RESOLUTION NO. 2017-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, ADOPTING FINDINGS OF FACTS, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING PROGRAM, AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE MERCED GATEWAY MASTER PLAN, INCLUDING GENERAL PLAN AMENDMENT #15-03, ZONE CHANGE #422, AND PLANNED DEVELOPMENT (P-D) #74 ESTABLISHMENT

WHEREAS, the Draft Environmental Impact Report ("EIR") for the Merced Gateway Master Plan was available for public review and comment beginning July 14, 2016 and ending on August 22, 2016 for the forty-five (45) day review period required by law; and

WHEREAS, the Final EIR, which responds to all comments received during the review period was distributed to appropriate bodies for consideration on June 12, 2017; and

WHEREAS, Section 21082.1 of the Public Resources Code, known as the California Environmental Quality Act ("CEQA"), and CEQA Guideline 15090 require the City Council to certify that the Final EIR has been completed in compliance with CEQA, and that it has independently reviewed and considered the information contained in the Final EIR before making a decision on the project; and,

WHEREAS, the City Council at a duly noticed public hearing held for the purpose of receiving comments on the Merced Gateway Master Plan Final EIR did hear and consider all comments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council has reviewed and independently analyzed the information contained in the Final EIR and hereby certifies that the Merced Gateway Master Plan Final EIR (the Draft EIR and responses to

comments, which together comprise the Final EIR, on file in the City Clerk's Office) is complete and adequate and has been completed in compliance with CEQA.

SECTION 2. The City Council, in compliance with CEQA Guideline 15091, adopts the Findings of Fact set forth in the Findings of Fact and Statement of Overriding Considerations, labeled Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 3. The City Council, in compliance with CEQA Guideline 15093, adopts the Statement of Overriding Considerations set forth in the Findings of Fact and Statement of Overriding Considerations, labeled Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 4. 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 Exhibit A to Findings of Fact and Statement of Overriding Considerations attached hereto and incorporated herein by this reference.

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 impact of the project.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2017, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

_____
Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY:_____
Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

8-2-2017
City Attorney Date

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS BY THE CITY COUNCIL OF THE CITY OF MERCED REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE MERCED GATEWAY MASTER PLAN (STATE CLEARINGHOUSE NO. 2015101048)

I. INTRODUCTION.

The City of Merced ("City") City Council hereby certifies and finds that the Merced Gateway Master Plan Project ("Project") Final Environmental Impact Report ("Final EIR"), State Clearinghouse Number 2015101048, has been completed in compliance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq., "CEQA") and the State CEQA Guidelines (Title 14, Cal. Code Regs. Sections 15000 et seq., "CEQA Guidelines").

The Project Final EIR consists of the following documents: (1) July 2016 Draft Environmental Impact Report and technical appendices ("Draft EIR or DEIR"); and (2) June 12, 2017 Final EIR. The City Council hereby certifies that it received, reviewed and considered the information contained in the following: (i) the Final EIR; (ii) the applications for all discretionary approvals necessary in connection with the Project; and (iii) all hearings, and submission of testimony from City officials and departments, the public, other public agencies, community groups, and organizations.

All potentially significant impacts of the Project identified in the Final EIR are included herein, and are organized according to the resources affected. The Findings in this document are for the Merced Gateway Master Plan Project, and are supported by information and analysis from the Final EIR and other evidence in the administrative record.

For each significant impact, a Finding has been made as to one or more of the following, in accordance with Public Resources Code Section 21081 and State CEQA Guidelines Section 15091:

A. Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environmental effects on the environment.

B. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

C. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

A narrative of supporting facts follows the appropriate Finding. For all of the impacts, one or more of the findings above have been made. A Statement of Overriding Considerations is included in Section VIII, herein.

EXHIBIT A

Concurrently with the adoption of these findings, the City Council adopts a Mitigation Monitoring and Reporting Program ("MMRP"), attached hereto as Exhibit A. Having received, reviewed and considered the foregoing information, as well as any and all information in the administrative record and the record of proceedings, the City Council hereby makes the following Findings of Fact and Statement of Overriding Considerations pursuant to, and in accordance with Public Resources Code Section 21081 and State CEQA Guidelines Section 15090:

II. PROJECT BACKGROUND.

A. Project Description.

The Project consists of (1) General Plan Amendments that would re-configure the boundary between the residential and commercial portions of the Project site and amend the General Plan's Circulation Element; (2) corresponding Zone Changes; and (3) the establishment of a Planned Development Zone with an accompanying Master Plan for the site that defines the overall site development concept. The buildout potential of the Project is 601,127 square feet of commercial uses, 178 multi-family dwelling units, and a 1.53-acre fire station site on Gerard Avenue, 0.13 miles east of Coffee Street.

Overall, the General Plan Amendments and Zone Changes would increase the amount of commercial acreage by 12 acres (resulting in 67.5 acres total) and reduce the amount of residential acreage by approximately 12 acres (resulting in 8 acres total). Although this would result in a reduction in the medium-density residential designation acreage, the Master Plan concept includes a 178-unit, high-density, multi-family residential complex (21 units per acre), which results in a total number of units consistent with the anticipated unit count in the General Plan and which will comply with the City's goals for the regional housing allocation reflected in the City's Housing Element.

The commercial square footage would be located on both sides of Campus Parkway, with 358,535 square feet on the north side and 242,592 square feet on the south side. Proposed uses would include retail, restaurant, fuel station, movie theater, and hotel.

The original project as evaluated in the DEIR included a General Plan Amendment to amend the Circulation Element, to eliminate a planned extension of Pluim Drive (collector level street) along the east side of the site and add right turn in and out driveways along the Campus Parkway Expressway. However, on March 1, 2017, as the result of an agreement with the adjoining property owner, the Project applicant requested a change to the Project Description to incorporate the roadway improvements envisioned in the Merced General Plan for access to the Project site, rather than those previously proposed by the Project. As a result, the Campus Parkway/Pluim Drive intersection will be created with separate left turn, right turn and through lanes on each new approach, and will be controlled by a traffic signal. This scenario was evaluated in the DEIR as the "Circulation Element Alternative", and is the same as the Project in every other respect, with

no changes to square footage or uses. This new scenario will add the two driveways off Campus Parkway that were analyzed under the original project, and the mitigation measures that were specific to them. Therefore, all references to the "Project" contained in these findings shall be understood to mean the Circulation Element Alternative as described in the DEIR, unless otherwise specified.

The Project would be constructed in five phases, over 10 years. It is estimated that construction would begin in 2017 and be completed by 2026, and the Project would be fully operational in 2027.

B. Discretionary Actions Required for Project.

The following discretionary approvals and permits are required by the City of Merced for implementation of the Project:

- General Plan Amendment
- Zone Change and Establishment of a Planned Development

Subsequent ministerial actions would be required for the implementation of the Project, including issuance of grading and building permits and Site Plan Review.

C. Statement of Project Objectives.

The objectives of the Merced Gateway Master Plan Project are as follows:

1. Positively contribute to the local economy through new capital investment, creation of new employment opportunities, expansion of the tax base, and increased retail offerings.

2. Reinforce Merced's status as a regional retail node and employment center by increasing commercial offerings.

3. Develop regional-serving and highway-oriented commercial uses on a highly visible site near SR-99 in order to cater to local residents and travelers.

4. Promote residential and economic growth in accordance with the goals and policies set forth in the Merced Vision 2030 General Plan.

5. Develop new multi-family residential uses in southeast Merced to provide additional diverse housing options in a growing part of the City.

6. Design a site plan that provides convenient internal circulation, while also minimizing access conflicts between the residential and commercial uses.

7. Reserve a site for a future public safety facility in the interests of ensuring that adequate fire protection is provided in the future.

III. ENVIRONMENTAL IMPACT REPORT PROCESS

The City issued a Notice of Preparation ("NOP") for the DEIR on October 14, 2015, which was circulated to the State Clearinghouse, responsible agencies, and other interested parties for a public review period extending from October 14, 2015 through November 20, 2015. Pursuant to CEQA Guidelines Section 15082(c)(1), the City also held a scoping meeting for the Project on Tuesday, October 27, 2015, in the Sam Pipes Meeting Room at Merced Civic Center. Comments regarding traffic and building height received at the meeting were addressed in the Draft EIR. The Draft EIR includes the comment letters received during the public review period in response to the NOP (see Draft EIR Appendix A). All NOP comments relating to the EIR were reviewed and the issues raised in those comments were addressed, to the extent feasible, in the Draft EIR.

Potentially significant environmental impacts addressed in the Draft EIR include: Aesthetics, Light and Glare, Agricultural Resources, Air Quality and Greenhouse Gas Emissions, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use, Noise, Public Services and Utilities, Transportation, and Utilities and Service Systems. The Draft EIR analyzed both Project-level and cumulative effects of the Project on these topics and identified a variety of mitigation measures to minimize, reduce, avoid, or compensate for the potential adverse effects of the Project.

The Project was determined to result in no impact to Geology and Soils, Mineral Resources, Population and Housing, or Recreation.

In addition to the originally proposed Project, the Draft EIR also analyzed three other potential alternatives to the Project for purposes of CEQA analysis, including: 1) No Project Alternative; 2) Circulation Element Alternative; and 3) Less Intense Alternative. Potential environmental impacts of each of these alternatives were discussed at the CEQA-prescribed level of detail, and comparisons were made to the originally proposed Project.

The Draft EIR was submitted to the State Clearinghouse, Governor's Office of Planning and Research, and was circulated for public review for the 45-day public review period required by State CEQA Guidelines Section 15087 from July 7, 2016 to August 22, 2016.

IV. FINDINGS REGARDING POTENTIAL ENVIRONMENTAL EFFECTS WHICH ARE NOT SIGNIFICANT OR WHICH HAVE BEEN MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

All Final EIR mitigation measures, as set forth in the MMRP (attached as Exhibit A to these findings) have been incorporated by reference into the conditions of approval for the Project. These mitigation measures and conditions of approval will result in a substantial mitigation of the effects of the Project set forth below, such that the effects are not significant or have been mitigated to a

level of less than significant. Specifically, the City Council has determined, based on the Final EIR, that Project design features, mitigation measures, and conditions of approval will reduce Project impacts related to Aesthetics, Light and Glare, Agricultural Resources, Air Quality and Greenhouse Gas Emissions, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use, Noise, and Public Services and Utilities to a level of less than significant.

A. AESTHETICS, LIGHT AND GLARE.

Potential Effect:

The Project would have significant aesthetic impacts to the Project area if it would have a substantial adverse effect on a scenic vista; damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway; substantially degrade the existing visual character or quality of the site and its surroundings; or create a new source of substantial light or glare which will adversely affect day or nighttime views in the area.

Finding:

The Project will not have a significant effect on the environment related to Aesthetics, Light and Glare. No mitigation is required.

Facts Supporting the Finding:

The Merced Vision 2030 General Plan does not identify any visual resources or scenic vistas in the vicinity of the Project site, thereby precluding impacts in this regard. Although the Sierra Nevada Mountains are visible to the north and east on clear days, given the absence of developed land uses to the west, east, and south, there would be no potential for adverse impacts on scenic vistas. For the developed residential uses to the north, the Project would not obstruct views of the Sierra Nevada Mountains to the north or east. **(DEIR at 3.1-4)**.

The Merced Vision 2030 General Plan identifies Campus Parkway as a Scenic Corridor, and includes numerous design considerations to avoid aesthetic impacts. The Merced Gateway Master Plan sets forth Development Standards (height limits, lot coverage limits, setbacks, etc.) to ensure that buildings are visually appealing and compatible with their surroundings. The Master Plan requires landscaping along the Campus Parkway frontage and places limits on the number and types of signs permitted along the roadway. All utilities are currently located underground—and this requirement would be carried forward by the Master Plan. This would ensure that the Project would not have adverse visual impacts on Campus Parkway. **(DEIR at 3.1-5).**

Key aspects of the Master Plan as it relates to visual character are summarized at DEIR pages 3.1-5 to 3.1-7. When evaluated in context of the Merced Vision 2030 General Plan—which has long designated the Project site for urban development—and development patterns in the Project vicinity, the Master Plan represents logical and planned growth. Moreover, the Master Plan sets forth development standards and design guidelines that establish parameters for architecture, site

layout, landscaping, signage, lighting, and other areas to ensure that new development is attractive and compatible with surrounding land uses. **(DEIR at 3.1-7)**.

With regard to lighting and glare impacts, the Master Plan includes numerous design guidelines for lighting to ensure that unnecessary glare or spillover onto adjacent properties does not occur (see DEIR at 3.1-8). Additionally, the Mitigation Monitoring and Reporting Program prepared for the Merced Vision 2030 General Plan includes Mitigation Measure 3.1-4, for the purpose of reducing illumination impacts, and will be applicable to the Project. The implementation of these design guidelines would ensure that the Project would not create new sources of light which would adversely affect day or nighttime views in the area. In addition, the Project is not anticipated to utilize building materials or involve uses that would create new sources of significant glare. **(DEIR at 3.1-8 to 3.1-9).**

B. AGRICULTURAL RESOURCES.

Potential Effect:

The Project would have a significant impact on Agricultural Resources if it would: convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use; conflict with existing zoning for agricultural use, or with a Williamson Act contract; conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220 (g)), timberland (as defined in Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined in Government Code Section 51104(g)); result in the loss of forest land or conversion of forest land to non-forest use; or involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use.

Finding:

The Project will not have a significant effect on the environment related to Agricultural Resources. No mitigation is required.

Facts Supporting the Finding:

There is no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance mapped on the Project site. The Project site is designated as Farmland of Local Importance. On-site soils are rated grade 1 (excellent) and grade 2 (good) by the Storie Index, and 4w (poor) and 4s (poor) by the NRCS Nonirrigated Capability Class. The availability and practicality of on-site irrigation is limited, and the existing Campus Parkway road further limits the site's use for field crops. The Project would convert approximately 77.5 acres of Farmland of Local Importance to commercial and residential uses. The Project would not convert any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses. **(DEIR at 3.2-10)**.

However, the Final Agricultural Land Evaluation and Site Assessment (LESA) Score for the Project site is 77.65 (irrigated) or 51.90 (nonirrigated). Based on LESA significance thresholds, Project implementation would be considered a significant impact on agricultural resources.

However, the City has previously recognized this significant environmental impact when it approved and adopted the Merced 2015 General Plan and certified the accompanying Merced 2015 General Plan EIR (General Plan EIR), as well as the Merced Vision 2030 General Plan and Merced Vision 2030 General Plan EIR. At the time the General Plan EIR was prepared, the Project site was designated as Prime Farmland and Farmland of Statewide Importance. Since then, the on-site designations have been updated to Farmland of Local Importance, likely to reflect changing on-site uses and the urban designation of the Project site. As recognized in the General Plan EIR, adoption of the General Plan resulted in existing agricultural areas being re-designated for residential, commercial, and public land uses The General Plan included several policies and implementing actions to ensure that increased demand for additional land associated with an increase in population would minimize the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use. **(DEIR at 3.2-12)**. The majority of these policies and implementing actions require action of the City of Merced and do not apply directly to or require the direction action of individual developments.

Despite the adoption of the policies and implementing actions, the General Plan EIR concluded that the conversion of Prime Farmland was considered a potentially significant impact under buildout conditions, and that this impact would remain significant and unavoidable. The
City adopted a Statement of Overriding Considerations to address this impact. Therefore, the loss of important farmland on the Project site has already been accounted for by the City's General Plan EIR and associated Statement of Overriding Considerations. The City has designated and zoned the land for urban development, further indicating its long-range plan for the site's urban development and the loss of farmland. Therefore, because urban development of the site has been planned for and the Project is consistent with such planned development, impacts would be less than significant. **(DEIR at 3.2-17)**.

The Project site is not encumbered by a Williamson Act contract. **(DEIR at 3.2-17)**.

The Project does not include changes to the physical existing environment, which, because of their location or nature could result in the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use. The Project site is located within the city limits and within the Sphere of Influence/Specific Urban Development Plan (SOI/SUDP). The development of the Project is consistent with adjacent existing urban uses to the northeast and northwest of the Project site. All surrounding undeveloped lands, including those currently used for agriculture are planned for urban development. Underground storm drainage, water, sewer, electrical, and natural gas are located within adjacent roadways. The Project would connect to these existing facilities and would not extend such facilities beyond existing limits, thereby encouraging urban development beyond the SOI/SUDP. Future development of lands near the Project site but outside the SOI/SUDP, including in areas used as farmland, would be restricted from conversion to urban uses through compliance with the City of Merced's urban expansion policies. As such, it is unlikely that the Project would result in the conversion of adjacent farmlands to non-farmland uses. **(DEIR at 3.2-18)**.

C. AIR QUALITY/GREENHOUSE GAS EMISSIONS.

Potential Effect:

The Project would have a significant impact on Air Quality and Greenhouse Gas Emissions if it would: conflict with or obstruct implementation of the applicable air quality plan; violate any air quality standard or contribute substantially to an existing or projected air quality violation; cumulatively produce a considerable net increase of any criteria pollutant for which the Project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors); expose sensitive receptors to substantial pollutant concentrations; create objectionable odors affecting a substantial number of people; generate direct or indirect GHG emissions that may have a significant impact on the environment; or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions.

Finding: Changes or alterations have been required in, or incorporated into the Project which mitigate or avoid the potentially significant environmental effects related to Air Quality/Greenhouse Gas Emissions. With implementation of Mitigation Measures AIR-2a to AIR-2f, and AIR-7a to AIR-7d, impacts will be less than significant.

Facts Supporting the Finding:

Emissions of ROG, NOx, PM_{10}, and $PM_{2.5}$ associated with the construction and operation of the Project would not exceed the Air District's significance thresholds after incorporation of Mitigation Measures AIR-2a through AIR-2e. The Project would not result in CO hotspots that would violate CO standards. **(DEIR at 3.3-56 to 3.3-57)**. Therefore, the Project would not contribute to air quality violations or contribute substantially to an existing or projected air quality violation. **(DEIR at 3.3-45)**. Likewise, with incorporation of Mitigation Measures AIR-2a through AIR-2e, the Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is nonattainment (PM_{10}, $PM_{2.5}$, or ozone). **(DEIR at 3.3-61).**

Unmitigated operational ROG emissions of the Project would exceed the adopted SJVAPCD significance threshold; among other measures, the Project proponent will be required to enter into a Voluntary Emission Reduction Agreement (VERA) with the SJVAPCD to reduce the Project-related impact on air quality due to ROG emissions to a less than significant level, by providing pound-for-pound mitigation of air emissions increases through a process that funds and implements emission reduction projects. **(DEIR at 3.3-51)**.

As discussed at DEIR pages 3.3-45 to 3.3-46, the applicable air quality plans contain an adequate emissions margin to accommodate the additional commercial growth resulting from the Project. The Project will comply with all applicable Air District rules and regulations, and will not conflict with or obstruct implementation of the applicable air quality attainment plan. **(DEIR at 3.3-46)**.

During construction, on-site NOx emissions would exceed the daily screening threshold in year 2017; Mitigation Measure AIR-2f is provided, that would require either that at least half of the construction equipment utilized during site preparation and grading activities for Phases 1 and 4 to meet Tier 4 emissions standards, or the restriction of simultaneous site preparation and grading activities for Phases 1 and 4. The maximum daily NOx emissions for Phases 1 and 4 with implementation of Mitigation Measure AIR-2f would be less than significant. **(DEIR at 3.3-55)**.

The Project would not expose sensitive receptors to substantial pollutant concentrations. **(DEIR at 3.3-62 to 3.3-67)**. The Project would not involve any uses that would generate offensive odors. **(DEIR at 3.3-67 to 3.3-68)**.

The City of Merced adopted the Merced Climate Action Plan (City of Merced 2012), which was developed in order to implement the greenhouse gas emission reduction targets identified in AB 32. The Merced City Council approved a greenhouse gas reduction target of 1990 levels by 2020 be utilized in the Climate Action Plan. The Climate Action Plan utilized year 2008 as its baseline and determined that in 1990, the City's greenhouse gas emissions were 349,981 metric tons of CO_2 equivalent (MTCO2e) per year and that by 2020 for the BAU forecast is 497,896 MTCO2e per year. Therefore, the Climate Action Plan was developed to cut 147,915 MTCO2e from BAU conditions by year 2020. This is equivalent to a 29.7 percent reduction over baseline year 2008 greenhouse gas emissions rates by the year 2020. The Project was found to achieve a reduction of 34.6 percent from BAU in the year 2020 with regulations applied, and implementation of Mitigation Measures AIR-2a and 2b. This is above the 29.7-percent reduction required by the City of Merced Climate Action Plan. **(DEIR at 3.3-70 to 3.3-73)**.

As outlined at DEIR pages 3.3-74 to 3.3-87, the Project will comply with all applicable policies of the Merced Climate Action Plan, with implementation of Mitigation Measures AIR-7a to AIR-7d. **(DEIR at 3.3-87)**.

In addition, the Circulation Element Alternative would cause fewer instances of traffic congestion, and would therefore produce fewer pollutant emissions from mobile sources. (DEIR at 5-4). Therefore, the Circulation Element Alternative would create fewer air quality and greenhouse gas emissions than the originally proposed Project.

D. BIOLOGICAL RESOURCES

Potential Effect:

The Project would have a significant impact on biological resources if it would: have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game Wildlife ("CDFW") or U.S. Fish and Wildlife Service ("USFWS"); have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations of CDFW or USFWS; have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including marshes, vernal pools, and coastal wetlands) through direct removal, filling, hydrological interruption, or other means; interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites; conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan.

Finding: Changes or alterations have been required in, or incorporated into the Project which mitigate or avoid the potentially significant environmental effects related to Biological Resources. With implementation of Mitigation Measures BIO-1a to BIO-1e and BIO-2, impacts will be less than significant.

Facts Supporting the Finding:

The Project site contains disturbed open agricultural fields with evidence of disking in the northern section and disturbed land with ruderal weedy species in the southern section. The site is unlikely to support any special-status plant species, and no mitigation for special-status plants is necessary. **(DEIR at 3.4-22)**. With regard to special status wildlife species, avoidance or preconstruction clearance surveys for burrowing owl will be required, as addressed in Mitigation Measure BIO-1a; avoidance or protocol surveys for San Joaquin kit fox will be required, as addressed in Mitigation Measure BIO-1b; and avoidance or pre-construction clearance surveys for Swainson's hawk will be required, as addressed in Mitigation Measure BIO-1c. Mitigation Measures BIO-1d and BIO-1e will also require additional avoidance or pre-construction clearance surveys to avoid potential impacts to nesting birds. **(DEIR at 3.4-23)**.

There is a potential jurisdictional drainage feature present in the southern section along the western boundary, parallel to Coffee Street. As a result, avoidance or jurisdictional delineation surveys will be required prior to development as addressed in Mitigation Measure BIO-2. The amount of mitigation required by the regulatory agencies for impacts to USACE or CDFW jurisdictional areas will be determined during the permitting process to the satisfaction of these agencies. **(DEIR at 3.4-25)**. Therefore, any impacts to federally-protected wetlands or riparian habitats will be less than significant.

The Project site consists of a large open disturbed agricultural field, bordered by residential development to the north, a major highway further to the west, and open agricultural fields to the south and east. The Project contains no rivers, streams, or drainages capable of supporting native resident or migratory fish species; as a result, no impacts to the movement of native resident or migratory fish species are expected to occur, and the site is not suitable for a wildlife nursery site. **(DEIR at 3.4-26)**.

The Project site is not located within any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The East Merced County Habitat Conservation Plan is currently in development, but it has not yet been adopted and is not a CDFW-recognized Habitat Conservation Plan or Natural Community Conservation Plan. **(DEIR at 3.4-27)**.

E. CULTURAL RESOURCES

Potential Effect:

The Project would have a significant effect on Cultural Resources if it would: cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5; cause a

substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5; directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or disturb any human remains, including those interred outside of formal cemeteries.

Finding:

Changes or alterations have been required in, or incorporated into the Project which mitigate or avoid the potentially significant environmental effects related to Cultural Resources. With implementation of Mitigation Measures CUL-1, CUL-3 and CUL-4, impacts will be less than significant.

Facts Supporting the Finding:

A small structure and irrigation ditch built prior to 1946 existed in the north of the Project area. The structure was demolished and the ditch went out of use sometime between 2005 and 2009. The demolished structure lacks the integrity to be considered a historic resource for the purposes of CEQA, and does not constitute a historical resource that will be adversely impacted by the Project. With regard to the irrigation ditch; however, the Project area is located within the boundaries of Historic District P-24-001909: The Merced Irrigation District (MID). The MID was incorporated in 1919 and consists of over 750 miles of canals that irrigate more than 110,000 acres. However, the ditch was found to not meet any of the criteria for listing in the California Register, and is therefore not considered a historic resources for purposes of CEQA. **(DEIR at 3.5-16)**.

The probability of encountering buried archaeological or paleontological resources during excavation or grading activities on the Project site was also determined to be low. However, due to the possibility that subsurface construction activities always have some potential to damage or destroy previously undiscovered historic, archaeological and paleontological resources, as well as discover human remains, Mitigation Measures CUL-1, CUL-3 and CUL-4 provide measures to address any inadvertent discoveries. With implementation of these measures and compliance with State law, impacts will be less than significant. **(DEIR at 3.5-17 to 3.5-20)**.

F. HAZARDS AND HAZARDOUS MATERIALS

Potential Effect:

The Project would have a significant effect on Hazards and Hazardous Materials if it would: create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment; emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school; be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment; for a project located within an airport land use plan, or where such a plan has not been adopted, within 2 miles of a public airport or public use airport, result in a safety hazard for people residing or working in the project area; for a project within the vicinity of a private airstrip,

result in a safety hazard for people residing or working in the project area; impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan; or expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

Finding:

The Project will not have a significant effect on the environment related to Hazards and Hazardous Materials. No mitigation is required.

Facts Supporting the Finding:

Project construction and operational activities may involve the use and transport of small quantities of hazardous materials such as fuels, oils, mechanical fluids, architectural coatings and other chemicals used during construction. Other residential and commercial end users of the Project would be expected to handle small quantities of commonly used substances such as cleaning solvents, herbicides, fertilizers, diesel, gasoline, grease/degreasers, mechanical fluids, and oil as part of daily operations. The routine use of these substances would not be considered a potential risk to human health or the environment. As such, the Project would not create a significant hazard to the public through the routine use, transport, or disposal of hazardous materials. **(DEIR at 3.6-6)**.

The proposed gas station in the southern portion of the Project site at the intersection of Campus Parkway/Coffee Street would store gasoline and diesel products in USTs. Pursuant to state regulations, all USTs would undergo pre-installation testing to verify structural integrity and employ safety features such as primary and secondary containment systems, spill containment and overfill prevention systems, and leak detection systems. All USTs would be permitted by the County of Merced. All truck drivers transporting fuel to the site would be required to possess a valid commercial driver license with requisite hazardous materials endorsements. Additionally, truck drivers would be subject to federal and state requirements that govern the safe operation of such vehicles (such as hours of service limits). Moreover, the truck units would be required to undergo regular inspection, with documentation kept on file for verification by law enforcement or regulatory agencies. Collectively, these safety requirements provide assurances that the operational activities associated with the fuel station would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. **(DEIR at 3.6-6)**.

The Project contemplates a network of new and improved roadways that would be designed and constructed in accordance with the City of Merced General Plan street section standards. This would improve emergency evacuation and response within the plan area. Individual development projects within the Master Plan area would be required to comply with the California Fire Code's access requirements, including but not limited to the provision of at least two access points suitable for use by fire apparatus. Additionally, the City of Merced actively maintains an Emergency Operations Plan, and all development projects are reviewed by the Fire Department to ensure that

emergency response is not constrained. Temporary construction activity would be expected to create temporary delays in traffic. Such delays would be typical for a construction project of this nature and would not be expected to interfere with an adopted emergency response plan or emergency evacuation plan; furthermore, construction contract provisions would require the preparation of a traffic management plan to address and minimize potential delays to emergency response plans. **(DEIR at 3.6-7).**

According to the California Department of Forestry and Fire Protection, the Project site is not located in any fire hazard zone. The areas surrounding the Project site are mostly undeveloped/vacant. There is therefore a low potential for wildland fires. **(DEIR at 3.6-7).**

The Project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5; no impact was found to occur with respect to the remaining impact areas related to accident or upset conditions; exposure of schools to hazardous materials or emissions; or location with an airport plan or within proximity to a public use airport or private airstrip. **(DEIR at 7-1 to 7-2)**.

G. HYDROLOGY AND WATER QUALITY

Potential Effect:

The Project would have a potentially significant impact on Hydrology and Water Quality if it would: violate any water quality standards or waste discharge requirements; substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted); substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site or flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; otherwise substantially degrade water quality; place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map; place structures, which would impede or redirect flood flows, within a 100-year flood hazard area, floodway, or floodplain; expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; or place structures in areas subject to inundation by seiche, tsunami, or mudflow.

Finding:

Changes or alterations have been required in, or incorporated into the Project which mitigate or avoid the potentially significant environmental effects related to Hydrology and Water Quality. Implementation of Mitigation Measure HYD-1a, HYD-1b and HYD-4 will reduce impacts to less than significant.

Facts Supporting the Finding:

The Project applicant will be required to prepare a Stormwater Pollution Prevention Plan (SWPPP) as required by Mitigation Measure HYD-1a. The implementation of this mitigation measure would ensure that potential, short-term, construction water quality impacts are reduced to a level of less than significant. **(DEIR at 3.7-9)**. With regard to operational water quality impacts, Mitigation Measure HYD-1b will require the Project applicant to submit a Stormwater Mitigation Plan (SWMP) to the City of Merced for review and approval. The SWMP would include design concepts that are intended to accomplish a "first flush" objective that would remove contaminants from the first 2 inches of stormwater before it enters area waterways, and would ensure that potential, long-term, operational water quality impacts are reduced to a level of less than significant. **(DEIR at 3.7-10)**.

The City Council acknowledges that the Merced Subbasin is currently in a state of overdraft, however, the Water Supply Assessment estimated Project water demand to be 150 acre-feet/year at buildout. For comparison purposes, "worst case" total demand for the City of Merced municipal water system service area is estimated to range from 39,977 acre-feet/year in 2020 to 54,649 acre-feet/year in 2030. Thus, the Project's demand would represent 0.3 to 0.4 percent of total citywide demand. The Water Supply Assessment indicated that adequate water supplies are expected to be available under all water year scenarios, taking into account the water demands of the Project. The Project would be required to use metered connections, and it would be required to comply with the City water efficiency requirements for landscaping and any temporary or permanent mandatory water conservation measures that are in effect. All of these requirements would serve to reduce potable water demand and, by extension, pumping from the Merced Subbasin. The City Council finds that the City of Merced has the ability to manage its municipal water supply such that it can provide adequate water supplies in periods of extended drought. The Project would not interfere with groundwater recharge. Therefore, impacts to groundwater would be less than significant. **(DEIR at 3.7-12)**.

In lieu of constructing the storm drainage facilities contemplated by the Storm Drainage Master Plan, the Project applicant will develop a storm drainage system that would convey runoff to an off-site stormwater basin located at the intersection of Mission Avenue/Coffee Street. This basin is owned and maintained by the County of Merced and was developed in conjunction with the SR-99/Campus Parkway interchange. The preliminary stormwater runoff analysis shows 615,855 cubic feet of runoff volume that will be conveyed through drainage bioswales into inlets that will be equipped with catch basin filters and piped to the existing basin. Pursuant to the County's drainage design standards, the applicant would be required to excavate the basin to increase capacity to meet the design standard of accommodating a 100-year storm plus 20 percent over capacity. This would be equivalent to 13.6 acre-feet. Collectively, these measures would serve to slow, reduce, and meter the volume of runoff leaving the Project site and ensure that downstream storm drainage facilities are not inundated with Project-related stormwater. **(DEIR at 3.7-13 to 3.7-14)**.

As indicated in Merced Vision 2030 General Plan Figure 11.5, the entire Project site is located in a 100-year flood hazard area. In accordance with federal law, all Project buildings in a flood zone would need to have the finished floor a minimum of 1-foot above the 100-year flood elevation.

This requirement is reflected in Mitigation Measure HYD-4 and would reduce impacts to a level of less than significant. **(DEIR at 3.7-14)**.

Merced Vision 2030 General Plan Figure 11.3 indicates that the Project site is not within the dam failure inundation area of either Bear Reservoir or Yosemite Lake. This condition precludes the possibility of the Project exposing people or structures to risks associated with flooding from dam failure. Additionally, the Project site is not protected by any levees, a condition that precludes the possibility of the Project exposing people or structures to risks associated with flooding from levee failure. **(DEIR at 3.7-15)**.

H. LAND USE AND PLANNING.

Potential Effect:

The Project would have a significant effect related to Land Use if it would: physically divide an established community; conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or conflict with any applicable habitat conservation plan or natural communities conservation plan.

Finding:

The Project will not have a significant effect on the environment related to Land Use. No mitigation is required.

Facts Supporting the Finding:

The Master Plan boundaries encompass approximately 77 acres and contain undeveloped properties contemplated for high- to medium-density residential and regional commercial development. The established community to the north and west of the Master Plan area includes residential uses as well as an elementary school. Vacant lands to the south and east are designated for commercial and business park use. Implementation of the Master Plan will not limit access to the established community. Additionally, the Master Plan would also be consistent with the General Plan, which provides for the logical and orderly growth of the Plan Area, includes land uses that are compatible with surrounding land uses, and is consistent with goals, policies, and programs of the General Plan including identified densities and phasing. **(DEIR at 3.8-4).**

The Master Plan complies with the land uses and intensity of uses allowed under the General Plan. In addition, the Master Plan conforms to the goals identified in the General Plan. Implementation of the Master Plan would be in accordance with the General Plan's policies to maintain and enhance the quality of the City's residential neighborhoods, increase economic and business development, as well as encourage urban growth and design. **(DEIR at 3.8-5)**.

According to the General Plan, the Master Plan area is not located within an adopted or proposed conservation plan area. There would be no impact to an adopted or proposed habitat conservation plan or natural communities conservation plan. **(DEIR at 3.8-11)**.

I. NOISE.

Potential Effect:

The Project would result in a significant noise impact if it would: expose persons to, or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; expose persons to, or generate excessive groundborne vibration or groundborne noise levels; result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project; result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project; for a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels; or for a project within the vicinity of a private airstrip, expose people residing or working in the project area to excessive noise levels.

Finding:

Changes or alterations have been required in, or incorporated into the Project which mitigate or avoid the potentially significant environmental effects related to Noise. Implementation of Mitigation Measures NOI-1 and NOI-2 will reduce impacts to less than significant.

Facts Supporting the Finding:

Restrictions on the permissible hours of construction, as well as implementation of industry standard noise-reducing best management practices as required under Mitigation Measure NOI-1 would reduce construction noise impacts to acceptable levels. **(DEIR at 3.9-14)**. Likewise, Mitigation Measure NOI-2 will reduce operational traffic impacts to future residential and hotel uses to an acceptable level. Specifically, the Project will incorporate a minimum 8-foot-high sound wall along Gerard Avenue bordering the proposed residential land use portion of the Project. In addition, the hotel and all proposed residential units with a direct line of sight to Gerard Avenue would require an alternative ventilation system, such as air conditioning, to ensure that windows can remain closed for a prolonged period of time in order to meet the interior noise standard. No other operational noise sources would require mitigation to maintain noise at acceptable levels. **(DEIR at 3.9-14 to 3.9-19)**.

Due to the distance of receptors from the site, groundborne vibration levels would attenuate to below 0.03 in/sec PPV from operation of a large vibratory roller at the nearest Project construction footprint. This vibration level is well below the industry standard vibration damage criteria of 0.2 in/sec PPV for buildings of this type of construction, and groundborne vibration impacts would be less than significant. **(DEIR at 3.9-20)**. Long-term operational noise associated with implementation of the Project would not result in a substantial permanent increase in ambient noise

levels, and the Project would not result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project with implementation of Mitigation Measure NOI-1. **(DEIR at 3.9-21 to 3.9-22)**.

J. PUBLIC SERVICES AND UTILITIES.

Potential Effect:

The Project would have a significant impact on Public Services and Utilities if it would: result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection; police protection; schools; parks; libraries, or other public facilities; exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board; require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; require new or expanded water entitlements; result in a determination by the wastewater treatment provider, which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; be served by a landfill without sufficient permitted capacity to accommodate the project's solid
waste disposal needs; not comply with federal, state, and local statutes and regulations related to solid waste; or result in inefficient, wasteful, or unnecessary consumption of energy.

Finding:

Changes or alterations have been required in, or incorporated into the Project which mitigate or avoid the potentially significant environmental effects related to Public Services.

Facts Supporting the Finding:

According to the Merced Fire Department 2014 Annual Report, the department reported general response times of 4 minutes and 55 seconds, which meets the goal of first response in 4 to 6 minutes as established in the Fire Department Facilities Master Plan. The Project would not cause response times to increase to unacceptable levels. The Master Plan represents planned growth as stated in the Urban Expansion chapter in Merced's General Plan. An implementing action states the City will adequately plan for public improvements/services, including fire protection, to support designated land uses for all areas as they become suitable for development (Merced Vision 2030 General Plan 2015). The City will expand fire protection personnel and facilities as needed to support the growing population. Development impact fees imposed on the Project will help to remodel and construct new fire protection services. Fees, updated January 1, 2016, amounting to $7,283 per 1,000 square feet for commercial uses and $3,332 per dwelling unit for residential uses would be applied to the Project, totaling $4,970,179. As the City grows, these fees, subject to annual increases, will fund needed public facilities and infrastructure.

Along with expected growth of fire protection personnel and facilities, the Master Plan includes a proposed site for a future 9,000 square foot fire station that will serve the area and will be located in the north of the site adjacent to Gerard Avenue. This location, combined with the future development of a station, will provide fire protection and emergency service to the site area, and has access to SR-99 for quick response to other areas located near the Master Plan area. The Project would not create a need for an expansion of any existing fire protection facilities, as it will provide a site for an addition of a new fire station within the Master Plan Area. **(DEIR at 3.10-12 to 3.10-13)**.

The current Merced Police Department response times meet accepted standards, and the Police Department has reported that the Project would not cause response times to increase to unacceptable levels. The Project is within the growth projections the City has provided and police services will grow as the City's sphere of influence grows. Development impact fees imposed on the Project will help to remodel and construct new police protection services. Fees, updated January 1, 2016, amounting to $7,283 per 1,000 square feet for commercial uses and $3,332 per dwelling unit for residential uses would be applied to the Project, totaling $4,970,179. As the City grows, these fees, subject to annual increases, will fund needed public facilities and infrastructure. **(DEIR at 3.10-13 to 3.10-14)**.

The uses associated with the Project were accounted for by the Merced Vision 2030 General Plan, which currently designates the Project site as "Medium to High Density Residential" and "Regional Community Commercial." Although the Project would change the acreage allocations of these designations (increasing the amount of commercial acreage by 12 acres and reducing the amount of residential acreage by approximately 12 acres), the Master Plan would include a 178-unit, multi-family residential complex (21 units per acre), which results in a total number of units consistent with the anticipated unit count in the General Plan. The site was contemplated for this type of development by the General Plan, and, therefore, the future number of water service connections and future potable water usage was indirectly accounted for by the General Plan and UWMP. Therefore, impacts related to the need for new or expanded potable water facilities would be less than significant. **(DEIR at 3.10-14 to 3.10-15)**.

The City does not rely on recycled water as a regular source of water and does not have the capability or infrastructure to use it for widespread irrigation. The recycled water that is used is collected from the wastewater treatment plant (WWTP) for limited agricultural use and wildland management. In response to the recent drought years, the City has begun to use its treated water for irrigation for public parks. The Master Plan involves the use of drought-tolerant landscaping design to limit water use throughout the site area. Climate-appropriate, drought-tolerant species are required, and ornamental and specialty plant materials may supplement the drought-tolerant plant palette. A water budget will be developed to conform to Merced's local water landscape ordinance or with the California Department of Resources Model Water Efficient Landscape Ordinance, whichever is more stringent. The use of permeable paving will help to reduce runoff and replenish water supply within the site area. Overall, the Master Plan will use water-restricting methods in order to reduce the use of potable water wherever possible. This will limit the need for recycled water, and impacts will be less than significant. **(DEIR at 3.10-16)**.

Wastewater generated by the proposed uses in the Master Plan area will be treated by the WWTP. Based on a factor of 90 percent of potable water usage, the wastewater expected to be produced by the site would equal 12,052 gallons per day, less than 1 percent of the plant's current capacity of 12 million gallons per day (mgd). According to the WWTP, only about 6.5 to 7 mgd are being treated by the plant per day; therefore, there is immediate capacity for the Project's wastewater. Discharge of wastewater from the Project will not exceed the current or future capacity of the WWTP, and, physical impacts will be less than significant. **(DEIR at 3.10-17)**.

In lieu of constructing the storm drainage facilities contemplated by the Storm Drainage Master Plan, the Project applicant will develop a storm drainage system that would convey runoff to an off-site stormwater basin located at the intersection of Mission Avenue/Coffee Street. This basin is owned and maintained by the County of Merced and was developed in conjunction with the SR-99/Campus Parkway interchange. The preliminary stormwater runoff analysis shows 615,855 cubic feet of runoff volume that will be conveyed through drainage bioswales into inlets that will be equipped with catch basin filters and piped to the existing basin. Pursuant to the County's drainage design standards, the applicant would be required to excavate the basin to increase capacity to meet the design standard of accommodating a 100-year storm plus 20 percent over capacity. This would be equivalent to 13.6 acre-feet. The City will require the Project's drainage plan to meet performance standards so that the amount of water leaving the site will not exceed the capacity of the storm drain basin. In addition, up to 20 bioswales equipped with catch basins will be included throughout the site to filter pollutants and limit runoff volume. Collectively, these measures would serve to slow, reduce, and meter the volume of runoff leaving the Project site and ensure that downstream storm drainage facilities are not inundated with Project-related stormwater. **(DEIR at 3.10-18)**.

The overall design capacity of the Highway 59 landfill is currently 30,012,352 cubic yards, of which 24,000,000 cubic yards of unused capacity was available as of 2014. Currently, the peak tonnage per day allowed is 1,500 tons per day. The construction and operational waste generation of the Project are well within the available capacity of the Highway 59 Landfill. **(DEIR at 3.10-19)**.

All new residential and non-residential development within the Master Plan boundaries would be subject to the latest adopted edition of the Title 24 energy efficiency standards, which are among the most stringent in the United States. As such, implementation of the Master Plan would not result in the unnecessary, wasteful, or inefficient use of energy. **(DEIR at 3.10-20)**.

V. FINDINGS REGARDING CUMULATIVE ENVIRONMENTAL EFFECTS WHICH ARE NOT SIGNIFICANT OR WHICH HAVE BEEN MITIGATED TO A LESS THAN SIGNIFICANT LEVEL.

Pursuant to Section 15130 of the CEQA Guidelines, the following Findings and statements of fact identify potentially significant cumulative impacts and the Project's incremental contribution to the impacts discussed in the EIR, in the context of the relevant geographical scope. For the following environmental resource areas, the Project's incremental effect is not cumulatively considerable, and no cumulatively significant impact will occur.

A. AESTHETICS, LIGHT AND GLARE.

Potential Effect:

Other land development projects proposed or under construction in the southern portion of the City of Merced and the adjacent unincorporated area surrounding the project site, have the potential to result in cumulative impacts to Aesthetics, Light and Glare.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant impact to Aesthetics, Light and Glare.

Facts Supporting the Finding:

Much of the surrounding area was developed relatively recently in compliance with the General Plan and the City's current Municipal Code requirements related to design and visual character. Compliance with these standards, as well as the City's review and approval role in the planning process, has ensured a visually compatible and cohesive development pattern in the surrounding area. Therefore, there is currently no existing cumulatively significant visual aesthetic impact within the Project area.

The Project would be developed in several phases over a 10-year period. The Project would feature buildings as high as 60 feet above finished grade. Using site planning techniques such as setbacks, structure placement, and landscaping, the visual appearance of the Project would be compatible with its surroundings. Residential buildings would be allowed to up 60 percent lot coverage, while commercial buildings would be allowed up to 35 percent lot coverage. The building heights and lot coverage limits of the Project would be similar to other developments in Merced. Buildout of the Master Plan, in conjunction with cumulative development contemplated by the City of Merced General Plan, would result in changes to scenic vistas, views from State Route 99, visual character, and light and glare. However, the incremental changes that would occur relative to the baseline conditions would not be cumulatively considerable because of the extent and nature of existing development in Merced and that envisioned in the City's General Plan. Moreover, the Master Plan contains development standards to guide the shape and form of new development in a manner that would be compatible with surrounding land uses and the vision set forth in the City of Merced General Plan. Additionally, development proposals would be reviewed by the City to ensure consistency with architectural standards and lighting requirements. Therefore, the Master Plan, in conjunction with other future development projects, would not have cumulatively considerable impacts associated with aesthetics, light, and glare.

B. AGRICULTURAL RESOURCES.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative impacts to Agricultural Resources to the south and east of the Project site.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant impact to Agricultural Resources.

Facts Supporting the Finding:

The Project development will result in the loss of 77.5 acres of Farmland of Local Importance. The EIR prepared for the City of Merced's General Plan acknowledged a significant and unavoidable impact related to the loss of prime farmland that would occur with General Plan buildout. This is an existing cumulatively significant impact that would exist even without the Project. The Project site is located within the City's Urban Influence zone and has been designated for urban uses by the General Plan, and the surrounding unincorporated areas of farmland have also been designated for urban uses by the City's General Plan. Therefore, the Project would not make a cumulatively considerable contribution to the loss of prime farmland that was not already accounted for by the General Plan EIR and associated Statement of Overriding Considerations adopted by the City.

C. AIR QUALITY AND GREENHOUSE GAS EMISSIONS.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative impacts to Air Quality and Greenhouse Gas Emissions in the San Joaquin Valley Air Basin.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant impact to Air Quality and Greenhouse Gas Emissions.

Facts Supporting the Finding:

The Project's construction emissions would not exceed SJVAPCD daily emissions thresholds. Construction activities associated with other development projects would make an inconsiderable contribution to cumulative emissions because the expected timing of those activities likely would

overlap minimally with the Project, if at all. To the extent that construction periods do overlap, the SJVAPCD recommends that if it appears that the level of activity may cause an adverse impact, the Lead Agency should require the imposition of enhanced dust control measures. It is reasonable to assume that all other projects would impose similar mitigation, pursuant to SJVAPCD guidance. Therefore, it is reasonable to conclude that construction emissions from the Project would not combine with emissions from other development projects to cause cumulatively considerable air quality impacts. The Project's operational emissions would not exceed the SJVAPCD's significance thresholds for criteria pollutants for which the Project region is in nonattainment, after mitigation. The SJVAPCD thresholds are designed to capture nearly all sources of emissions in the air basin, and thus are not only very conservative, but are intended to address a cumulative scenario. Because the Project's operational emissions would not exceed any SJVAPCD thresholds, its air emissions would be within the regional air emissions budget and, therefore, can be assumed not to be cumulatively considerable.

The Project, when combined with emissions from neighboring emission sources would not expose sensitive receptors to significant pollutant levels. Emissions from the Project, the existing development on the Project site, and from nearby roadways would not cause a localized exceedance of health based air quality standards for carbon monoxide and oxides of nitrogen. The analysis also demonstrated that cumulative PM_{10} and $PM_{2.5}$ emissions would not contribute significantly to existing violations of PM_{10} and $PM_{2.5}$ standards as defined by EPA significant impact level thresholds for these pollutants. The Project has no significant air quality impacts after mitigation. Other projects that result in similar impacts would be required to mitigate for their impact. Because the Project can mitigate all its air quality impact to a level of less than significant, it would have no significant cumulative impact on air quality. Greenhouse gas emissions are inherently a cumulative impact, as no single project could produce a quantity of greenhouse gas emissions significant enough to influence global climate change.

The Project will be consistent with the City of Merced's CAP. In addition, the Project is planned to improve pedestrian, bike, and transit orientation that would reduce overall growth in VMT generation in the City by increasing use of alternative modes of travel in the plan area. Therefore, the Project would not significantly contribute to a cumulative greenhouse gas impact.

D. BIOLOGICAL RESOURCES.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative impacts to Biological Resources.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other developments, will not result in a cumulatively significant impact to Biological Resources.

Facts Supporting the Finding:

The Master Plan Project site contains undeveloped land. Overall, the Master Plan area is considered a suburban environment because it is at the edge of the developed areas of the City of Merced and is bordered to the south and east by open, formerly agricultural land. The burrowing owl (a California Species of Special Concern) and nesting birds protected by the Migratory Bird Treaty Act (MTBA) are the only special-status species with the potential to occur within the Master Plan area. Development activities associated with the Merced Gateway Master Plan, as well as other future development projects in the area, may impact burrowing owls and nesting birds. Standard pre-construction surveys and, if necessary, avoidance procedures would be required for any project with the potential to affect burrowing owl and nesting birds. Therefore, the Project, in conjunction with other future development projects, would not have cumulatively considerable impacts on biological resources.

E. CULTURAL RESOURCES.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative impacts to Cultural Resources.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant impact to Cultural Resources.

Facts Supporting the Finding:

No known impacts to historic, archaeological, or paleontological resources have occurred in the Project vicinity as a result of past or current projects, and there is no existing cumulatively significant impact related to cultural resources. The Master Plan area contains a mix of suburban development and undeveloped land. Development activities associated with the Project, as well as other future development projects in the Merced Gateway Master Plan area, would result in ground-disturbing activities that may encounter previously undiscovered cultural resources. Standard construction monitoring and, if necessary, avoidance or recovery procedures would be required for any project with the potential to adversely affect cultural resources. Therefore, the Project, in conjunction with other future development projects, would not have cumulatively considerable impacts associated with cultural resources.

F. GEOLOGY, SOILS AND SEISMICITY.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative impacts to Geology, Soils and Seismicity.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant impact to Geology, Soils and Seismicity.

Facts Supporting the Finding:

Development in the Project vicinity has not included any uses or activities which would result in geology, soils or seismicity impacts (such as mining or other extraction activities), and there is no existing cumulatively significant impact. The Master Plan area contains a mix of urban development and undeveloped land. There are no known geologic hazards within the Master Plan area (active faults, liquefaction zones, steep slopes, etc.). Development activities associated with the Project as well as other future development projects in the Master Plan area would be required to comply with building code standards for foundations and structures to ensure that buildings are adequately supported to withstand seismic events and abate any unstable soil conditions. In addition, other future development would be required to implement standard erosion control measures to ensure that ground-disturbing activities do not create off-site hazards. Therefore, the Project, in conjunction with other future development projects, would not have cumulatively considerable impacts associated with geology, soils, and seismicity.

G. HAZARDS AND HAZARDOUS MATERIALS.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative impacts to Hazards and Hazardous Materials.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant impact to Hazards and Hazardous Materials.

Facts Supporting the Finding:

Hazards and hazardous materials are extensively regulated at the federal, state, and local levels. There are no land uses in the Project vicinity that are known to utilize large quantities of hazardous materials or involve hazardous activities, and there is no existing cumulatively significant impact. The Project would not have significant impacts associated with hazards or hazardous materials, as there is no evidence of contamination from past uses or project characteristics that involve the routine handling of large quantities of hazardous materials. Other development projects that have become contaminated from past uses, project characteristics that involve the routine handling of

large quantities of hazardous materials, or airport incompatibility issues would be required to mitigate for their impacts. Because hazards and hazardous materials exposure is generally localized and development activities associated with other cumulative development projects may not coincide with the Project, this effectively precludes the possibility of cumulative exposure.

H. HYDROLOGY AND WATER QUALITY.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative impacts to Hydrology and Water Quality.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant impact to Hydrology and Water Quality.

Facts Supporting the Finding:

The nature and types of surrounding development, existing stormwater infrastructure, and regulatory requirements have ensured that no cumulatively significant impacts related to water pollutants or flooding exist within the Project vicinity. The Project site is located within a 100-year flood hazard area. Mitigation Measure HYD-4 will require building plans to comply with Merced Code of Ordinances Chapter 17.48, which includes requirements for anchoring, construction materials and methods, elevation, and floodproofing. Other projects that propose new development in flood hazard areas would be required to implement similar mitigation in accordance with adopted regulations. The required mitigation would reduce the Project's contribution to any significant cumulative flooding impact to less than cumulatively considerable.

The Project would involve short-term construction and long-term operational activities that would have the potential to degrade water quality in downstream water bodies. Mitigation Measures HYD-1a and HYD-1b would require implementation of various construction and operational water quality control measures that would prevent the release of pollutants into downstream waterways. Other projects that propose new development would be required to implement similar mitigation measures in accordance with adopted regulations. The required mitigation would reduce the Project's contribution to any significant cumulative water quality impact to less than cumulatively considerable. All other Project-related hydrology impacts (e.g., groundwater and drainage) were found to be less than significant and did not require mitigation.

I. LAND USE.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative impacts to Land Use.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant impact to Land Use.

Facts Supporting the Finding:

Development within the City of Merced is governed by the City's General Plan and Municipal Code, which ensure logical and orderly development and require discretionary review to ensure that projects do not result in land use impacts due to inconsistency with the General Plan and other regulations. As a result, there is no existing cumulatively significant land use impact. Therefore, the Project, in conjunction with other future development projects, would not have cumulatively considerable land use impacts.

J. NOISE.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative Noise impacts.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant Noise impact.

Facts Supporting the Finding:

Construction noise would result in temporary increases in ambient noise levels, and mitigation would require implementation of noise control measures during construction activities. Because construction would be temporary, ambient noise levels would not experience a permanent increase; therefore, no cumulatively considerable increase would occur. Other planned and approved projects would be required to evaluate construction noise impacts and implement mitigation, if necessary, to minimize noise impacts pursuant to local regulations. In addition, the timing of construction activities associated with other development projects would overlap minimally, if at all, with the Project. Furthermore, because noise is a highly localized phenomenon, even if construction activities did overlap in time with the Project, distance would diminish any additive effects. Construction noise would generally be limited to daytime hours and would be short-term in duration. Therefore, it is reasonable to conclude that construction noise from the Project would not combine with noise from other development projects to cause cumulatively significant noise impacts.

Vehicular trips generated by the Project would not cause ambient noise levels along any affected roadway segment to exceed acceptable noise standards for sensitive receptors under Existing Plus Project or 2035 conditions. Therefore, the Project would not have a cumulatively considerable impact related to increased ambient noise levels on nearby roadways. Residential uses proposed within and adjacent to the Master Plan site would be exposed to noise levels above acceptable noise standards before mitigation. Mitigation would include an 8-foot soundwall to be constructed along Gerard Avenue bordering the proposed residential land use portion of the Project, and for an alternative ventilation system for the hotel and any residential development within the Master Plan site to allow windows to be kept closed so that interior noise standards would be met, reducing the impact to less than significant with mitigation. The Project will not result in potentially significant construction and operational vibration to off-site and on-site sensitive receptors. Off-site and on-site sensitive receptors would not be exposed to significant sources of vibration, and impacts would not be cumulatively considerable. Because vibration is a highly localized phenomenon, there would be no possibility for vibration associated with the Project to combine with vibration from other projects because of their distances from the Project site. Therefore, Project, in conjunction with other future development projects, would not have cumulatively considerable noise impacts.

K. PUBLIC SERVICES AND UTILITIES.

Potential Effect:

Other land development projects proposed or under construction in the area, in combination with the Project, have the potential to result in cumulative impacts to Public Services and Utilities.

Finding:

Changes or alterations have been required in, or incorporated into the Project, which mitigate or avoid significant environmental effects. The Project, in conjunction with other development projects, will not result in a cumulatively significant impact to Public Services and Utilities.

Facts Supporting the Finding:

The Merced Gateway Master Plan uses and other future development projects would increase demands for fire protection and police protection. The Project would be required to provide development fees to finance capital improvements to the facilities to maintain acceptable service ratios and performance standards. Additionally, the Merced Gateway Master Plan would provide a fire station site. Future facilities would be sized to accommodate increased demands resulting from planned growth. The Project will increase demands for police protection but will pay development fees to maintain acceptable service ratios and performance standards, as will other projects. Therefore, the Project, in conjunction with other future development projects, would not have cumulatively considerable impacts to fire protection, emergency medical services, and police protection.

The Water Supply Assessment prepared for the Project concluded that MID has adequate potable and recycled water supplies to serve the Project as well as other existing and future users. Therefore, there would be no existing cumulatively significant impact related to potable water supply.

The Project is estimated to demand 150 acre-feet per year (afy) of potable water for residential, commercial, and landscape uses. The City projects normal-year demand usage to increase from 23,660 afy in 2010 to 44,419 afy in 2030. The City's Urban Water Management Plan found that sufficient water supply is available to meet this demand, as well as the needs of the service area. Therefore, the Project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to water supply.

All future projects would be required to demonstrate that sewer service is available to ensure that adequate sanitation can be provided. The Project is estimated to generate 12,052 gallons of wastewater on a daily basis (0.012 mgd). The Project site is served by the City of Merced's Wastewater Treatment Plant, which has a daily treatment capacity of 10.0 mgd. As such, the City's Wastewater Treatment Plant would be expected to accommodate the Project's increase in effluent without needing to expand existing or construct new facilities, as the treatment capacity is sufficient to serve both the Project and planned future development in the area. Therefore, the Project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to wastewater.

All future development projects in the Project vicinity would be required under existing regulations to provide drainage facilities that collect and detain runoff such that off-site releases are controlled and do not create flooding. The Project would install a storm drainage system consisting of street gutters, inlets, on-site and off-site basins, and underground piping that would ultimately convey runoff to the municipal storm drainage system. The drainage system would be designed to reduce the peak flows generated in the developed condition to the peak flows in the pre-development condition. This would ensure that the Project would not contribute to downstream flooding conditions during peak storm events. As such, the Project would ensure that no net increase in stormwater would leave the Project site during a peak storm event, and would avoid cumulatively significant stormwater impacts to downstream waterways at times when capacity is most constrained. Stormwater facilities in the Project vicinity either have or will be required to have capacity to serve both the Project and planned future development in the service area. Increases in runoff flow and volume from future development must be managed so that the post-project runoff does not exceed estimated pre-project rates and durations, in accordance with Municipal Regional Permit Provision C.3.g. Therefore, the Project, in conjunction with other planned and approved projects, would not have a cumulatively significant impact related to storm drainage.

Future development projects would generate construction and operational solid waste and, depending on the volumes and end uses, would be required to implement recycling and waste reduction measures. The Project is anticipated to generate 3,268 cubic yards of solid waste during construction and 4,032 cubic yards annually during operations. The overall design capacity of the Highway 59 landfill that would serve the Project is currently 30,012,352 cubic yards, of which 24,000,000 cubic yards of unused capacity is available as of 2014. Currently, the peak tonnage per

day allowed is 1,500 tons per day, and the Highway 59 landfill is anticipated to have adequate capacity until at least 2030. Accordingly, the Project, in conjunction with other future projects, would not have a cumulatively significant impact related to solid waste.

Future development projects in the PG&E service area would be required to comply with Title 24 energy efficiency standards. The Project would demand an estimated 10.5 million kilowatt-hours of electricity and 43.5 million cubic feet of natural gas on an annual basis. The Project's structures would be designed in accordance with Title 24, California's Energy Efficiency Standards for Residential and Nonresidential Buildings. These standards include minimum energy efficiency requirements related to building envelope, mechanical systems (e.g., heating, ventilation, and air conditioning and water heating systems), indoor and outdoor lighting, and illuminated signs. The incorporation of the Title 24 standards into the Project would ensure that the Project would not result in the inefficient, unnecessary, or wasteful consumption of energy. Therefore, the Project, in conjunction with other future projects, would not have a cumulatively significant impact related to energy consumption.

VI. FINDINGS REGARDING SIGNIFICANT ENVIRONMENTAL EFFECTS WHICH CANNOT BE FULLY MITIGATED TO A LESS THAN SIGNIFICANT LEVEL.

A. TRANSPORTATION (PROJECT-LEVEL AND CUMULATIVE).

Potential Effect:

The Project would have a significant impact related to Transportation and Circulation if it would: exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit; conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways; result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks; substantially increase hazards due to a design feature or incompatible uses; result in inadequate emergency access; conflict with adopted policies, plans or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks).

Finding:

Although all feasible changes or alterations have been required in, or incorporated into the Project to mitigate or avoid significant environmental effects, the Project will nonetheless result in a significant and unavoidable cumulative impact related to Transportation.

Facts Supporting the Finding:

Even after all feasible mitigation (Mitigation Measures TRANS-1a to TRANS-1g), the following intersections would have operated at unacceptable LOS under Existing Plus Project conditions, if the originally proposed Project were carried out to amend the Circulation Element and eliminate the planned extension of Pluim Drive: Campus Parkway/Coffee Street, Campus Parkway/Central Access, and Coffee Street/South Access.

In addition, the originally proposed Project would have contributed new trips to intersection and roadway segments that would operate at unacceptable levels during Existing Plus Approved Projects Plus Project conditions. Feasible mitigation (Mitigation Measures TRANS-1a to TRANS-1g and TRANS-2) would improve operations at some—but not all— facilities. Additionally, certain facilities are outside the jurisdictional control of the City of Merced, and, therefore, uncertainty exists regarding whether the improvements would be implemented as contemplated. The identified improvements would have still resulted in LOS F at the Coffee Street/Central Access intersection during the Saturday peak hour. This location is a right turn only, and further improvement is not feasible as all-way stop control and traffic signalization cannot be installed near the Coffee Street/Campus Parkway intersection. Similarly, the Coffee Street/South Access intersection was projected to operate at LOS F in the AM, PM, and Saturday peak hours. This location is right turn only, and further improvement is not feasible as all-way stop control and traffic signalization cannot be installed near the Coffee Street/Campus Parkway intersection. The SR-99 SB Ramps and NB Ramps, and the Coffee Street/Campus parkway intersection would all remain in an LOS F condition. No identified improvement would change the LOS at the Childs Avenue/Parsons Avenue intersection, so it would remain at LOS F in the AM peak hour. Even after all feasible improvements, the following intersections would have operated at unacceptable LOS under Existing Plus Approved Projects Plus Project conditions under the originally proposed project: Childs Avenue/Parsons Avenue, Campus Parkway/Coffee Street, Mission Ave/SB SR-99 ramps, Mission Ave/NB SR-99 ramps, Coffee Street/Central Access, and Coffee Street/South Access. **(DEIR at 3.11-98)**.

Under Cumulative 2035 conditions, the following intersections would have operated at unacceptable LOS even after implementation of the aforementioned improvements and mitigation measures, in addition to the payment of impact fees pursuant to Mitigation Measure TRANS-3a for improvements to the intersection of Childs Avenue/Parsons Avenue, and widening Coffee Street between Campus Parkway and Mission Avenue to four lanes pursuant to Mitigation Measure TRANS 3-b: Campus Parkway/Coffee Street, Mission Ave/SB SR-99 ramps, Mission Ave/NB SR-99 ramps, Campus Parkway/Central Access, Coffee Street/Central access, and Coffee Street/South Access. **(DEIR 3.11-135)**.

A significant and unavoidable impact would have also occurred to roadway facilities that are under the jurisdiction of the Merced County Regional Transportation Plan: SR-99, Campus Parkway, and Mission Avenue. Specifically, impacts would have occurred to the following intersections of these facilities: Mission Ave/SB SR-99 ramps, Mission Ave/NB SR-99 ramps, Campus Parkway/Coffee Street intersection, and travel speed on Mission Avenue/Campus Parkway. **(DEIR at 3.11-136)**.

In contrast, adoption of the Circulation Element Alternative would build out the same amount and type of development as the proposed project and therefore would generate the same amount of vehicle trips. However, these trips would be distributed on the roadway diagram shown in the Circulation Element of the Merced General Plan. Under this alternative, the Circulation Element of the General Plan would not be amended to eliminate a planned extension of Pluim Drive (collector level street) along the east side of the site. The Circulation Element Alternative, with proposed mitigation, would result in zero intersections operating at level of service (LOS) E or F in the Existing Plus Merced Gateway condition, and two in the 2035 Cumulative condition (Coffee Street/Central Access and travel speed on Mission Avenue/Campus Parkway). This level of impact would be less than the originally proposed Project. (DEIR at 5-6).

Mitigation Measures TRANS-1a, TRANS-1c, TRANS-1d, TRANS-1e, and TRANS-1g as described above would still be required for the Circulation Element Alternative.

Implementation of Mitigation Measure TRANS-5 would have ensured that the Project design did not substantially increase hazards due to a design feature, by requiring the Project applicant to retain a qualified engineer to design the Parsons Avenue extension between Coffee Street and the eastern boundary of the Project to be capable of handling commercial trucks. The roadway improvement plans shall be submitted to the City of Merced for review and approval. The Parsons Avenue extension shall be completed by the time of issuance of the first certificate of occupancy for the North commercial area. This mitigation is not required for the Circulation Element Alternative.
No conflicts with nearby at-grade railroad crossings are anticipated to occur. All uses within the Project site would be served with two or more vehicular access points in accordance with California Fire Code requirements **(DEIR at 3.11-137 to 3.11-138)**.

Mitigation Measure TRANS-1a, in combination with Mitigation Measures AIR-7a and AIR-7b will ensure a safe and convenient pedestrian environment by providing an enhanced pedestrian crossing on Coffee Street/Gerard Street, a protected multi-use path on Gerard Avenue connecting Daffodil with the Project's main driveway on Gerard Avenue, and connectivity between public sidewalks and private sidewalks on the Project site. Therefore, the Project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. **(DEIR at 3.11-139)**.

VII. FINDINGS REGARDING PROJECT ALTERNATIVES.

These Findings and Statements of Fact regarding Project alternatives and certain mitigation measures identified in the Final EIR are set forth to comply with Section 21002 of the Public Resources Code and Sections 15091(a)(3) and 15126.6 of the CEQA Guidelines. Three alternatives to the Project were analyzed and considered as follows: 1) No Project Alternative; 2) Circulation Element Alternative; and 3) Less Intense Alternative. These alternatives constitute a reasonable range of alternatives necessary to permit a reasoned choice. For the reasons set forth below, Alternatives A and C are rejected as infeasible for the specific economic, legal, social,

technological, or other considerations set forth below, and Alternative B is hereby adopted for the reasons stated herein.

A. NO PROJECT ALTERNATIVE.

Description:

Under the No Project/No Build Alternative, the Merced Gateway Master Plan would not be implemented. The General Plan and zoning designations would remain the same, no planned development designation would be applied, and no development would occur within the Master Plan boundaries. The Plan Area would thus be left in its undeveloped state for the foreseeable future. No disturbance or new development would occur on the Project site, thereby eliminating the potential for impacts associated with aesthetics, light and glare; air quality and greenhouse gas emissions; biological resources; cultural resources; hazards and hazardous materials; hydrology and water quality; land use; noise; public services and utilizes; and transportation. Accordingly, this alternative would avoid all of the Project's significant impacts (including significant and unavoidable impacts), as well as the need to implement any mitigation measures.

Finding:

The No Project Alternative is rejected, because it would not meet any of the Project objectives.

Facts Supporting the Finding:

This alternative would not advance any of the project objectives, including those related to promoting economic development, providing new housing opportunities, expanding the tax base, or reserving a site for a fire station to expand fire protection services to this area of Merced.

B. CIRCULATION ELEMENT ALTERNATIVE.

Description:

The Circulation Element Alternative consists of building the Merced Gateway Master Plan with the same uses and square footage, but incorporating the roadway improvements envisioned in the Merced General Plan for access to the Project site instead of the roadway improvements proposed under the Project. The General Plan assumes that the roadblock on Coffee Street north of Parsons Avenue would remain in place, and that movements at the Campus Parkway/Coffee Street intersection would be limited (i.e., no North-south cross traffic or left turns.) The Circulation Element Alternative also assumes that the Campus Parkway/Pluim Drive intersection will be created with separate left turn, right turn and through lanes on each new approach, and that traffic will be controlled by a traffic signal.

Finding:

The Circulation Element Alternative is hereby adopted, because it would reduce the significant and unavoidable transportation impacts that would occur under the Project.

Facts Supporting the Finding:

The Circulation Element Alternative would have fewer significant and unavoidable impacts to traffic than the Project, although it would result in significant, unavoidable impacts at two intersections (compared with six intersections of the Project). All other environmental topical areas would have similar impacts. In addition, the Project applicant has since modified the Project description to reflect access as contemplated by the Circulation Element Alternative, pursuant to an agreement with the adjoining property owner. The Circulation Element Alternative meets all Project objectives, particularly the objective of providing convenient internal circulation, while also minimizing access conflicts between the residential and commercial uses.

C. LESS INTENSE ALTERNATIVE.

Description:

This alternative would reduce the commercial use on the site by 25 percent, or 150,281 square feet (from 601,127 square feet to 450,846 square feet), and would reduce the number of multi-family housing units from 178 to 134. The 150,281 square feet removed from commercial development and the undeveloped land in the residential parcel would be maintained as open space and public areas throughout the Project site. The planning areas described correspond to the planning areas comprising the Merced Gateway Master Plan.

Finding:

The Less Intense Alternative is rejected, because it would not fully meet the Project objectives.

Facts Supporting the Finding:

The Less Intense Plan Alternative would lessen the severity of, but would not avoid, the significant and unavoidable transportation impacts associated with the Project. Although this alternative would reduce the total number of trips generated by commercial uses onto the local roadway system by 25 percent, it would still result in unacceptable level of service on surrounding roadways, specifically Coffee Street. The Less Intense Plan Alternative would advance all of the Project objectives, but to a lesser degree than the Project because of the reduction in new dwelling units and nonresidential development. This includes objectives related to promoting economic development, providing new housing opportunities, and expanding the tax base; and establishing a land use plan to guide development within the Master Plan area.

VIII. STATEMENT OF OVERRIDING CONSIDERATIONS.

The EIR has identified and discussed potentially significant environmental effects, which may occur as a result of the Project. With implementation of design features and mitigation measures

as discussed in the EIR and in the Findings, these potentially significant effects can be mitigated to levels considered less than significant, with the exception of impacts related to Transportation, as described above. In sum, the Circulation Element Alternative, with proposed mitigation, would result in two intersections operating at level of service (LOS) E or F in the 2035 Cumulative condition (Coffee Street/Central Access and travel speed on Mission Avenue/Campus Parkway).

CEQA Section 21081 provides that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more potentially significant effects on the environment that would occur as a result of the Project unless the agency makes specific findings of overriding considerations with respect to those potentially significant environmental effects. Where a public agency finds potentially significant effects cannot be mitigated to a level of less than significance, it may also make findings that "specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment". CEQA Guidelines Section 15093 provides guidance in making this determination, providing as follows:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to section 15091.

Having considered the unavoidable adverse impacts of the Project (Circulation Element Alternative), the City Council hereby determines that all feasible mitigations have been adopted to reduce or avoid the potentially significant impacts identified in the EIR, and that no additional feasible mitigation is available to further reduce potentially significant impacts. Further, the City finds that economic, social and other considerations of the Project outweigh the unavoidable adverse impacts described previously in the Findings. In making this finding, the City Council has balanced the benefits of the Project against its unavoidable environmental impacts and has accepted those risks.

In weighing the potential adverse impacts and the benefits of the Project, the City considered the following benefits and concludes that each individual benefit is sufficient to support approval of

the Project, that each of the statements are based on the EIR and/or other information in the record, and are vital to the long term well-being of the City. The Project would have the following benefits:

- The Project would provide for the logical and orderly growth of the Plan Area and would include land uses that are compatible with surrounding land uses.

- The Project would positively contribute to the local economy through new capital investment, creation of new employment opportunities, expansion of the tax base, and increased retail offerings through the commercial retail component of the Project.

- The Project will reinforce Merced's status as a regional retail node and employment center by increasing commercial offerings such as a movie theater, gas station, convenience market, car wash, hotel, restaurants and other shops.

- The Project will develop regional-serving and highway oriented commercial uses on a highly visible site near SR-99 in order to cater to local residents and travelers.

- The Project will promote residential and economic growth in accordance with the goals and policies set forth in the Merced Vision 2030 General Plan.

    - Specifically, the Project will promote the following goals and objectives of the Merced Vision 2030 General Plan:

        - Goal L-1-1: "Housing opportunities in Balance with Jobs Created in the Merced Urban Area" in that the multi-family residential component of the Project will coincide with the development of commercial uses in order to create a balanced mixed-use project.

        - Goal L-1-4: "Quality Residential Environments" in that the 178-unit multi-family complex provides an identifiable neighborhood with plans for a 2,500-square-foot clubhouse and a pool. Along with this, the architectural design concepts include a landscape buffer between the parking and street, tower elements, and walkable areas around the residential community. This multi-family complex would help meet the City's regional housing allocation goals in the Housing Element of the General Plan.

        - Policy L-1-6: "Ensure Adequate Housing is Available to All Segments of the population" in that the development of multi-family housing ensures that a range of adequate housing types is available to the population in livable and prosperous areas of the City.

        - Policy L-2.1: "Encourage further development of appropriate commercial and industrial uses throughout the City" in that the Project will include up to 385,535 square feet of commercial uses in the North Parcel and 242,592 square feet of commercial uses in the South Parcel.

- Policy L-2.6: “Provide neighborhood commercial centers in proportion to residential development in the City” in that the development of both new residential and commercial hubs for southeast Merced ensures a proportionate development of residential and commercial centers within the City.

- Policy L-2.10: “Encourage well-planned freeway-oriented developments” in that the Project will create highway-oriented commercial uses on a highly visible site near SR-99 in order to cater to residents and visitors.

- Goal L-2-1: “Increased Employment Opportunities for the Citizens of Merced” in that citizens of Merced will have a new source of job opportunities in the commercial sector from the future development of the Project, due to the hotel and commercial uses.

- Goal L-2-2: “A Diverse and balanced Merced Economy” in that the mix of commercial uses proposed by the Master Plan ensures a balance of diverse areas of retail for the City.

- Goal L-2-3: “Preservation and Expansion of the City’s Economic Base” in that the Project will enhance the economic base for the City by installing new retail areas and ensuring ease of access for residents and visitors.

- Goal L-2-6 “Ready Access to Commercial Centers and Services Throughout the City” in that the Project will enhance connectivity to future commercial areas and current and future residential areas.

- Develop new multi-family residential uses in southeast Merced to provide additional affordable housing options in a growing part of the City.

- Design a site plan that provides convenient internal circulation, while also minimizing access conflicts between the residential and commercial uses.

- Reserve a site for a future fire station in the interests of ensuring that adequate fire protection can be provided for future development in the area.

For each of these reasons, the City finds that, on balance, the benefits of the Project outweigh the unavoidable environmental risks. Although there are potentially significant unavoidable impacts as a result of the Project, the economic, technological, and social benefits will extend into the future and provide a better living environment for the community. Therefore, the level of environmental risk of the Project is considered to be acceptable, given the importance of the overall Project.

IX. FINDINGS REGARDING THE MITIGATION MONITORING AND REPORTING PROGRAM ("MMRP")

Pursuant to Section 21081.6 of the Public Resources Code, the City Council, in adopting these Findings, also adopts the MMRP for the Merced Gateway Master Plan. The MMRP is designed to ensure that, during Project implementation, the City and other responsible parties will comply with the mitigation measures adopted in these Findings.

The City Council hereby finds that the MMRP, which is incorporated herein by reference and attached as Exhibit A to these Findings, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of Project conditions intended to mitigate potential environmental effects of the Project.

X. CEQA GUIDELINES SECTION 15084(D)(3) AND 15084(D)(4) FINDINGS

The City has relied on Sections 15084(d)(3) of the State CEQA guidelines, which allow acceptance of working drafts prepared by the Project applicant, a consultant retained by the Project applicant, or any other person. The City has also relied upon Section 15084(d)(4), which allows the Draft EIR to be prepared directly by, or under contract by the lead agency. The City has reviewed and edited as necessary the submitted drafts to reflect the City's own independent judgment, including reliance on City technical personnel from other departments.

XI. PUBLIC RESOURCES CODE SECTION 21082.1(C) FINDINGS

Pursuant to Public Resources Code Section 21082.1(c), the City Council hereby finds that the City, as CEQA lead agency, has independently reviewed and analyzed the Final EIR, and that the Final EIR reflects the independent judgment of the lead agency.

XII. NATURE OF FINDINGS

Any finding made by the City Council shall be deemed made, regardless of where it appears in this document. All of the language included in this document constitutes findings by the City Council, whether or not any particular sentence or clause includes a statement to that effect. The City Council intends that these Findings be considered as an integrated whole and, whether or not any part of these Findings fail to cross reference or incorporate by reference any other part of these findings, that any finding required or committed to be made by this City Council with respect to any particular subject matter of the Final EIR, shall be deemed to be made if it appears in any portion of these Findings.

XIII. RELIANCE ON RECORD

Each and all of the findings and determinations contained herein are based on the competent and substantial evidence, both oral and written, contained in the entire administrative record relating to the Merced Gateway Master Plan. The findings and determinations constitute the independent findings and determinations of the City Council in all respects, and are fully and completely supported by substantial evidence in the record as a whole.

XIV. RELATIONSHIP OF FINDINGS TO EIR

The City finds and declares that substantial evidence for each and every finding made herein is contained in the EIR or is in the record of proceedings in the matter.

XV. CUSTODIAN OF RECORDS

The custodian of the documents or other material which constitute the record of proceedings upon which the City's decision is based is the City of Merced, located at 678 W. 18th Street Merced, CA 95340.

EXHIBIT A
MITIGATION MONITORING AND REPORTING PROGRAM
("MMRP")

FIRSTCARBONSOLUTIONS™

Mitigation Monitoring and Reporting Program for the Merced Gateway Master Plan Environmental Impact Report City of Merced, Merced County, California

State Clearinghouse Number 2015101048

Prepared for:
City of Merced

678 W. 18th Street
Merced, CA 95340
209.385.6858

Contact: Julie Nelson, Associate Planner

Prepared by:
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Contact: Jason Brandman, Project Director
Elizabeth Johnson, Project Manager

Date: May 23, 2017

EXHIBIT A to Findings of Fact and Statement of Overriding Considerations

Table 1: Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
Section 3.3—Air Quality/Greenhouse Gas Emissions					
MM AIR-2a: Prior to issuance of the certificate of occupancy for any proposed non-residential commercial use that consists of 30,000 square feet or more building space, the operator shall demonstrate to the satisfaction of the City of Merced that a Transportation Demand Management (TDM) Program will be implemented during operations. The TDM program shall have the following elements: a) Secure bicycle parking for employees. b) Employee lockers and breakroom. c) Rideshare information bulletin board. d) Incentives for employee rideshare, transit use, or bicycling/walking to work. e) Include TDM program information in employee orientation documents and periodic company newsletters.					
MM AIR-2b: Prior to issuance of the certificate of occupancy of any proposed non-residential commercial use that consists of 20,000 square feet or more building space, the City of Merced shall verify that at least one electrical vehicle charging station is provided on the project site for each proposed commercial use that meet the above criteria in order to encourage the use of zero emission vehicles in accordance with California Green Building Code standards. Based on the proposed site plan, this would result in the installation of a minimum of nine (9) electrical vehicle charging stations on the project site.					
MM AIR-2c: Prior to City approval of the final site plan for the project or issuance of the first grading permit for the project, whichever comes first, the project proponent shall provide the City of Merced with proof that all feasible measures detailed in Mitigation Measure 3.3-2 from the Merced Vision 2030 General Plan (provided in Appendix J) have been incorporated into the project design.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
MM AIR-2d: Prior to city approval of the final site plan for the project or issuance of the first grading permit for the project, whichever comes first, the project proponent shall provide the City of Merced with proof that an Indirect Source Review (ISR) application has been approved by SJVAPCD.					
MM AIR-2e: The project proponent shall submit evidence, verified by SJVAPCD, that demonstrates that the project's operational-related ROG emissions will be reduced to below SJVAPCD's numeric threshold of 10 tons per year, respectively. These reductions can be achieved by any combination of project design and/or via the project proponent entering into a development mitigation contract (e.g., Voluntary Emission Reduction Agreement, or VERA), with the SJVAPCD. If a VERA is utilized, a copy of the executed agreement and implementing reports will be provided to the City to demonstrate compliance. Additionally, the project proponent shall supply updated documents if the requirements change as the VERA is reassessed by SJVAPCD at each phase of project development. This requirement will be enforced and verified by SJVAPCD. The current VERA payment fee for operational emissions is $94,000 per ton of NOx (The SJVAPCD would likely substitute NOx emissions for ROG emission reductions); payment fees vary by year (i.e., future year payment fees for NOx could be more than the current price of $94,000) and are sensitive to the number of projects requiring emission reductions within the air basin. The VERA shall identify the amount of emissions to be reduced, in addition to the amount of funds to be paid to the SJVAPCD by the project proponent to implement emission reduction projects required for the project.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
MM AIR-2f: During the site preparation and grading of Phases 1 and 4, the project applicant shall require that either at least half of the construction equipment utilized during site preparation and grading activities for Phases 1 and 4 meet Tier 4 emissions standards, or the project applicant shall restrict the simultaneous site preparation and grading activities for Phases 1 and 4.					
MM AIR-7a: Prior to City approval of the final site plan for the project or issuance of the first grading permit for the project, whichever comes first, the project proponent shall provide the City of Merced with proof that the on-site roadways of the commercial portion of the project site have been designed for the public to bike across.					
MM AIR-7b: Prior to City approval of the final site plan for the project or issuance of the first grading permit for the project, whichever comes first, the project proponent shall provide the City of Merced with proof that the project has been designed to encourage a safe and convenient pedestrian environment.					
MM AIR-7c: Prior to City approval of the final site plan for the project or issuance of the first grading permit for the project, whichever comes first, the project proponent shall provide the City of Merced with proof that a protected multi-use crossing will be installed at the intersection of Daffodil Drive and Gerard Avenue.					
MM AIR-7d: Prior to City approval of the final site plan for the project or issuance of the first grading permit for the project, whichever comes first, the project proponent shall provide the City of Merced with proof that dedicated water meters will be installed for landscape irrigation.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
Section 3.4—Biological Resources					
MM BIO-1a: Prior to the first ground-disturbing activities, a qualified biologist shall conduct protocol-level surveys during the breeding season (one site visit between February 15 and April 15 and three between April 15 and July 15, one of which shall be conducted after June 15), at least three weeks apart, in accordance with the 2012 California Department of Fish and Wildlife Staff Report on Burrowing Owl Mitigation (2012 Staff Report). The survey shall include an approximately 500-foot (150-meter) buffer around the project site, where access is permitted. If the surveys are negative, then a letter report shall be prepared documenting the methodology and results within two weeks following the final survey. If the surveys result in negative findings, the project proponent shall conduct a take avoidance survey between 14 days and 30 days prior to commencement of construction, in accordance with the 2012 Staff Report. If burrows are observed within 500 feet of the project site, an impact assessment shall be prepared and submitted to the California Department of Fish and Wildlife (CDFW), in accordance with the 2012 Staff Report. If it is determined that project activities may result in impacts to nesting, occupied, and satellite burrows and/or burrowing owl habitat, the project proponent shall consult with CDFW and develop a detailed mitigation plan such that the habitat acreage, number of burrows, and burrowing owls impacted are replaced.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
MM BIO-1b: Preconstruction/pre-activity surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any project activity likely to impact the San Joaquin kit fox. Surveys shall identify kit fox habitat features on the project site and evaluate use by kit fox and, if possible, assess the potential impacts to kit fox by the proposed activity. The status of all dens shall be determined and mapped according to United States Fish and Wildlife Service (USFWS) survey protocol. Written results of preconstruction/ pre-activity surveys must be received by USFWS within 5 days after survey completion and prior to the start of ground disturbance and/or construction activities. If a natal/pupping den is discovered within the project area or within 200 feet of the project boundary, USFWS shall be immediately notified and under no circumstances shall the den be disturbed or destroyed without prior authorization. Further coordination with USFWS will be necessary to obtain the necessary take authorization/permit.					
MM BIO-1c: A pre-construction survey for nesting raptors shall be performed in accordance with the survey methodology for Swainson's hawk, prior to any ground disturbance, regardless of when construction will occur. If ground-disturbing project activities occur during the normal avian breeding season (February 1 through September 15), additional pre-construction surveys for active raptor nests shall be conducted no more than 10 days prior to the start of construction. In an active Swainson's hawk nest is detected within 0.5 mile of the project site and work will occur within the avian nesting season, consultation with CDFW will be necessary to determine if take of Swainson's hawk can be					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
avoided. If take cannot be avoided, further consultation with CDFW will be necessary to acquire an Incidental Take Permit pursuant to California Fish and Game Code Section 2081(b) to comply with CESA.					
MM BIO-1d: To avoid any potential impact to nesting birds and other protected species, including those protected by the Migratory Bird Treaty Act, construction of the project shall occur outside of the breeding season (February 1 through September 15). As long as trees, shrubs, and herbaceous vegetation with the potential to support nesting birds is removed between September 16 and January 31 (outside of the nesting season) and does not become re-established within the project, then no further actions are required. If the nesting season (February 1 to September 15) cannot be avoided during construction or vegetation is allowed to reestablish itself within the project, Mitigation Measure BIO-1e shall be required.					
MM BIO-1e: If construction activities must occur during the nesting season (February 1 to September 15), a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, demolition activities, and grading. The survey area shall include the project site and a 250-foot buffer around the site. Any active nests identified shall have a buffer area established within a 100-foot radius (200-foot radius for birds of prey) of the active nest. Construction activities shall not occur within the buffer area until the biologist determines that the young have fledged.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
MM BIO-2: To avoid any potential impact to riparian habitat or other sensitive natural community identified, formal jurisdictional delineation surveys shall be performed in the canal area prior to the issuance of grading permits in accordance with survey guidelines set by the United States Army Corps of Engineers (USACE) and CDFW. If jurisdictional wetlands, waters, or riparian habitat are found to be present within the project, consultation with USACE, CDFW, and/or Regional Water Quality Control Board (RWQCB) will be required to determine if avoidance is feasible. If avoidance is not feasible and impacts to jurisdictional wetlands, waters, or riparian habitat may occur, the project shall mitigate unavoidable adverse impacts to waters of the United States, wetlands and riparian habitats (pursuant to the Federal Clean Water Act and the California Fish and Game Code, Section 1600, et seq.) by replacement on an in-kind basis. Furthermore, replacement shall be based on a ratio determined by the CDFW and/or USACE in order to account for the potentially diminished habitat values of replacement habitat. Such replacement should occur on the original development site, whenever possible. Alternatively, replacement can be effected, subject to state and federal regulatory approval, by creation or restoration of replacement habitats elsewhere (off-site but preferably within the County), protected in perpetuity by provision for an appropriate conservation easement or dedication.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
Section 3.5—Cultural Resources					
MM CUL-1: In the event that buried historic or archaeological resources are discovered during construction, operations shall stop within 50 feet of the find and a qualified archaeologist shall be consulted to evaluate the resource in accordance with CEQA Guidelines 15064.5. The applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If the resource does not qualify as a significant resource, then no further protection or study is necessary. If the resource does qualify as a significant resource then the impacts shall be avoided by project activities. If the resource cannot be avoided, adverse impacts to the resource shall be addressed. The archaeologist shall make recommendations concerning appropriate mitigation measures that shall be implemented to protect the resources, including but not limited to excavation and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. Any previously undiscovered resources found during construction within the project area should be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms and evaluated for significance in terms of CEQA criteria.					
MM CUL-3: In the event that fossils or fossil-bearing deposits are discovered during construction activities, excavations within a 50-foot radius of the find shall be temporarily halted or diverted. The project contractor shall notify a qualified paleontologist to examine the discovery. The applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The paleontologist shall document the discovery as needed in accordance with Society of Vertebrate Paleontology standards and assess the significance of					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
the find under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction activities are allowed to resume at the location of the find. If the Applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of construction activities on the discovery. The plan shall be submitted to the City of Merced for review and approval prior to implementation, and the Applicant shall adhere to the recommendations in the plan.					
MM CUL-4: In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code (PRC) Sections 5097.94 and 5097.98 must be followed. If during the course of project development there is accidental discovery or recognition of any human remains, the following steps shall be taken: 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the County Coroner is contacted and determines if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the most likely descendant (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
2. Where the following conditions occur, the landowner or his or her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the most likely descendant or on the project site in a location not subject to further subsurface disturbance: • The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission. • The descendant identified fails to make a recommendation. • The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner. Additionally, California Public Resources Code Section 15064.5 requires the following with regards to Native American Remains: When an initial study identifies the existence of, or the probable likelihood of, Native American Remains within a project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code Section 5097.98. The applicant may develop a plan for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American Burials with the appropriate Native Americans as identified by the NAHC.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
Section 3.6—Hazards and Hazardous Materials					
MM HYD-1a: Prior to the issuance of grading permits, the project applicant shall file a Notice of Intent with and obtain a facility identification number from the State Water Resources Control Board. The project applicant shall also submit a Stormwater Pollution Prevention Plan (SWPPP) to the City of Merced that identifies specific actions and Best Management Practices (BMPs) to prevent stormwater pollution during construction activities. The SWPPP shall identify a practical sequence for BMP implementation, site restoration, contingency measures, responsible parties, and agency contacts. The SWPPP shall include but not be limited to the following elements: • Comply with the requirements of the State of California's most current Construction Stormwater Permit. • Temporary erosion control measures shall be implemented on all disturbed areas. • Disturbed surfaces shall be treated with erosion control measures during the October 15 to April 15 rainy season. • Sediment shall be retained on-site by a system of sediment basins, traps, or other BMPs. • The construction contractor shall prepare Standard Operating Procedures for the handling of hazardous materials on the construction site to eliminate discharge of materials to storm drains. • BMP performance and effectiveness shall be determined either by visual means where applicable (e.g., observation of above-normal sediment release), or by actual water sampling in cases where verification of contaminant reduction or elimination (such as inadvertent petroleum release) is required by the Central Valley Regional Water Quality Control Board to determine adequacy of the measure. • In the event of significant construction delays or delays in					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
final landscape installation, native grasses or other appropriate vegetative cover shall be established on the construction site as soon as possible after disturbance, as an interim erosion control measure throughout the wet season.					
MM HYD-1b: Prior to the issuance of building permits, the project applicant shall submit a final Storm Water Mitigation Plan (SWMP) to the City of Merced for review and approval. The plan shall be developed using the California Stormwater Quality Association's "New Development and Redevelopment Handbook." The SWMP shall identify pollution prevention measures and BMPs necessary to control stormwater pollution from operational activities and facilities, and provide for appropriate maintenance over time. The SWMP shall include design concepts that are intended to accomplish a "first flush" objective that would remove contaminants from the first 2 inches of stormwater before it enters area waterways. The project applicant shall also prepare and submit an Operations and Maintenance Agreement to the City identifying procedures to ensure that stormwater quality control measures work properly during operations.					
MM HYD-4: Prior to issuance of grading permits for any building located within a 100-year hazard flood zone, the applicant shall prepare and submit building plans to the City of Merced that demonstrate compliance with federal law and Merced Code of Ordinances Chapter 17.48. The standards include but are not limited to requirements for anchoring, construction materials and methods, elevation, and floodproofing. In addition, the applicant shall provide certification by a registered professional engineer or architect that the activity would not result in an increase in flood levels during the occurrence of the base flood discharge.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
Section 3.9—Noise					
MM NOI-1: To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the project: • The construction contractor shall ensure that all internal combustion engine-driven equipment is equipped with mufflers that are in good condition and appropriate for the equipment. • The construction contractor shall locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction disturbance area. In addition, the project contractor shall place such stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site. • The construction contractor shall prohibit unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes is prohibited). • The construction contractor shall locate, to the maximum extent practical, on-site equipment staging areas so as to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction. • The construction contractor shall limit all noise producing construction activities, including deliveries and warming up of equipment, to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No such work shall be permitted on Sundays or federal holidays without prior approval from the City.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
MM NOI-2: To reduce potential traffic noise impacts, the following multi-part mitigation measure shall be implemented for the project: • The project shall incorporate a minimum 8-foot-high soundwall along the Gerard Avenue bordering the proposed residential land use portion of the project. The soundwall shall wrap around the west end of the residential portion of the project, along Coffee Street, for a minimum of 50 feet. In addition, the soundwall should wrap around the eastern end of the residential portion of the project, along the project entrance south of Daffodil Street, for a minimum distance of 50 feet. The building plans approved by the City shall reflect this requirement. • All proposed residential units with a direct line of sight to Gerard Avenue would require an alternative ventilation system, such as air conditioning, to ensure that windows can remain closed for a prolonged period of time. The building plans approved by the City shall reflect this requirement. • The proposed hotel land use located on the southern parcel of the project site shall include an alternate form of ventilation, such as an air conditioning system, in order to ensure that windows can remain closed for a prolonged period of time. The building plans approved by the City shall reflect this requirement.					
Section 3.11—Transportation					
MM TRANS-1a: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, the project applicant shall improve the intersection of Gerard Avenue/Coffee Street (3) with an enhanced pedestrian crossing.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
MM TRANS-1b: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, the project applicant shall improve the segment of Coffee Road from Parsons Avenue to Campus parkway to a four-lane roadway. The improved roadway shall be designed and constructed in accordance with City of Merced engineering standards.					
MM TRANS-1c: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, the project applicant shall improve the intersection of Coffee Street/Parsons Avenue (9). The intersection shall be improved with a traffic signal.					
MM TRANS-1d: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, the project applicant shall improve the intersection of Mission Avenue/Southbound SR-99 Ramps (10). The intersection shall be improved with a second southbound left turn lane by reconfiguring the existing right turn lane to become a left-turn/right-turn lane.					
MM TRANS-1e: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, the project applicant shall improve the intersection of Mission Avenue/Northbound SR-99 Ramps (11). The intersection shall be improved by adding a third eastbound through lane and reconfiguring the westbound lanes to provide a combined through lane and second right-turn lane, and add a second northbound right-turn lane. In addition, a second eastbound right turn lane will be added at the project's mid-block driveway on Campus Parkway under the proposed project, and the eastbound share through/right turn at Coffee and Campus Parkway will be split into a separate through lane and separate right turn lane (**required for both the proposed project and the Circulation Element Alternative**).					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
MM TRANS-1f: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, the project applicant shall improve the intersection of Campus Parkway/Coffee Street (12). The intersection shall be improved with a signal, a third eastbound through lane, a second eastbound left turn lane and westbound left turn lane, a third westbound through lane, a westbound right turn lane, a second northbound left turn lane, and separate southbound left turn and through lanes, with overlap phase on southbound right turn. Coffee Street shall be widened north and south of Campus Parkway to provide two receiving lanes for left turns from Campus Parkway.					
MM TRANS-1g: A transportation improvement phasing plan shall be prepared by the City of Merced as a part of the Merced Gateway Planned Development Master Plan. The transportation improvement phasing plan shall specify, based on vehicle trip generation volumes or other accepted metric, when intersection, road segment, alternative transportation improvements, or other transportation improvements shall be implemented in order to ensure acceptable levels of service at each affected intersection or roadway segment. The plan will also indicate the costs, fair-share or otherwise, of the improvement to be borne by the applicant.					
MM TRANS-2: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, the project applicant shall improve the intersection of Mission Avenue/Southbound SR-99 Ramps (10) with a third eastbound through lane and the segment of Mission Avenue between the ramps and Coffee shall be widened to 6 lanes total. The applicant shall be responsible for its proportional cost of the improvement.					

Table 1 (cont.): Merced Gateway Master Plan Mitigation Monitoring and Reporting Program

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
MM TRANS-3a: Prior to issuance of building permits for the proposed project, the project applicant shall pay impact fees to the City of Merced for improvements to the intersection of Childs Avenue/Parsons Avenue (1). The improvements shall consist of reconfiguring the eastbound through lane to a shared through/left-turn lane. The City of Merced shall install the improvements when monitoring determines that the intersection is approaching unacceptable levels.					
MM TRANS-3b: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, widen Coffee Street between Campus Parkway and Mission Avenue to four lanes.					
MM TRANS-5: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, the applicant shall retain a qualified engineer to design the Parsons Avenue extension between Coffee Street and the eastern boundary of the project to be capable of handling commercial trucks. The roadway improvement plans shall be submitted to the City of Merced for review and approval. The Parsons Avenue extension shall be completed by the time of issuance of the first certificate of occupancy for the North commercial area.					