

RESOLUTION NO. 2015-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING A MITIGATED NEGATIVE
DECLARATION FOR GENERAL PLAN
AMENDMENT #14-06 AND ZONE CHANGE #421
FOR TWO PARCELS CONTAINING
APPROXIMATELY 5.42 ACRES LOCATED AT
THE SOUTHEAST CORNER OF YOSEMITE
AVENUE AND MCKEE ROAD; AND APPROVING
GENERAL PLAN AMENDMENT #14-06 FOR THE
SAME TWO PARCELS CHANGING THE
GENERAL PLAN DESIGNATION FROM LOW
DENSITY RESIDENTIAL (LD) TO
NEIGHBORHOOD COMMERCIAL (CN)**

WHEREAS, the City is processing an application for a General Plan Amendment and Zone Change for two (2) parcels containing approximately 5.42 acres located at the southeast corner of Yosemite Avenue and McKee Road where an environmental review was required; and

WHEREAS, the Planning Commission of the City of Merced held noticed public hearings on April 8, 2015 and May 6, 2015, at which time all those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding the application; and

WHEREAS, after hearing all of the evidence and testimony, the Planning Commission adopted Resolution #3049, attached hereto as Exhibit "C," and incorporated herein by reference, recommending that the City Council approve the General Plan Amendment and Environmental Review (Mitigated Negative Declaration); and

WHEREAS, the City Council held a noticed public hearing on July 6, 2015, at which time all those interested in the matter were provided the opportunity to speak or to provide written or oral testimony regarding the application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MERCED AS FOLLOWS:

SECTION 1. Based upon the evidence and testimony in the record at the City Council public hearing, the City Council, exercising its independent judgment and review, hereby approves a Mitigated Negative Declaration pursuant to the provisions of the California Environmental Quality Act for Initial Study #14-32 and approves General Plan Amendment #14-06, attached hereto as Exhibit "A" and shown on Exhibit "B" and incorporated herein by reference, based upon the reasons and findings set forth in Planning Commission staff report #15-10-Addendum, and as recommended by the Planning Commission.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2015, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
JOHN M. BRAMBLE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

K. Ryck 7/13/15
City Attorney Date

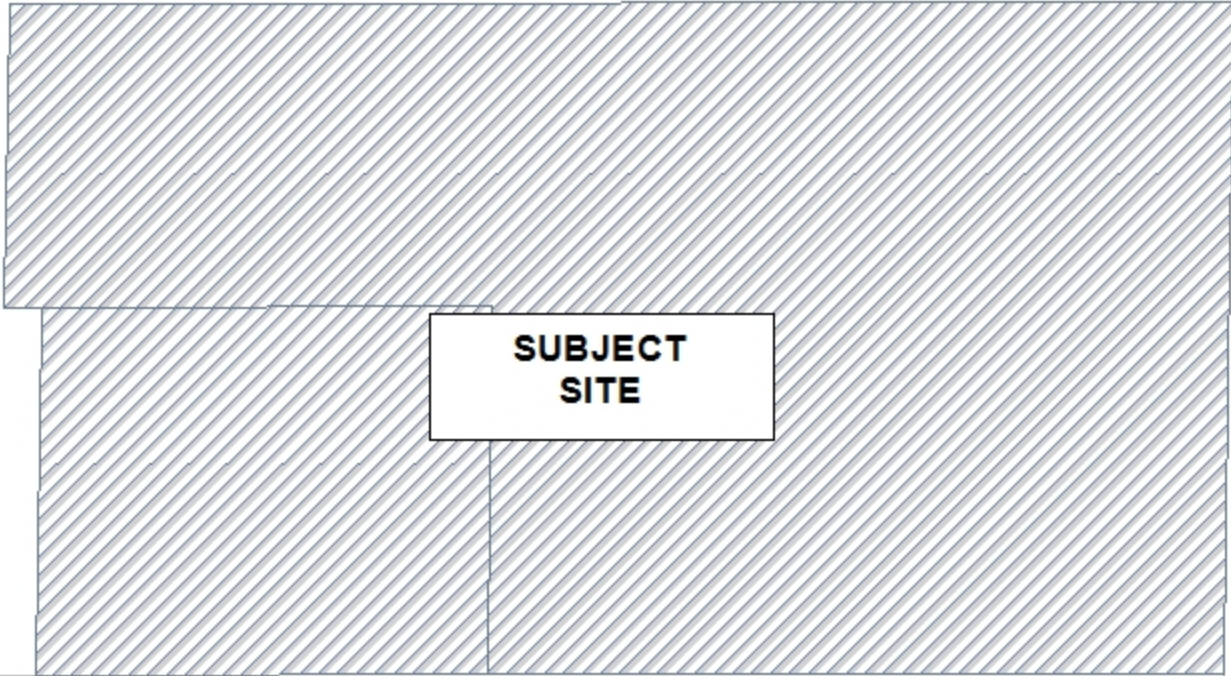
EXHIBIT "A"

Lots 1 and 2 as shown on that certain map entitled "Parcel Map for Nuketta L. Pretzer-Jensen," recorded in Book 58, at Page 44 of Merced County Records; also known as Assessor's Parcel Number (APN): 008-310-038 and -050.

GENERAL PLAN AMENDMENT #14-06
SOUTHEAST CORNER OF YOSEMITE AVE. & MCKEE RD.

HATCH

YOSEMITE



SUBJECT
SITE

GENERAL PLAN AMENDMENT:
CHANGE FROM LOW DENSITY RESIDENTIAL (LD)
TO NEIGHBORHOOD COMMERCIAL (CN)

MCKEE

VACA

WHITEWATER

MALA SPINA

N



CITY OF MERCED
Planning Commission

Resolution #3049

WHEREAS, the Merced City Planning Commission at its regular meeting of May 6, 2015, held a public hearing and considered **General Plan Amendment #14-06 and Zone Change #421**, initiated by Golden Valley Engineering, on behalf of Merced Holdings, LP, property owner. This application is a request to change the General Plan and Zoning designations for two parcels totaling 5.42 acres located at the southeast corner of Yosemite Avenue and McKee Road. The requested change is to amend the General Plan designation from Low Density Residential (LD) to Neighborhood Commercial (CN) and to change the Zoning designation from R-1-6 to Neighborhood Commercial (C-N) to allow the future construction of an approximately 62,000-square-foot shopping center; also known as Assessor's Parcel Numbers 008-310-038 and -050; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through O of Staff Report #15-10 - Addendum; and,

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Mitigated Negative Declaration regarding Environmental Review #14-32, and approval of General Plan Amendment #14-06 and Zone Change #421, in accordance with Site Plan Option #2, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Colby, seconded by Commissioner McCoy, and carried by the following vote:

AYES: Commissioners McCoy, Smoot, Smith, Colby
NOES: Commissioner Padilla and Chairperson Williams
ABSENT: None (one vacancy)
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3049

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May 6, 2015

Adopted this 6th day of May 2015



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Mitigation Monitoring Program for Initial Study #14-32

Exhibit C – Mitigation Monitoring Program for Expanded Initial Study #02-27

Conditions of Approval
Planning Commission Resolution #3049
General Plan Amendment #14-06/Zone Change #421

1. The General Plan and Zoning designations shall be changed as shown on the map at Attachment C of Planning Commission Staff Report #15-10 - Addendum.
2. The Site Plan for the future shopping center shall substantially comply with the Site Plan at Attachment F (Option #2) of Planning Commission Staff Report #15-10 - Addendum.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. Approval of the General Plan Amendment and Zone Change is subject to the applicant's entering into a written (developer) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.
6. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality

thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

7. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
8. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, any public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before final building permit approval for the first phase of construction. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
9. In accordance with Merced Municipal Code (MMC) Section 20.52 – Interface Regulations, a Conditional Use Permit shall be required prior to the construction of all buildings.
10. The project shall comply with all mitigation measures outlined in Mitigation Monitoring Program for Expanded Initial Study #02-27 for General Plan Amendment #02-02 and Annexation/Pre-zone #02-02

[Attachment G and Exhibit C of the Planning Commission Resolution

EXHIBIT A

of Planning Commission Resolution #3049

(Attachment Q) of Staff Report #15-10 - Addendum].

11. The project shall comply with all mitigation measures outlined in the Mitigation Monitoring Program for Initial Study #14-32 for this application [Attachment H and Exhibit B of the Planning Commission Resolution (Attachment Q) of Staff Report #15-10 - Addendum].
12. All signs shall comply with the North Merced Sign Ordinance and Section 20.22 (Neighborhood Commercial Zone) of the City's Zoning Ordinance.
13. The applicant shall construct all missing improvements along the property frontage on Yosemite Avenue and McKee Road including, but not limited to, sidewalk, curb, gutter, street lights, and street trees.
14. All necessary right-of-way along the property frontage (Yosemite Avenue and McKee Road) needed for public improvements shall be dedicated prior to the issuance of a building permit.
15. Appropriate turning radii shall be provided within the parking areas to allow for Fire Department and refuse truck access. Details to be worked out at the Conditional Use Permit stage.
16. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of at least one tree for each six parking spaces. Details to be worked out at the Conditional Use Permit stage.
17. If the property is split into multiple parcels, owners shall be required to record joint access and parking easements allowing free vehicular access and parking between parcels. Such easements shall be recorded as part of any parcel map or conditional use permit approval.
18. A minimum 6-foot high concrete block wall shall be installed along the southern property line. The height of the wall could be increased, not to exceed 8-feet tall, if written verification is provided from the adjacent property owner approving the increased height. A minimum one-foot wide landscaping area shall be provided to allow for the planting of vines or other appropriate landscape material. Details to be worked out at the Conditional Use Permit stage.
19. All future development shall comply with the Low Impact Development (LID) standards adopted by the state and all requirements of Merced Municipal Code Chapter 15.50 – Storm Water Management and

EXHIBIT A

of Planning Commission Resolution #3049

Discharge Control.

20. Pedestrian access between buildings and to the public sidewalk shall be provided. This may be done through the use of special paving or other markings to indicate the pedestrian path of travel and shall be provided with each phase of construction. Details shall be worked out at the Conditional Use Permit stage.
21. Prior to issuance of the first grading/building permit, the applicant shall demonstrate compliance with San Joaquin Valley Air Pollution Control District Rule 9510 to the Planning Department. Changes to the site plan resulting from compliance with Rule 9510 are subject to review by City Staff or the Planning Commission, as determined by the Director of Development Services.

n:\shared\planning\PC Resolutions\GPA#14-06-ZC#421 Exhibit A

<p style="text-align: center;">ENVIRONMENTAL REVIEW #14-32 Mitigation Monitoring Program</p>

MITIGATION MONITORING CONTENTS

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own “Mitigation Monitoring and Reporting Program” (MMC 19.28). The City’s program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor’s Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

- 1) The requirements of the adopted mitigation monitoring program for the General Plan Amendment #14-06 and Zone Change #421, shall run with the real property. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

In most cases, mitigation measures can be monitored through the City’s construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

GENERAL PLAN MITIGATION MEASURES

As a second tier environmental document, Initial Study #14-32 incorporates some mitigation measures adopted as part of the *Merced Vision 2030 General Plan Program Environmental Impact Report* (SCH# 2008071069), as mitigation for potential impacts of the Project.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Director of Development Services in written form providing specific information on the asserted violation. The Director of Development Services shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the Director of Development Services shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigation measures proposed specifically for General Plan Amendment #14-06 and Zone Change #421. The columns within the tables are defined as follows:

Mitigation Measure:	Describes the Mitigation Measure (referenced by number).
Timing:	Identifies at what point in time or phase of the project that the mitigation measure will be completed.
Agency/Department Consultation:	This column references any public agency or City department with which coordination is required to satisfy the identified mitigation measure.
Verification:	These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

General Plan Amendment #14-06/Zone Change #421 Mitigation Monitoring Checklist

Project Name: _____ **File Number:** _____
Approval Date: _____ **Project Location** _____
Brief Project Description _____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

C) Air Quality				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
C-1	C-1) The project applicant shall submit an Indirect Source Review (ISR) to the San Joaquin Air Pollution Control Board in compliance with District Rule 9510 and shall comply with all other applicable District Rules. The San Joaquin Valley Air Pollution Control District recommends this application be submitted as early as possible or prior to the final discretionary approval.	Prior to Conditional Use Permit (CUP) approval	Planning Department	
C-1	C-2) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).	Building Permit Issuance / CUP approval	Inspection Services / Planning Department	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
C-2	C-3) Compliance with Mitigation Measures C-1 and C-2 above would reduce this impact to a less than significant level.	Building Permit Issuance / CUP approval	Inspection Services / Planning Department	
C-3	C-4) Compliance with Mitigation Measures C-1 and C-2 above would reduce this impact to a less than significant level.	Building Permit Issuance / CUP approval	Inspection Services / Planning Department	
C-5	C-5) Compliance with Mitigation Measures C-1 and C-2 above would reduce this impact to a less than significant level.	Building Permit Issuance / CUP approval	Inspection Services / Planning Department	
E) Cultural Resources				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
E-1	E-1) The project shall comply with all applicable mitigation measures for Expanded Initial Study #02-27 for General Plan Amendment #02-02 and Annexation/Pre-zoning #02-02 (Attachment A).	Building Permit	Planning Department	
E-2	E-2) Compliance with Mitigation Measure E-1 would make this impact less than significant.	Building Permit	Planning Department	
E-3	E-3) Compliance with Mitigation Measure E-1 would make this impact less than significant.	Building Permit	Planning Department	
E-4	E-4) Compliance with Mitigation Measure E-1 would make this impact less than significant.	Building Permit	Planning Department	

F) Geology and Soils				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
F-2	F-1) The project shall comply with all requirements of the State Water Resources Board (SWRCB) and obtain a General Construction Activity Stormwater Permit.	Building Permit	Inspection Services / Engineering Department	
F-2	F-2) The project shall comply with all applicable mitigation measures for Expanded Initial Study #02-27 General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).	Building Permit	Inspection Services / Engineering Department/ Planning	
H) Hydrology and Water Quality				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
H-2	H-1) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).	Building Permit	Inspection Services	
H-2	H-2) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
H-3	H-3) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	
H-4	H-4) The project developer shall provide calculations to the City Engineer verifying the capacity of the existing storm drain line as well as the capacity of the basin into which the water would ultimately drain.	Building Permit	Engineering	
H-4	H-5) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	
H-5	H-6) The project developer shall provide calculations to the City Engineer verifying the capacity of the existing storm drain line as well as the capacity of the basin into which the water would ultimately drain.	Building Permit	Engineering	
H-5	H-7) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	

K) Noise				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
K-1	K-1) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	
K-2	K-2) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	
O. Transportation/Traffic				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
O-1	<p>O-1) The westbound lane of Yosemite Avenue at Parsons Avenue shall be modified to accommodate an additional 200-foot shared thru/right turn lane. In addition, the existing shared left/thru/right lane shall be restriped to be a shared left/thru lane. (The Traffic Analysis recommended an additional 100 foot lane be installed. The City Engineer recommends the length of the lane be increased to 200 feet.)</p> <p>-or-</p> <p>The applicant shall be required to pay for their proportionate share of the above improvement as determined by the City Engineer.</p>	Building Permit	Planning Department / Engineering	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
O-1	<p>O-2) The following modifications to the intersection of Olive Avenue and McKee Road shall be made:</p> <p><u>Southbound Approach:</u></p> <ul style="list-style-type: none">• Remove the adjacent on-street parking for 100 feet on the southbound approach.• Re-strip the approach as shared left/thru lane and share right/thru lane.• Remove the adjacent on-street parking for 100 feet on the southbound receiving lane and stripe it as a lane drop. <p><u>Northbound Approach</u></p> <ul style="list-style-type: none">• Remove the adjacent on-street parking for 100 feet on the north bound approach.• Re-strip the approach as shared left/thru lane and shared right/thru lane.• Remove the adjacent on-street parking for 100 feet on the northbound receiving lane and stripe it as a lane drop. The City Engineer shall determine if this measure is feasible due to the location of residential driveways in this area.	Building Permit	Planning Department / Engineering	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
O-1	O-3) The project shall comply with all applicable mitigation measures for Expanded Initial Study #02-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02 (Attachment A).			
O-2	O-4) The implementation of Mitigation Measures O-1 through O-3 above would reduce this impact to a less than significant level.			

Certificate of Completion:

By signing below, the environmental coordinator confirms that the required mitigation measures have been implemented as evidenced by the Schedule of Tasks and Sign-Off Checklist, and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

Environmental Coordinator

Date

Attachments:

Mitigation Monitoring Program for Initial Study #02-27 for GPA #02-02/Annexation/Pre-Zoning #02-02

**EXPANDED INITIAL STUDY #02-27
for
HUNT FAMILY ANNEXATION TO THE
CITY OF MERCED**

Appendix A
Mitigation Monitoring Program

MITIGATION MONITORING CONTENTS

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own "Mitigation Monitoring and Reporting Program" (MMC 19.28). The City's program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor's Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

- 1) The requirements of the adopted mitigation monitoring program for the Hunt Family shall run with the real property that is the subject of a General Plan Amendment/Annexation to the City of Merced. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

In most cases, mitigation measures can be monitored through the City's construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Hunt Family Annexation Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

GENERAL PLAN MITIGATION MEASURES

As a second tier environmental document, the *Expanded Initial Study for Hunt Family Annexation to the City of Merced* incorporates some mitigation measures adopted as part of the *Merced Vision 2015 General Plan Program Environmental Impact Report* (SCH# 95082050), as mitigation for potential impacts of the Project. Therefore, following the Hunt Family Annexation Mitigation Monitoring Checklist (starting on page A-11) is a list of these relevant General Plan mitigation measures along with the General Plan Mitigation Monitoring Checklists (Forms A and B) to be used to verify that the General Plan mitigation measures have been met.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Director of Development Services in written form providing specific information on the asserted violation. The Director of Development Services shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the Director of Development Services shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigation measures proposed specifically for the Hunt Family Annexation. The columns within the tables are defined as follows:

Mitigation Measure:	Summarizes the Mitigation Measure (referenced by number) identified in <i>Expanded Initial Study #02-27</i> .
Timing:	Identifies at what point in time or phase of the project that the mitigation measure will be completed.
Agency/Department Consultation:	This column references any public agency or City department with which coordination is required to satisfy the identified mitigation.
Verification:	These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

Hunt Family Annexation Mitigation Monitoring Checklist

Project Name: _____

Approval Date: _____

Brief Project Description _____

File Number: _____

Project Location _____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

Mitigation Measure	Timing	Agency or Department Consultation	City Verification (date and initials)
<p style="text-align: center;">2. AGRICULTURAL RESOURCES</p> <p>2-1 A provision shall be recorded by the applicants/developer or successors, at time of sale of any residentially-zoned property within the project that lies within 1,000 feet of the external boundary of any non-project property which currently has an active agricultural operation (including 4-H projects), or has had an agricultural operation on it during the calendar year preceding the year within which the sale takes place. This provision shall notify the buyer(s) and any subsequent owner(s) of the possible inconvenience or discomfort of farming operations, arising from the use of agricultural chemicals, including pesticides, and fertilizers, as well as from the pursuit of agricultural operations including plowing, spraying, and harvesting which occasionally generate dust, smoke, noise and odor, and the priority to which Merced County places on agricultural operations.</p>	<p style="text-align: center;">Building Permits</p>	<p style="text-align: center;">City Planning & Inspection Services</p>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
3. AIR QUALITY			
3-1. All active portions of construction sites, earthen access roads, and material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice a day with complete coverage, preferably in the late morning and after work is done for the day. Where feasible, reclaimed water shall be used.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-2. All clearing, grading, earth moving, or excavation activities shall cease during periods of winds greater than 20 miles per hour averaged over one hour.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-3. All material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-4. The area disturbed by clearing, earth moving, or excavation activities shall be minimized at all times. This can be accomplished by mowing instead of disking for weed control and seeding and watering inactive portions of the construction site until grass is evident, if construction time frames warrant.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-5. Construction site vehicle speeds shall be limited to 15 miles per hour.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-6. If used, petroleum-based dust palliatives shall meet the road oil requirements of the District's rule regarding Cutback Asphalt Paving Materials.	<i>Building Permits</i>	<i>SJVUAPCD</i>	
3-7. Streets adjacent to the Project site shall be swept as needed to remove silt and/or mud that may have accumulated from construction activities. The streets are required to be wet prior to or in conjunction with rotary sweeping.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-8. All internal combustion engine-driven equipment shall be properly maintained and well tuned according to the manufacturer's specifications.	<i>Building Permits</i>	<i>City Inspection Services</i>	

Mitigation Measure	Timing	Agency or Department Consultation	City Verification (date and initials)
3-9. When reasonably available and economically feasible, diesel powered or electric equipment shall be utilized in lieu of gasoline powered engines.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-10. Construction activities shall minimize obstruction of through traffic lanes adjacent to the site and a flag person shall be retained to maintain safety adjacent to existing roadways.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-11. Prior to issuance of building permits, the project will be required to comply with District Regulation VIII. Specifically, the rules that apply to this project are: Rule 8010 (Administrative Requirements) and Rule 8020 (Construction, Demolition, Excavation, and Extraction Activities). Additional rules that may apply to this project depending on construction practices employed are: Rule 8030 (Handling and Storage of Bulk Materials), Rule 8060 (Paved and Unpaved Roads), and Rule 8070 (Parking, Shipping, Receiving, Transfer, Fueling, and Service Areas).	<i>Building Permits</i>	<i>SJVUAPCD</i>	
3-12. If public transit is available in the area, a public transit stop shall be located within safe walking distance from the Project site or included as part of the Project. (Details to be worked out with Merced County Transit staff at the tentative map stage.)	<i>Tentative Subdivision Map</i>	<i>City Planning and Merced County Transit Service</i>	
3-13. Provide low nitrogen oxide (NOx) emitting and/or high efficiency water heaters.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-14. Planting of deciduous trees on the south and westerly facing sides of buildings.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-15. If fireplaces are proposed, only natural gas fireplaces, EPA-certified wood burning fireplaces/stoves, or pellet fueled heater should be installed. Conventional open-hearth fireplaces should not be permitted.	<i>Building Permits</i>	<i>City Inspection Services</i>	

Mitigation Measure	Timing	Agency or Department Consultation	City Verification (date and initials)
3-16. Sidewalks and bikepaths should be installed throughout as much of the project as possible and should be connected to any nearby open space areas, parks, schools, commercial areas, etc.	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	
3-17. Natural gas lines and electrical outlets should be installed in patio areas to encourage the use of gas barbecues and electric yard tools.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-18. Energy efficient design including automated control system for heating/air conditioning and energy efficiency beyond Title 24 requirements, lighting controls and energy-efficient lighting in buildings, increased insulation beyond Title 24 requirements, and light colored roof materials to reflect heat.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-19. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-20. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at least once every 24 hours when operation are occurring. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting t limit the visible dust emissions.)	<i>Building Permits</i>	<i>City Inspection Services</i>	
3-21. Limit the hours of operation of heavy duty equipment to between 7 a.m. and 7 p.m. and/or the amount of equipment in use. (See also mitigation measure 11-2).	<i>Building Permits</i>	<i>City Inspection Services</i>	
4) BIOLOGICAL RESOURCES			
4-1. The developers shall dedicate to the City a minimum 50-foot-wide corridor from the centerline (or 25 feet from the crown, whichever is greater) of Black Rascal Creek in order to maintain these open space areas as natural riparian preserves and recreation areas per <i>Merced Vision 2015 General Plan</i> policy.	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
4-2. If any trees along Black Rascal Creek or on the Project site that have been determined to be potential nesting sites for raptors are proposed for removal, a pre-construction survey for nesting raptors shall be conducted prior to tree removal and alternatives to removal shall be explored. If removal is approved by the City, between February 1 and September 15, appropriate measures to avoid disturbing any nesting raptors shall be implemented at that time or the trees shall be felled between September 15 and January 31.	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	
5) CULTURAL RESOURCES			
5-1. If evidence of archaeological artifacts is discovered during construction, all operations within an area at and adjacent to the discovered site shall halt until a qualified archaeologist determines the extent of significance of the site.	<i>Building Permits</i>	<i>City Planning</i>	
5-2. On-site preservation of a resource is the preferred alternative. Preserving a cultural deposit maintains the artifacts in context and may prevent inadvertent discovery of, or damage to, human burials. Preservation may be accomplished through a number of means such as capping or covering the site with a layer of soil, fencing the site area, and/or incorporation of the resource in a park area.	<i>Building Permits</i>	<i>City Planning</i>	
6. GEOLOGY AND SOILS			
6-1. Prior to approval of a tentative subdivision map, the City shall review plans for drainage and stormwater run-off control systems and their component facilities to ensure that these systems are non-erosive in design.	<i>Building Permits</i>	<i>City Inspection Services</i>	

Mitigation Measure	Timing	Agency or Department Consultation	City Verification (date and initials)
6-2. Upon completion of phased construction, subsequent phases shall re-vegetate all exposed soil surfaces within 30 days, or as otherwise approved by the City, to minimize potential topsoil erosion. Reasonable alternatives to re-vegetation may be employed, especially during peak high temperature periods or to avoid negative impacts to nearby agricultural activities, subject to the approval of the City.	<i>Building Permits</i>	<i>City Inspection Services</i>	
6-3. Projects under review shall be required to submit temporary erosion control plans for construction activities.	<i>Building Permits</i>	<i>City Inspection Services</i>	
6-4. Prior to the issuance of building permits, the applicant shall retain a qualified geologist or qualified soil specialist to conduct soil samples throughout the Project area to identify expansive soils, and those areas shall be identified on a map for the City.	<i>Building Permits</i>	<i>City Inspection Services</i>	
6-5. Building plans shall be reviewed by a registered engineer or other professional specializing in geo-technical assessments to ensure that the soils can support the load..	<i>Building Permits</i>	<i>City Inspection Services</i>	
8) HYDROLOGY AND WATER QUALITY			
8-1. Prior to approval of a tentative subdivision map, the applicant shall demonstrate to the City that storm drainage facilities are adequate to meet Project demands and that improvements are consistent with the Merced County Critical Area Flooding and Drainage Plan and/or the City's Storm Drainage Master Plan.	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	
8-2. Prior to approval of building permits, the applicants shall demonstrate to the City that temporary erosion control measures will be followed during construction.	<i>Building Permits</i>	<i>City Planning</i>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
11) NOISE			
11-1. Residential development on the Project site shall meet acceptable noise level standards as follows: <ul style="list-style-type: none"> • A maximum of 45 dB for interior noise level for residential projects. • A maximum of 60 dB for exterior noise level, especially when outdoor activities are important components of a project. • A maximum of 65 dB when all the best available noise-reduction techniques have been exhausted without achieving 60 dB, and the strict application of such a maximum becomes a hindrance to development needed or typical for an area. 	Building Permits	City Inspection Services	
11-2. Grading and construction activity shall be limited to daylight hours (between 7 a.m. and 7 p.m.) in areas where noise sensitive receptors (i.e. adjacent single-family development) are located.	Building Permits	City Inspection Services	
11-3. In noise sensitive areas, construction equipment, compressors, and generators shall be fitted with heavy duty mufflers specifically designed to reduce noise impacts.	Building Permits	City Inspection Services	
13) PUBLIC SERVICES			
13-1 Prior to the issuance of building permits, the applicant shall be responsible for the payment of school facility impact fees as adopted by the Merced City School District and Merced Union High School District.	Building Permits	City Inspection Services	
14) RECREATION			
14-1. The Project developers shall work with the City to locate a neighborhood park site within the Project boundaries. (Details to be addressed at the tentative subdivision map stage.)	Tentative Subdivision Map	City Planning	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
14-2. The Project developers shall work with the City (and County as applicable) on the design and construction of bike paths along Black Rascal Creek and possibly along the PG&E utility corridor, and to connect the City bike path to the County bike path along Lake Road. (Details and possible reimbursement to be addressed at the tentative subdivision map stage.)	<i>Tentative Subdivision Map</i>	<i>City Planning and County Planning</i>	
15) TRANSPORTATION AND TRAFFIC			
15-1 The Project shall pay all fees as required under the City's Public Facilities Impact Fees (Chapter 17.62 of the Merced Municipal Code) prior to building permit issuance.	<i>Building Permits</i>	<i>City Inspection Services</i>	
15-2 <i>Traffic Signal at Yosemite and McKee or Hatch:</i> Owner shall provide financial security acceptable to the City equivalent to a "fair share" (but not to exceed 25 percent) of the cost of a traffic signal at the intersection of either McKee Road and Yosemite Avenue or Hatch Road and Yosemite Avenue, whichever intersection the City ultimately decides to signalize. Scope of improvements includes a traffic signal and related intersection improvements to City standards and to the satisfaction of the City Engineer. The "fair share," final cost, and form of security shall be determined by the City Engineer at the time of the first tentative subdivision map or other discretionary action. The determination of the City Engineer will be subject to appeal to the City Council.	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	

Mitigation Measure	Timing	Agency or Department Consultation	City Verification (date and initials)
<p>15-3 <i>Yosemite Avenue:</i> The developer shall construct and dedicate any remaining improvements on half of the 94-foot right-of-way for Yosemite Avenue along the Project boundaries. The developer shall construct full frontage improvements (curb, gutter, sidewalks, street trees, street lights, etc.) on Yosemite and at least one travel lane in each direction. The timing of construction of the improvements is to be determined at the subdivision map stage. Construction is subject to reimbursement per Merced Municipal Code (MMC) section 17.58 and/or the Administrative Policy of the Public Facilities Impact Fees (City Council Resolution #98-73), whichever is applicable.</p>	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	
<p>15-4 <i>McKee Road:</i> The developer shall construct and dedicate any remaining improvements on half of the 74-foot right-of-way for McKee Road along the Project boundaries. The developer shall construct full frontage improvements (curb, gutter, sidewalks, street trees, street lights, etc.) on McKee and at least one travel lane in each direction. The timing of construction of the improvements is to be determined at the subdivision map stage. Only off-site construction is subject to reimbursement per Merced Municipal Code (MMC) section 17.58, but no reimbursement is available from the Public Facilities Impact Fees for collectors, such as McKee.</p>	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	
<p>15-5 <i>Local and Collector Streets:</i> The developer shall be responsible for construction and dedication of all interior collector and local streets within the Project boundaries. Construction shall meet all the requirements of the most recent edition of the City of Merced's <i>Standard Designs for Common Engineering Structures</i>. No reimbursement is available for these roadways.</p>	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
15-6 <i>Lake Road:</i> The property owners shall work with the City and the County to address whether a future extension of Lake Road is necessary from Yosemite Avenue south to Olive Avenue as shown in the County's Circulation Element. This issue shall be addressed prior to approval of the first final subdivision map with frontage on the possible Lake Road right-of-way. If the issue is not resolved prior to map approval, right-of-way for the future extension of Lake Road shall be preserved on the map, with the understanding that it might be given back to the property owners in the future if it is not needed.	<i>Tentative Subdivision Map</i>	<i>City Planning and County Planning</i>	
16) UTILITIES			
16-1 Prior to approval of a tentative subdivision map, the City shall review the Project application to ensure that wastewater facilities are adequate to meet Project service demands and are consistent with wastewater master plans.	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	

Copies of This Form Distributed To:

City Council _____ City Manager _____ Dev Serv Dir. _____ Public Works Dir. _____ City Engineer _____ Fire Chief _____
Police Chief _____ Leisure Serv. Dir. _____ County of Merced (Dept. _____) Other (List _____)
Responsible Agency: (List _____)

I hereby certify that I have inspected the project site and that the above information is true to the best of my knowledge.

Name: (Print) _____ Representing: (Agency/Firm) _____

Signature: _____ Date: _____

APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR—HUNT FAMILY ANNEXATION

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
<i>Plant/Animal Life</i>			
3-a) When site-specific development proposals are submitted to the City for review and action, surveys should be conducted for special-status species prior to the disturbance of potentially suitable habitat. All surveys will be conducted in accordance with applicable state and federal guidelines.	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	Completed 10/2/02 with Biological Resources Inventory by Moore Biological Consultants (Appendix D)
<i>Traffic/Circulation</i>			
7-a) Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection levels of service below "D."	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	
7-b) The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service "D" on all road segments and intersections impacted by the development project.	<i>Certificate of Occupancy</i>	<i>City Planning</i>	
<i>Public Facilities/Services</i>			
8-d) Development projects will be required to pay public facilities impact fees as established by the City in accordance with the requirements of State law.	<i>Certificate of Occupancy</i>	<i>City Planning</i>	

**Merced Vision 2015 General Plan
Environmental Mitigation Checklist Form A**

Project Name: _____ File Number: _____
Approval Date: _____ EIR _____ Conditional Neg. Dec. _____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring requirements with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6)

Mitigation Measure	Type	Monitoring Dept.	Shown on Plans	Verified Implementation	Remarks
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

(Add additional Measures as Necessary)

Explanation of Headings:

Type: Project, ongoing, cumulative.
Monitoring Dept. Department or Agency responsible for monitoring a particular mitigation measure.
Shown on Plans: When mitigation measure is shown on plans, this column will be initialed and dated.
Verified Implementation: When a mitigation measure has been implemented, this column will be initialed and dated.
8-3. Remarks: Area for describing status of ongoing mitigation measure, or for other information.

Merced Vision 2015 General Plan
Mitigation Measure Monitoring Checklist--Form B

Monitoring Phase: Pre-Construction Construction

Project File Number: _____

Project Name: _____

Brief Project Description: _____

Project Location: _____

Requirement Met:

Date	Yes	No	Description of Mitigation Measures
_____	_____	_____	1. _____
_____	_____	_____	2. _____
_____	_____	_____	3. _____
_____	_____	_____	4. _____
_____	_____	_____	5. _____

Requirement On-Going:

Date	Yes	No	Description of Mitigation Measures
_____	_____	_____	1. _____
_____	_____	_____	2. _____
_____	_____	_____	3. _____
_____	_____	_____	4. _____
_____	_____	_____	5. _____

Trustee Agency	Date	Yes	No
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____

Copies of This Form Distributed To:

_____ City Council _____ City Manager _____ Dev Serv Dir.. _____ Public Works Dir.
_____ City Engineer _____ Fire Chief _____ Police Chief _____ Leisure Services Dir.
_____ County of Merced (Dept. _____) _____ Other (List _____)
_____ Responsible Agency: (List _____)

I hereby certify that I have inspected the project site and that the above information is true to the best of my knowledge.

Name: (Print) _____

Representing: (Agency/Firm) _____

Signature: _____

Date: _____