced or Merced County), and no further mitigation will be required. <p>If special-status plant species are found, the area occupied by special-status plants will be avoided completely, if feasible (i.e., project objectives can still be met). This may include establishing a no-disturbance buffer around the occupied habitat and demarcation of this buffer by a qualified biologist or botanist using flagging or high-visibility construction fencing. The size of the buffer</p>	Establishment of buffer area if any special-status species are found.	Project applicant, construction contractor	Before construction	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>will be determined by the qualified biologist or botanist and will be large enough to avoid direct or indirect impacts on the plant.</p> <p>► If special-status plants are found during special-status plant surveys and cannot be avoided, the project applicant shall, in consultation with CDFW or USFWS as appropriate depending on species status, develop and implement a site-specific mitigation strategy to achieve no net loss of occupied habitat or individuals. It is likely that existing mitigation efforts for state and federally listed plant species required under the ITP and USFWS Biological Opinion would be sufficient to reduce impacts on non-listed special-status plant species to a less-than-significant level.</p> <p>Mitigation measures shall include, at a minimum, preserving and enhancing existing populations, establishing populations through seed collection or transplantation from the site that is to be affected, and/or restoring or creating habitat in sufficient quantities to achieve no net loss of occupied habitat or individuals. Purchase of credits from an agency-mitigation bank that contains the affected species may also be used to offset loss of occupied habitat. Potential mitigation sites could include suitable locations within or outside of the UCP area or VST Specific Plan area. Habitat and individual plants lost shall be mitigated at a minimum 1:1 ratio, considering acreage as well as function and value. Success criteria for preserved and compensatory populations will include:</p> <ul style="list-style-type: none"> ■ The extent of occupied area and plant density (number of plants per unit area) in compensatory populations will be equal to or greater than the affected occupied habitat. ■ Compensatory and preserved populations will be self-producing. Populations will be considered self-producing when: <ul style="list-style-type: none"> • plants reestablish annually for a minimum of five years with no human intervention such as supplemental seeding; and 				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<ul style="list-style-type: none"> reestablished and preserved habitats contain an occupied area and flower density comparable to existing occupied habitat areas in similar habitat types in the project vicinity. <p>If offsite mitigation includes dedication of conservation easements, purchase of mitigation credits, or other offsite conservation measures, the details of these measures will be included in the mitigation plan, including information on responsible parties for long-term management, conservation easement holders, long-term management requirements, success criteria such as those listed above and other details, as appropriate to target the preservation of long-term viable populations.</p>				
Impact 3.2-2: Disturbance to or Loss of Special- Status Wildlife Species and Habitat	<p>Adopted Mitigation Measure 4.4-2: The County shall ensure that at least 551 acres of upland annual grassland is preserved in conjunction with and to support at least 61.2 acres of vernal pool fairy shrimp habitat (for a total of 612 acres).</p> <p>Adopted Mitigation Measure 4.4-4(a): The County shall ensure that Swainson's hawk foraging habitat is preserved offsite in sufficient quality and quantity, as determined through consultation with the CDFW, to mitigate for the loss resulting from the proposed UCP.</p> <p>The preservation of annual grasslands (through Policy PA 2.3) that are suitable as foraging habitat for Swainson's hawk shall be located within 10 miles of a current or historic Swainson's hawk nest site (consistent with CDFG guidance).</p> <p>Adopted Mitigation Measure 4.4-4(b): The County shall require pre-construction surveys to identify active raptor nests prior to the onset of construction activities within 1,000 feet of any ground disturbing activities (i.e., construction site). The pre-construction surveys will be conducted in accordance with USFWS and/or CDFW guidelines. If</p>	Preservation of upland annual grassland.	Project applicant, County of Merced	Before construction	This has been completed for VST.
		Preservation of offsite foraging habitat for Swainson's hawk	Project applicant, construction contractor, CDFW	Before construction	
		Pre-construction surveys to identify active raptor nests. Consultation with CDFW and USFWS if any are located	Project applicant, construction contractor	Before construction	
		Pre-construction surveys to identify San Joaquin kit fox. If any are located, implementation of June 1999 Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance	Project applicant, construction contractor	Before construction	

<p>no active raptor nests are identified within 1,000 feet of the construction site, no further mitigation would be necessary.</p> <p>If active nests are found within 1,000 feet of the construction site, the CDFW shall be consulted to determine appropriate mitigation measures to minimize the effect. At a minimum, construction shall be delayed within an appropriate buffer zone, as determined by consultation with CDFW, until the young have fledged.</p> <p>Adopted Mitigation Measure 4.4-5: Project applicants shall conduct surveys for dens/burrows that could be occupied by vagrant San Joaquin kit fox prior to any ground-disturbing activities within the UCP area. The surveys shall be conducted within two weeks or less of any ground-disturbing activities. If dens/burrows meeting the criteria suitable for use by San Joaquin kit fox are found, the dens/burrows shall be cleared using the methodologies that are consistent with those described in the June 1999 Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance.</p> <p>New Mitigation Measure 3.2-2a: Conduct Preconstruction Surveys for Western Spadefoot, Implement Avoidance Measures, and Relocate Individuals</p> <ul style="list-style-type: none"> ▶ Within 7 days before commencement of project activities that would result in ground disturbance, vegetation removal, or use of vehicles, a qualified biologist familiar with the life history of western spadefoot and experienced in performing surveys for western spadefoot will conduct a focused preconstruction survey of habitat suitable for the species within the UCP area. The qualified biologist will inspect the project site in the UCP area for adult western spadefoot toads, eggs and tadpoles within aquatic breeding habitat, as well as suitable burrow habitat. ▶ If western spadefoot adults, tadpoles, or eggs are not detected during the focused survey, the qualified biologist will submit a report summarizing the results of the survey to the discretionary land use authority (City of Merced or Merced County), and further mitigation will not be required. ▶ If western spadefoot adults, tadpoles, or eggs are detected, a qualified biologist with an appropriate CDFW Scientific Collecting 	<p>Pre-construction surveys to identify presence of Western spadefoot. Implementation of mitigation with CDFW permit if any are located.</p>	<p>Project applicant, construction contractor, CDFW</p>	<p>Before construction</p>
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Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>Permit that allows handling of amphibians will relocate individual adults, tadpoles, or eggs to nearby suitable habitat with prior approval of CDFW. The qualified biologist will also be present during initial ground disturbance activities and will inspect the project site in the UCP area before initiation of project activities. If additional western spadefoot are detected, the qualified biologist will relocate individuals into suitable habitat for western spadefoot (i.e., vernal pool grasslands) that will be preserved in perpetuity.</p> <p>New Mitigation Measure 3.2-2b: Conduct Preconstruction Surveys for Western Pond Turtle, Implement Avoidance Measures, and Relocate Individuals</p> <ul style="list-style-type: none"> ▶ Within 48 hours before commencement of project activities that would result in ground disturbance, vegetation removal, or use of vehicles, a qualified biologist familiar with the life history of western pond turtle and experienced in performing surveys for western pond turtle will conduct a focused survey of habitat suitable for the species within the UCP area. If aquatic habitat potentially suitable for the species is present within a project site in the UCP area (e.g., streams, ponds, drainages), upland habitat within approximately 1,600 feet of this aquatic habitat will also be surveyed. The qualified biologist will inspect the project site for western pond turtles as well as suitable burrow habitat. ▶ If western pond turtles are not detected during the focused survey, the qualified biologist will submit a report summarizing the results of the survey to the discretionary land use authority (City of Merced or Merced County), and further mitigation will not be required. ▶ If western pond turtles are detected, a no-disturbance buffer of at least 100 feet will be established around any identified nest sites or overwintering sites. A qualified biologist with an appropriate CDFW Scientific Collecting Permit that allows 	Pre-construction surveys to identify presence of Western pond turtle. Implementation of avoidance measures and relocation.	Project applicant, construction contractor	Before construction	

	Pre-construction surveys to identify presence of American Badger. Establishment of protective buffers.	Project applicant, construction contractor	Before construction
<p>handling of reptiles will be present during initial ground disturbance activities and will inspect the project site before initiation of project activities. If western pond turtles are detected, the qualified biologist will move the turtles downstream and out of harm's way.</p> <p>New Mitigation Measure 3.2-2c: Conduct Focused American Badger Survey and Establish Protective Buffers</p> <ul style="list-style-type: none"> ▶ Within 30 days before commencement of project activities that would result in ground disturbance, vegetation removal, or use of vehicles, a qualified wildlife biologist with familiarity with American badger and experience using survey methods for the species will conduct focused surveys of habitat suitable for the species within the UCP area to identify any American badger dens. ▶ If occupied dens are not found, the qualified biologist will submit a report summarizing the results of the survey to the discretionary land use authority (City of Merced or Merced County), and further mitigation will not be required. ▶ If occupied dens are found, impacts on active badger dens will be avoided by establishing exclusion zones around all active badger dens; the size of which will be determined by the qualified biologist. No project activities (e.g., vegetation removal, ground disturbance, staging) will occur within the exclusion zone until denning activities are complete or the den is abandoned, as confirmed by a qualified biologist. The qualified biologist will monitor each den once per week to track the status of the den and to determine when it is no longer occupied. When it is no longer occupied, project activities within the exclusion zone may occur. <p>New Mitigation Measure 3.2-2d: Conduct Focused Surveys for Crotch Bumble Bee and Implement Avoidance Measures If Listed under CESA</p> <p>Prior to implementation of project activities that could result in loss of crotch bumble bees (e.g., ground disturbance, vegetation removal), the following measures will be implemented.</p> <ul style="list-style-type: none"> ▶ The project applicant will retain a qualified biologist familiar with bumble bees in California, with experience using survey methods 			

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>for bumble bees, and with approval from CDFW to conduct focused surveys of suitable habitat within the project site in the UCP area. Because a survey protocol for this species has not been established, survey methods will be developed and approved in consultation with CDFW, and will generally include but not be limited to the following elements (included in survey protocols for other bumble bee species in the United States [USFWS 2018]):</p> <ul style="list-style-type: none"> ▪ Surveys will be conducted during the active flight season (typically March through September). ▪ Surveys will be conducted by walking transects through suitable habitat, or by surveying a minimum of one person-hour per 3 acres of suitable habitat without transects. ▪ Bumble bees within the project site will be identified through passive, non-lethal methods (e.g., visual surveys using binoculars, photographic documentation), as approved by CDFW. • If crotch bumble bees are detected during focused surveys, the survey results will be submitted to the discretionary land use authority (City of Merced or Merced County) and CDFW. The project applicant will consult with CDFW to determine whether there are additional avoidance measures available that would reduce the likelihood of injury or mortality of crotch bumble bee. The project applicant will consult with CDFW to determine whether authorization for take of crotch bumble bees would be required by obtaining an incidental take permit pursuant to California Fish and Game Code Section 2081. If required, the project applicant will implement measures required under the permit which may include compensatory mitigation to fully mitigate impacts on crotch bumble bee. 	<p>Pre-construction surveys to identify presence of Crotch Bumble Bee. Establishment of avoidance measures</p>	<p>Project applicant, construction contractor. CDFW</p>	<p>Before construction</p>	
		<p>Pre-construction surveys to identify presence of bats. Establishment of avoidance measures</p>	<p>Project applicant, construction contractor. County of Merced</p>	<p>Before construction</p>	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<ul style="list-style-type: none"> If no crotch bumble bees are detected during focused surveys, the survey results will be submitted to the discretionary land use authority (City of Merced or Merced County). The project applicant will consult with CDFW to determine whether the negative survey results are sufficient to conclude that crotch bumble bees (including underground overwintering and nesting colonies) are absent from the project site, and that authorization for take of crotch bumble bees would not be required. If CDFW concurs, then further mitigation would not be required. <p>New Mitigation Measure 3.2-2e: Conduct Focused Bat Surveys and Implement Avoidance Measures</p> <p>Within 30 days before commencement of project activities, a qualified biologist familiar with bats and bat ecology and experienced in conducting bat surveys will conduct surveys for bat roosts in suitable habitat (e.g., trees, crevices, cavities, exfoliating bark, bridges, unoccupied buildings) within and adjacent to the UCP area.</p> <ul style="list-style-type: none"> Surveys will consist of a daytime pedestrian survey looking for evidence of bat use (e.g., guano) and/or an evening emergence survey to note the presence or absence of bats within potential roosts. If no evidence of bat roosts is found, the qualified biologist will submit a report summarizing the results of the survey to the discretionary land use authority (City of Merced or Merced County), and no further study will be required. If evidence of bat roosts is observed, the species and number of bats using the roost will be determined. Bat detectors shall be used if deemed necessary to supplement survey efforts by the qualified biologist. If an active western red bat maternity roost is detected, a qualified biologist shall determine an appropriate avoidance buffer to be maintained from April 1 until young are capable of 	Pre-construction surveys to identify presence of burrowing owl. Establishment of avoidance measures and compensation for affected areas	Project applicant, construction contractor. CDFW	Before construction	
		If pile driving must occur within 55 feet of existing structures, use vibratory pile driving or augered piles.	Project applicant, construction contractor	During construction	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>flight (typically through August). Project activities will not occur within this buffer until after the roosts are unoccupied.</p> <p>► If roosts of western red bat are determined to be present and must be removed, the bats will be excluded from the roosting site before the tree, building, or other roost structure is removed. A program addressing compensation, exclusion methods, and roost removal procedures will be developed in consultation with CDFW before implementation. Exclusion methods may include use of one-way doors at roost entrances (bats may leave but not reenter) or sealing roost entrances when the site can be confirmed to contain no bats. Exclusion efforts may be restricted during periods of sensitive activity (e.g., during hibernation or while females in maternity colonies are nursing young). The loss of each roost (if any) will be replaced in consultation with CDFW and may require construction and installation of bat boxes suitable to the bat species and colony size excluded from the original roosting site. If determined necessary during consultation with CDFW, replacement roosts will be implemented before bats are excluded from the original roost sites. Once the replacement roosts are constructed and it is confirmed that bats are not present in the original roost site by a qualified biologist, the roost tree, building, or roost other structure may be removed.</p> <p>New Mitigation Measure 3.2-2f: Conduct Protocol-Level Surveys for Burrowing Owl, Implement Avoidance Measures, and Compensate for Loss of Occupied Burrows</p> <p>This mitigation measure would remove the requirements of Adopted Mitigation Measure 4.4-4(b) and implement the following protocol-level survey requirements.</p> <p>A qualified biologist will conduct focused breeding and nonbreeding season surveys for burrowing owls in areas of habitat suitable for the species identified during the reconnaissance-level survey (e.g., grassland, agricultural land) on and within 1,640 feet (500 meters) of the UCP area. Surveys will be conducted before the start of project</p>				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>activities and in accordance with Appendix D of the CDFW Staff Report on <i>Burrowing Owl Mitigation</i> (CDFW 2012; CDFW Staff Report).</p> <ul style="list-style-type: none"> ▶ If no occupied burrows are found, the qualified biologist will submit a report documenting the survey methods and results to the discretionary land use authority (City of Merced or Merced County), and no further mitigation will be required. ▶ If an active burrow is found within 1,640 feet of pending construction activities that would occur during the nonbreeding season (September 1 through January 31), a minimum protection buffer of 164 feet (50 meters) shall be established and maintained around the occupied burrow throughout construction. The protection buffer may be adjusted if, in consultation with CDFW, a qualified biologist determines that an alternative buffer will not disturb burrowing owl use of the burrow because of particular site features or other buffering measures. If occupied burrows are present that cannot be avoided or adequately protected with a no-disturbance buffer, a burrowing owl exclusion plan will be developed, as described in Appendix E of the CDFW Staff Report. Burrowing owls will not be excluded from occupied burrows until the project burrowing owl exclusion plan is approved by CDFW. The exclusion plan will include a compensatory habitat mitigation plan (see below). ▶ If an active burrow is found during the breeding season (February 1 through August 31), occupied burrows will not be disturbed and will be provided with a protective buffer at a minimum of 164 feet unless a qualified biologist verifies through noninvasive means that either: (1) the birds have not begun egg laying, or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. The size of the buffer may be adjusted depending on the time of year and level of disturbance as outlined in the CDFW Staff Report. The size of the buffer may be reduced if a broad-scale, long-term, monitoring program acceptable to CDFW is implemented so that burrowing owls are not adversely affected. Once the fledglings are capable of independent survival, 				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>the owls can be evicted, and the burrow can be destroyed per the terms of a CDFW-approved burrowing owl exclusion plan developed in accordance with Appendix E of CDFW Staff Report.</p> <p>► If burrowing owls are evicted from burrows and the burrows are destroyed by implementation of project activities, the project applicant will mitigate the loss of occupied habitat in accordance with guidance provided in the CDFW Staff Report, which states that permanent impacts on nesting, occupied and satellite burrows, and burrowing owl habitat (i.e., grassland habitat with suitable burrows) will be mitigated such that habitat acreage and number of burrows are replaced through permanent conservation of comparable or better habitat with similar vegetation communities and burrowing mammals (e.g., ground squirrels) present to provide for nesting, foraging, wintering, and dispersal. The project applicant will retain a qualified biologist to develop a burrowing owl mitigation and management plan that incorporates the following goals and standards:</p> <ul style="list-style-type: none">■ Mitigation lands will be selected based on comparison of the habitat lost to the compensatory habitat, including type and structure of habitat, disturbance levels, potential for conflicts with humans, pets, and other wildlife, density of burrowing owls, and relative importance of the habitat to the species throughout its range.■ If feasible, mitigation lands will be provided adjacent or proximate to the project site so that displaced owls can relocate with reduced risk of injury or mortality. Feasibility of providing mitigation adjacent or proximate to the project site depends on availability of sufficient habitat to support displaced owls that may be preserved in perpetuity.■ If habitat suitable for burrowing owl is not available for conservation adjacent or proximate to the project site, mitigation lands can be secured offsite and will aim to consolidate and enlarge conservation areas outside of planned development areas and within foraging distance of				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>other conservation lands. Mitigation may also be accomplished through purchase of mitigation credits at a CDFW-approved mitigation bank, if available. Alternative mitigation sites and acreages may also be determined in consultation with CDFW.</p> <p>If burrowing owl habitat mitigation is completed through permittee-responsible conservation lands, the mitigation plan will include mitigation objectives, site selection factors, site management roles and responsibilities, vegetation management goals, financial assurances and funding mechanisms, performance standards and success criteria, monitoring and reporting protocols, and adaptive management measures. Success will be based on the number of adult burrowing owls and pairs using the site and if the numbers are maintained over time. Measures of success, as suggested in the CDFW Staff Report, will include site tenacity, number of adult owls present and reproducing, colonization by burrowing owls from elsewhere, changes in distribution, and trends in stressors.</p>				
Greenhouse Gas Emissions and Climate Change					
Impact 3.4-1: Conflict with an Applicable Plan, Policy or Regulation Adopted for the Purpose of Reducing the Emissions of Greenhouse Gases	<p>New Mitigation Measure 3.4-1: Implement the Bay Area Air Quality Management District's On-Site Project Design Features to Demonstrate the Project's Fair Share in Meeting the State's Long-Term GHG Reduction Targets (UCP South only)</p> <p>The following mitigation measure shall be applied to the UCP South portion of the project site. Prior to the issuance of building permits, the project applicant shall include the following elements in all construction drawings.</p> <ul style="list-style-type: none"> ▶ Eliminate all on-site natural gas infrastructure for all land uses. ▶ Adherence to the most recent Tier 2 requirements of Part 11 of the Title 24 California Buildings Code's (CALGreen Code's) electric vehicle (EV) charging standards. 	Adherence to applicable state guidelines and standards with respect to GHG reduction strategies.	Project applicant	Before building permits are issued and/or before approval of improvement plans	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>► Demonstrate consistency with OPR's SB 743 regional VMT standards (i.e., residential projects meeting a 15 percent below the existing VMT per capita, office projects meeting a 15 percent below the existing VMT per employee, and retail projects attaining a no net increase in existing VMT)</p> <p>► If the aforementioned project design features cannot be incorporated into the project's design, the applicant shall include other relevant project characteristics such that any additional emissions generated from natural gas, insufficient EV charging, or excessive VMT can be fully offset. Examples of measures that could be applied to individual projects in UCP South include, but are not limited to, the following:</p> <ul style="list-style-type: none"> ■ Implementation of a solid waste diversion program. ■ Exceedance of the most recent version of Part 6 of the Title 24 California Building Code (California Energy Code). ■ Use of low-flow appliances. ■ Use of energy star appliances. <p>Implementation of ZNE buildings.</p>				
Impact 3.4-3: Conflict with or Obstruct a State or Local Plan for Renewable Energy or Energy Efficiency	<p>New Mitigation Measure 3.4-3: Implement On-Site Project Design Features that Address Building Carbonization and Energy Efficiency (UCP South)</p> <p>Implement the project design features in Mitigation Measure 3.4-1 that address building carbonization and energy efficiency.</p>	Implementation of design features during building construction	Project applicant	Before building permit is issued	
Hydrology and Water Quality					

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
Impact 3.5-3: Substantially Alter the Existing Drainage Pattern of Project Area	<p>Mitigation Measure 3.5-3: Implement Altered Channel Cross Section Subject to MID Approval (VST Specific Plan Only)</p> <p>Prior to initiation of infrastructure improvements for Phase 2 of the VST Specific Plan, the project applicant or subsequent developer shall submit evidence to the discretionary land use authority (City of Merced or Merced County) that:</p> <ul style="list-style-type: none"> ▶ the proposed modification of the Fairfield Canal is designed such that no change would occur in the hydraulic flow rates and velocities of the canal, and ▶ necessary permits have been obtained from MID. ▶ Specific features that can be incorporated into the design to effectively control flowrate and velocity include (but are not limited to) adjusting the channel cross section, use of construction material that has higher roughness coefficient (i.e., river rock, rip rap, gabions), incorporating roughness baffles, and energy dissipaters at the downstream end of the canal. 	Implementation of altered channel cross section of Fairfield Canal	Project applicant with oversight from MID, subject to approval from City of Merced or Merced County	Before infrastructure improvements	
Impact 3.5-5: Cumulative Impacts to Water Quality	<p>No new mitigation is required for this impact.</p> <p>In light of changes to the cumulative condition and current regulations, Adopted Mitigation Measure 4.8-12 is no longer applicable or required to address the cumulative impacts of the UCP Update. The mitigation requirement would be removed as follows:</p> <p>Adopted Mitigation Measure 4.8-12 The County shall develop Best Management Practices and prepare a Stormwater Pollution Prevention Plan and a stormwater monitoring program consistent with National Pollution Discharge System Phase 2 Permit Criteria.</p>	None	N/A	N/A	
Impact 3.5-6: Cumulative Impacts to	<p>No new mitigation is required for this impact.</p> <p>In light of changes to the cumulative condition and current regulations, Adopted Mitigation Measures 4.8-15 and 4.8-16 are no</p>	None	N/A	N/A	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
Hydrology and Flooding	<p>longer applicable or required to address the cumulative impacts of the UCP Update. The mitigation requirement would be removed as follows:</p> <p>Adopted Mitigation Measure 4.8-15: The County shall work with the Merced County Flood Control District, MID, and the City of Merced to update the Merced County Critical Area Flooding and Drainage Plan to identify a strategy for managing storm drainage runoff associated with future development within the Merced area. The plan update shall include at a minimum: existing hydrologic and hydraulic conditions; identification of base flood elevations that meet FEMA 44 CFR part 60 requirements, if such data have not been developed; and a process to evaluate the one-foot cumulative increase criteria; estimates of future peak flows and volumes based on anticipated land uses; performance standards for new development that address both peak flows and volumes while downstream conditions are not worsened; strategies to coordinate the development of local storm drainage and flood protection improvements with Merced County Streams Group projects; and mechanisms to update or revise the plan as needed as new information becomes available.</p> <p>Adopted Mitigation Measure 4.8-16: MID and the County shall coordinate to ensure that additional stormwater drainage systems do not add flows into the Fairfield Canal that would exceed the canal's capacity restrictions, potentially creating levee failure or overtopping conditions downstream of the UCP area.</p>				
Noise and Vibration					
Impact 3.6-1: Short-Term Construction-	Adopted Mitigation Measure 4.10-4: Construction contractors shall comply with the following or an equivalent noise control program:	Construction equipment must comply with noise control program	Project applicant, construction contractor	Before ground disturbance	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
Generated Noise Levels	<ul style="list-style-type: none"> ▶ All noise-producing project equipment and vehicles using internal combustion engines shall be equipped with exhaust mufflers and air-inlet silencers where appropriate, in good operating condition that meet or exceed original factory specification. ▶ Mobile or fixed "package" equipment (e.g., arc-welders, air compressors) shall be equipped with shrouds and noise control features that are readily available for that type of equipment. ▶ All mobile or fixed noise producing equipment used on the project, that is regulated for noise output by local, state or federal agency, shall comply with such regulation while engaged in project-related activities. ▶ Electrically powered equipment shall be used instead of pneumatic or internal combustion powered equipment, where practicable. ▶ Material stockpiles and mobile equipment staging, parking and maintenance areas shall be located as far as practicable from noise-sensitive receptors. ▶ The use of noise-producing signals, including horns, whistles, alarms, and bells shall be for safety warning purposes only. No project-related public address loudspeaker, two-way radio, or music system shall be audible at any adjacent noise-sensitive receptor except for emergency use. <p>The erection of temporary noise barriers will be considered where project activity is unavoidably close to noise-sensitive receptors.</p> <p>New Mitigation Measure 3.6-1: Revise Policy N 2.6 for Managing Noise from Construction Activities of the Adopted UCP</p> <p>Revise Policy N 2.6 of the Adopted UCP as follows:</p> <p>Policy N 2.6</p> <p>Manage noise from construction activities by:</p> <ul style="list-style-type: none"> ▶ Limiting the hours of construction activities that generate noise, when adjacent to housing and other "sensitive" uses. Typically, Construction is limited to the hours of 7:00 a.m. to <u>6:00 p.m.</u> 	Implementation of noise control features on certain equipment	Project applicant, construction contractor	Before ground disturbance	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>10:00 p.m., weekdays and Saturday, and prohibited on Saturdays, Sundays, and legal holidays, except for emergency work.</p> <p>► <u>Requiring that all construction vehicles or equipment, fixed or stationary, be equipped with properly operating and maintained mufflers.</u></p> <p>► <u>All construction equipment shall be properly maintained and equipped with noise-reduction intake and exhaust mufflers and engine shrouds, in accordance with manufacturers' recommendations. Equipment engine shrouds shall be closed during equipment operation.</u></p> <p>► <u>Requiring that construction vehicle staging areas be located as far as practical from existing residential uses</u></p> <p>► <u>Requiring that construction vehicle trips be routed as far as practical from existing residential uses</u></p> <p>► <u>Construction equipment with back-up alarms shall be equipped with either audible self-adjusting backup alarms or alarms that only sound when an object is detected. Self-adjusting backup alarms shall automatically adjust to 5 dB over the surrounding background levels. All non-self-adjusting backup alarms shall be set to the lowest setting required to be audible above the surrounding noise levels.</u></p> <p>► <u>Locate any trailers and materials used during construction capable of breaking the line of sight between the noise-sensitive receptors and construction-noise generating equipment such that they would serve as noise barriers in order to protect noise-sensitive receptors from noise generated by off-site construction activity.</u></p> <p>► <u>For construction occurring within 600 feet of an existing noise sensitive receptor, install temporary noise curtains as close as possible to the noise-generating activity such that the curtains obstruct the direct line of sight between the noise-generating construction activity and the nearby sensitive receptors. Temporary noise curtains shall consist of durable, flexible composite material featuring a noise barrier layer bounded to</u></p>				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>sound-absorptive material on one side. The noise barrier layer shall consist of rugged, impervious, material with a surface weight of at least one pound per square foot.</p> <p>► Noise-reducing enclosures and techniques shall be used around stationary noise-generating equipment (e.g., concrete mixers, generators, compressors).</p> <p>► Operate heavy-duty construction equipment at the lowest operating power possible.</p> <p>Electrically powered equipment shall be used instead of pneumatic or internal combustion powered equipment, where practicable.</p>				
Impact 3.6-2: Long-Term, Operational Noise (Stationary and Area Sources)	<p>Mitigation Measure 3.6-2: Amend the UCP to Include Provisions for Operational Stationary Source Noise Generating Activities</p> <p>The County of Merced shall revise the following policies in the UCP Update as follows:</p> <p>► Policy N 1.1 Design and construct new noise-generating land uses in a manner that does not cause excessive exterior or interior noise for noise-sensitive land uses on any location of nearby residential properties. The exterior noise standard for noise-sensitive land uses is of 65 dBA L_{dn} and the interior noise standard for residential structures and other noise-sensitive land uses is 45 dB L_{dn}. provided, however, that residential uses within and immediate adjacent to the Town Center shall be considered commercial mixed uses for the purposes of determining noise compatibility. Additionally, exterior stationary source noise standards for noise-sensitive land uses are 55 dB L_{eq} between the hours of 7:00 a.m. and 10:00 p.m. and 45 dB L_{eq} and 50 L_{max} between the hours of 10:00 p.m. and 7:00 a.m. shall not be exceeded by stationary noise generating land uses at any existing or planned residential land use. Noise reduction features shall be included in the design of any land use that has noise sources affecting residential land uses. These noise reduction features shall include structure design and layout, site planning, and other measures; block walls and barriers</p>	Design of new land uses to prevent excessive noise near noise-sensitive receptors	Project applicant, County of Merced	Prior to Project approval	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>(including berms) shall only be used where such measures are deemed infeasible or ineffective.</p> <p><u>Policy N XX Loading docks shall be located and designed such that noise generated by activity at the loading dock would not exceed the City's stationary noise source criteria (i.e., exterior noise levels of 55 dB L_{eq} between the hours of 7:00 a.m. and 10:00 p.m. and 45 dB L_{eq} and 50 L_{max} between the hours of 10:00 p.m. and 7:00 a.m) at any existing noise sensitive receptor. As part of the design-build process for uses that include loading docks, a specialized noise study will be completed to evaluate the specific design and ensure compliance with City of Merced noise standards. Reduction of loading dock noise can be achieved by locating loading docks as far away as possible from noise sensitive land uses, constructing noise barriers between loading docks and noise-sensitive land uses, or using buildings and topographic features to provide acoustic shielding for noise-sensitive land uses. Final design, location, and orientation shall be dictated by findings in the noise study.</u></p>				
Impact 3.6-3: Long-Term, Operational Noise (Traffic)	<p><u>Adopted Mitigation Measure 4.10-3(a):</u> The County shall construct barriers and/or retrofit affected homes with noise attenuation measures (e.g., sound-rated windows) necessary to achieve a 45 Ldn interior noise level.</p> <p><u>Adopted Mitigation Measure 4.10-3(b):</u> For development within the UCP area, noise considerations should be taken into account during initial site planning, in order to maximize shielding by the planned structures or other on-site features.</p>	During planning, applicant shall design development with noise considerations in mind.	Project applicant	Prior to Project approval	
Impact 3.6-4: Generate Excessive Groundborne Vibration or Groundborne Noise Levels	<u>Adopted Mitigation Measure 4.10-5:</u> Limit groundborne vibration due to construction activities to 0.2 in/sec velocity (limit of potential for damage to structures) in the vertical direction at sensitive receptors. For construction adjacent to highly sensitive uses, apply additional measures as feasible, including advance notice to occupants of sensitive facilities to ensure precautions are taken in those facilities to protect ongoing activities from the effects of vibration.	Implementation of vibration reduction measures,	Project applicant, construction contractor.	During construction.	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>New Mitigation Measure 3.6-4: Amend the UCP to Include Provisions for Potential Vibration-Inducing Activities</p> <p>The County of Merced shall include the following policy in the UCP Update:</p> <ul style="list-style-type: none">► Policy N.X: Construction Vibration. All potential vibration-inducing activities shall comply with the following measures, setback distances, precautions, monitoring programs, and alternative methods to traditional construction activities:<ul style="list-style-type: none">■ <u>Ground vibration-producing activities, such as pile driving and blasting, shall be limited to the daytime hours between 7:00 a.m. to 6:00 p.m. on weekdays and shall not occur on weekends and holidays consistent with County of Merced Municipal Code Section 10.60.040.</u>■ <u>If pile driving is used and would occur within 630 feet of existing residential receptors, pile holes shall be predrilled to the maximum feasible depth to reduce the number of blows required to seat a pile.</u>■ <u>All construction equipment on construction sites shall be operated as far away from vibration-sensitive sites as reasonably possible.</u>■ <u>Earthmoving and ground-impacting operations shall be phased so as not to occur simultaneously in areas close to sensitive receptors, to the extent feasible. The total vibration level produced could be significantly less when each vibration source is operated at separate times.</u>■ <u>Minimum setback requirements for different types of ground vibration producing activities (e.g., pile driving and blasting) for the purpose of preventing negative human response shall be established based on the specific nature of the vibration producing activity (e.g., type and duration of pile driving), local soil conditions, and the type of sensitive receptor. Established setback requirements (i.e., 630 feet) can be breached only if a project-specific, site-specific, technically adequate ground vibration study indicates that the buildings</u>				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>would not be exposed to ground vibration levels in excess of 70 VdB, and ground vibration measurements performed during the construction activity confirm that the buildings are not being exposed to levels in excess of 70 VdB.</p> <ul style="list-style-type: none"> All vibration-inducing activity within the distance parameters described above shall be monitored and documented for ground vibration noise and vibration noise levels at the nearest sensitive land use and associated recorded data submitted to the County of Merced so as not to exceed 70 Vdb. <p>Alternatives to traditional pile driving (e.g., sonic pile driving, jetting, cast-in-place or auger cast piles, nondisplacement piles, pile cushioning, torque or hydraulic piles) shall be considered and implemented where feasible to reduce vibration levels.</p>				

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
Impact 3.6-5: Cumulative Noise Impacts	<p>Adopted Mitigation Measure 4.10-3(a): The County shall construct barriers and/or retrofit affected homes with noise attenuation measures (e.g., sound-rated windows) necessary to achieve a 45 L_{dn} interior noise level.</p> <p>Adopted Mitigation Measure 4.10-3(b): For development within the UCP area, noise considerations should be taken into account during initial site planning, in order to maximize shielding by the planned structures or other on-site features.</p> <p>Adopted Mitigation Measure 4.10-4: Construction contractors shall comply with the following or an equivalent noise control program:</p> <ul style="list-style-type: none"> ▶ All noise-producing project equipment and vehicles using internal combustion engines shall be equipped with exhaust mufflers and air-inlet silencers, where appropriate, in good operating condition that meet or exceed original factory specification. ▶ Mobile or fixed "package" equipment (e.g., arc-welders, air compressors) shall be equipped with shrouds and noise control features that are readily available for that type of equipment. ▶ All mobile or fixed noise-producing equipment used on the project, that is regulated for output by local, state or federal 	County to retrofit affected homes.	County of Merced	Before construction.	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>agency, shall comply with such regulation while engaged with project-related activities.</p> <ul style="list-style-type: none"> ▶ Electrically powered equipment shall be used instead of pneumatic or internal combustion powered equipment, where practicable. ▶ Material stockpiles and mobile equipment staging, parking and maintenance areas shall be located as far as practicable from noise-sensitive receptors. ▶ The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only. No project-related public address loudspeaker, two-way radio, or music system shall be audible at any adjacent noise-sensitive receptor except for emergency use. ▶ The erection of temporary noise barriers will be considered where project activity is unavoidably close to noise-sensitive receptors. <p>Adopted Mitigation Measure 4.10-5: Limit groundborne vibration due to construction activities to 0.2 in/sec velocity (limit of potential for damage to structures) in the vertical direction at sensitive receptors. For construction adjacent to highly sensitive uses, apply additional measures as feasible, including advance notice to occupants of sensitive facilities to ensure precautions are taken in those facilities to protect ongoing activities from the effects of vibration.</p>	Implementation of noise attenuation measures.	Project applicant, construction contractor	During construction	
Transportation					

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
Impact 3.7-1: Conflict with a Program, Plan, Ordinance, or Policy Addressing the Circulation System, Including Transit, Roadway, Bicycle and Pedestrian Facilities	Adopted Mitigation Measure 4.14-4: Merced County will, and the City of Merced should, ensure adequate maintenance of the existing path along Lake Road and other regional bicycle and pedestrian facilities that provide access to the proposed UCP.	Maintain of existing path and other bike and pedestrian facilities providing access to UCP.	Merced County and City of Merced	During Project operation	
Impact 3.7-3: Substantially Increase Hazards Due to a Geometric Design Feature (e.g., Sharp Curves or Dangerous Intersections) or Incompatible Uses (e.g., Farm Equipment)	Adopted Mitigation Measure 4.14-4: Merced County will, and the City of Merced should, ensure adequate maintenance of the existing path along Lake Road and other regional bicycle and pedestrian facilities that provide access to the proposed UCP.	Maintain of existing path and other bike and pedestrian facilities providing access to UCP.	Merced County and City of Merced	During Project operation	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
Impact 3.7-5: Cumulative Transportation Impacts	<p>Adopted Mitigation Measure 4.14-7(a): UCP development shall contribute its fair share toward the following Tier road improvements which are shown in Figure 4.14-3 [in the 2001/2004 UCP EIR]:</p> <ul style="list-style-type: none"> ▶ Highway 59, widen to 4 lanes, Yosemite Avenue to Bellevue Road ▶ Highway 59, new segment between Highway 99 and 140 ▶ Yosemite Avenue, extend from R Street to Highway 59 ▶ Yosemite Avenue, widen to 4 lanes, Campus Parkway to G Street ▶ Bellevue Road, widen to 6 lanes, Highway 59 to Campus Parkway ▶ R Street, extend from Yosemite Avenue to Bellevue Road ▶ Parsons Avenue/Gardner Avenue, extend and widen to 4 lanes, Childs Avenue to Bellevue Road ▶ Highway 59, new alignment along Mission Avenue ▶ Mission Avenue, widen to 4 lanes, Highway 99 to Highway 59 ▶ Childs Avenue, widen to 4 lanes, Campus Parkway to Highway 59 <p>Adopted Mitigation Measure 4.14-7(b): For development through year 2025, UCP development shall only contribute its fair share toward the following Tier road improvements, which are shown on Figure 4.14-4:</p> <ul style="list-style-type: none"> ▶ Yosemite Avenue, extend from R Street to Highway 59 ▶ Yosemite Avenue, widen to 4 lanes, Campus Parkway to G Street ▶ R Street, extend from Yosemite Avenue to Bellevue Avenue ▶ Parsons Avenue/Gardner Avenue, extend and widen to 4 lanes, Childs Avenue to Bellevue Road 	Contribution of fair share road improvements	Project applicant	Before construction	

Impact	Mitigation Measure	Action(s)	Implementing Party ¹	Timing	Completion of Implementation
	<p>► Bellevue Road, widen to 4 lanes, Highway 59 to Campus Parkway</p> <p>Adopted Mitigation Measure 4.14-7(c): For development through Year 2015, the County shall analyze the expected future operations of the Lake/Yosemite intersection at the following milestone points: (1) determination of conceptual alignment for Campus Parkway, (2) preparation of the Geometric Approval Drawings for Campus Parkway, and (3) each October, beginning in the opening year of the UC Merced Campus. If any of these analyses determine that the Lake/Yosemite intersection will operate at unacceptable LOS, the proposed UCP shall contribute its fair share toward the cost of any improvements deemed necessary at the intersection. Monitoring of the Lake/Yosemite intersection shall end upon completion of the Campus Park extension from Yosemite Avenue to Bellevue Road.</p> <p>Adopted Mitigation Measure 4.14-7(d): The County shall work with the City of Merced, Caltrans and MCAG to establish rights-of-way and access management requirements along the routes identified above.</p> <p>Adopted Mitigation Measure 4.14-8(a): Implement Mitigation Measure 4.14-7(a). In addition, UCP development shall contribute its fair share toward intersection improvement along G Street between Highway 99 and Childs Avenue.</p> <p>Adopted Mitigation Measure 4.14-8(b): Implement Mitigation Measure 4.14-7(d).</p>	Establishing proper rights of way and access for identified routes.	County of Merced, City of Merced	Before construction	