

FINAL

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

State Clearinghouse No. 2001021056



Prepared for:



Merced County Community and
Economic Development Department

July 2023

FINAL

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

State Clearinghouse No. 2001021056

Prepared for:



**Merced County Community and
Economic Development Department**

2222 M Street, 2nd Floor
Merced, CA 95340

Contact:

Tiffany Ho

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

Prepared by:



Ascent Environmental

455 Capitol Mall, Suite 300
Sacramento, CA 95814

Contact:

Jessica Babcock

Project Manager
916.842.3163

July 2023

TABLE OF CONTENTS

Section	Page
LIST OF ABBREVIATIONS	ii
1 INTRODUCTION	1-1
1.1 Purpose and Intended Uses of this Environmental Impact Report.....	1-1
1.2 Project Location	1-1
1.3 Project Objectives.....	1-4
1.4 Summary Description of the UCP Update and VST Specific Plan	1-5
1.5 Major Conclusions of the Environmental Analysis.....	1-6
1.6 CEQA Public Review Process.....	1-6
1.7 Organization of the Final SEIR	1-6
2 RESPONSES TO COMMENTS.....	2-1
2.1 List of Commenters on the Draft SEIR	2-1
2.2 Comments and Responses.....	2-1
3 REVISIONS TO THE DRAFT EIR.....	3-1
4 REFERENCES.....	4-1
5 LIST OF PREPARERS.....	5-1
 Figures	
Figure 1-1 Regional Location.....	1-2
Figure 1-2 University Community Plan and Virginia Smith Trust Specific Plan Area	1-3
 Tables	
Table 2-1 List of Commenters.....	2-1

LIST OF ABBREVIATIONS

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

1 INTRODUCTION

This final subsequent environmental impact report (Final SEIR) has been prepared by Merced County (hereinafter County), as lead agency, in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (California Code of Regulations [CCR] Section 15132). This Final SEIR contains responses to comments received on the draft subsequent environmental impact report (Draft SEIR) for the University Community Plan (UCP) Update and Virginia Smith Trust (VST) Specific Plan (collectively referred to herein as the "project"). The Final SEIR consists of the Draft SEIR and this document, which includes comments on the Draft SEIR, responses to those comments, and revisions to the Draft SEIR.

1.1 PURPOSE AND INTENDED USES OF THIS ENVIRONMENTAL IMPACT REPORT

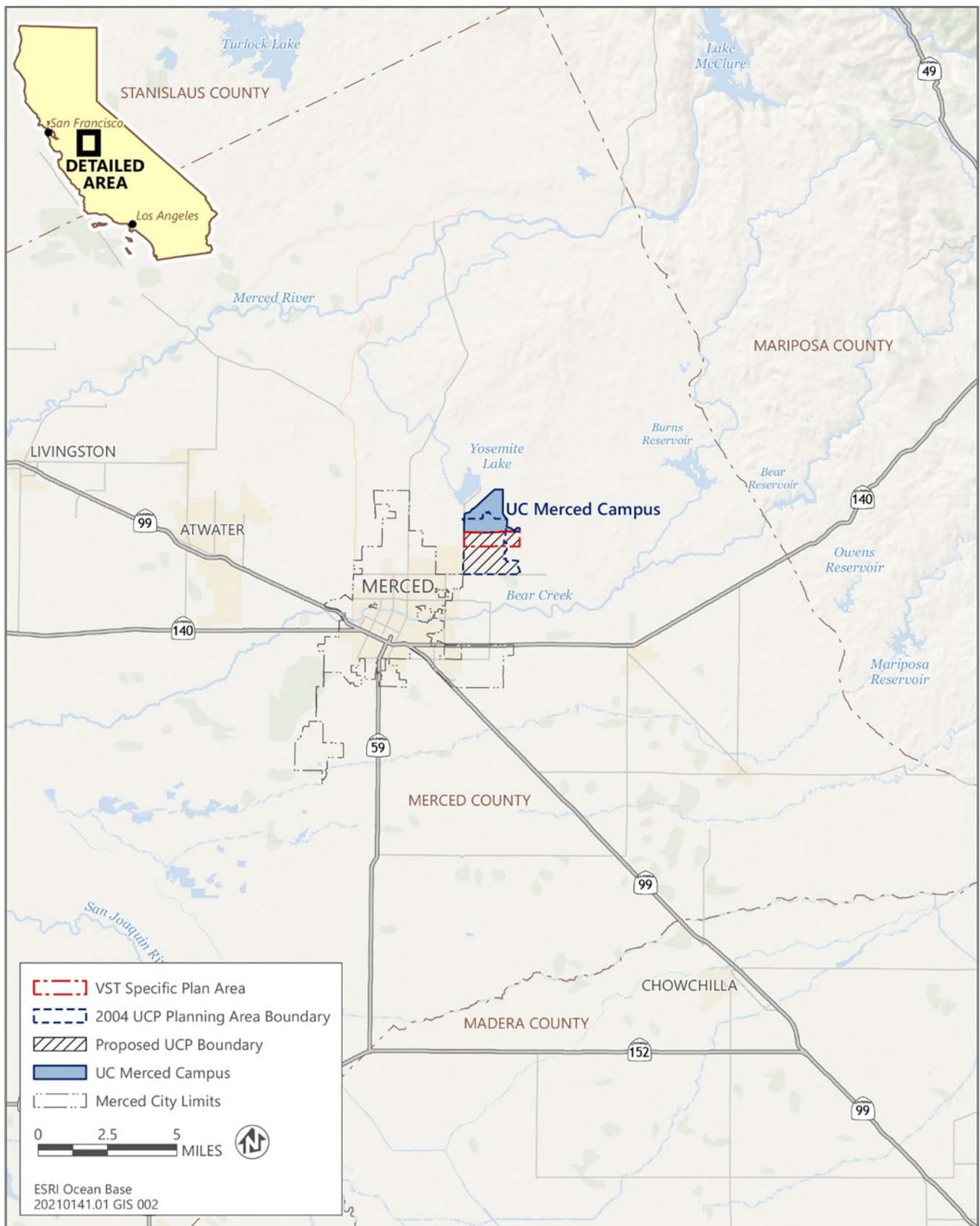
This Final SEIR has been prepared to respond to comments received on the Draft SEIR, which are reproduced in this document; and to present corrections, revisions, and other clarifications and amplifications to the Draft SEIR made in response to input received. The Final SEIR will be used to support the County's decision regarding whether to approve the project. This SEIR will also be used by CEQA responsible and trustee agencies to ensure that they have met their requirements under CEQA before deciding whether to approve or permit project elements over which they have jurisdiction. It may also be used by other state, regional, and local agencies that may have an interest in resources that could be affected by the project or that have jurisdiction over portions of the project.

Responsible, trustee, and interested agencies may include:

- ▶ Merced County Local Agency Formation Commission,
- ▶ City of Merced,
- ▶ US Army Corps of Engineers,
- ▶ US Fish and Wildlife Service,
- ▶ Central Valley Regional Water Quality Control Board, and
- ▶ Merced Irrigation District (MID).

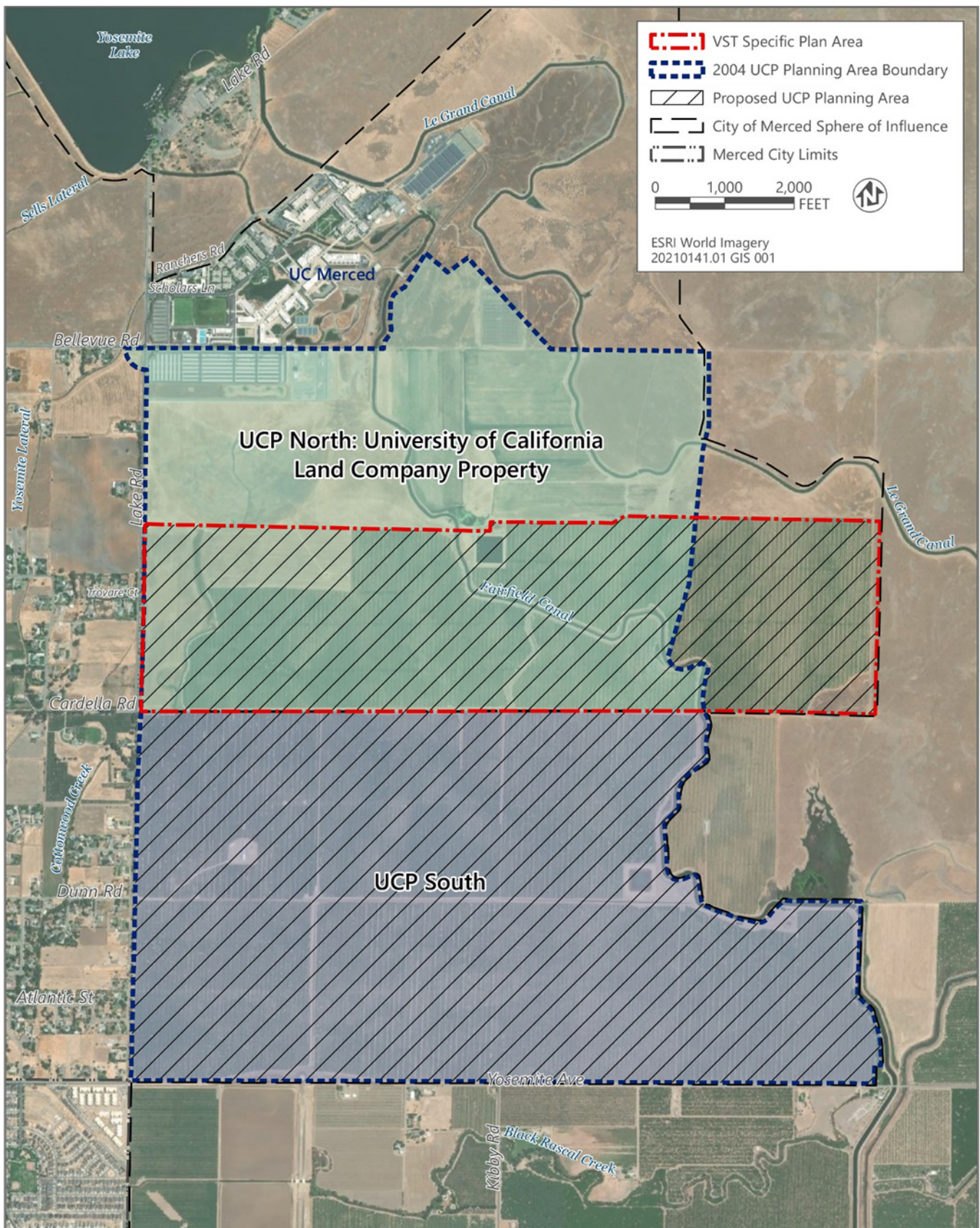
1.2 PROJECT LOCATION

The UCP area is located in unincorporated Merced County, northeast of the city of Merced and within the City's sphere of influence (SOI) (Figure 1-1 and Figure 1-2). The UCP area is bounded by Lake Road on the west, UC Merced property (specifically the proposed UC Merced Campus Expansion Area) on the north, the Orchard Drive alignment (north of Cardella Road) and the Fairfield Canal (south of Cardella Road) on the east, and Yosemite Avenue on the south (Figure 1-2). The UCP area would be divided by an extension of Cardella Road; the land north of Cardella Road to UC Merced (previously referred to as the "UCP North") would encompass the VST plan area, and the land south of Cardella Road to Yosemite Avenue would remain in the portion of the UCP area referred to as the "UCP South" area.



Sources: Data downloaded from Merced County in 2020.

Figure 1-1 Regional Location



Sources: Data downloaded from Merced County in 2020.

Figure 1-2 University Community Plan and Virginia Smith Trust Specific Plan Area

1.3 PROJECT OBJECTIVES

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

1.3.1 Objectives of the UCP Amendments

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

The adopted objectives of the Adopted UCP are:

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

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

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

- ▶ update the Adopted UCP circulation plan to be compatible with existing standards and plans for regional infrastructure, including Campus Parkway;
- ▶ update the phasing program to reflect current market conditions and changes to the UCP boundaries; and
- ▶ develop a “university community” that meets the needs of UC’s staff and students, as currently projected, including providing a range of housing opportunities appropriate for the local demographics and lifestyles.

1.3.2 Objectives of the VST Specific Plan

The objectives of the VST Specific Plan are to:

- ▶ provide a mix of land uses and a financially feasible phasing and implementation plan that will maximize the contribution to the VST scholarship endowment to provide college scholarships to county residents per the VST’s charter and bylaws;
- ▶ provide a master planned community with community amenities that will attract students and retain highly skilled and educated staff;
- ▶ provide diverse town and neighborhood centers to offer local shopping and service opportunities for people of different ages, income levels, cultures, and education levels;
- ▶ provide increased housing density next to town centers and overall housing densities in conformance with Adopted UCP policies;
- ▶ provide a diversity of housing sizes, prices, and types to serve the full range of employees, instructors, staff, and students at UC Merced, consistent with the vision of the Adopted UCP;
- ▶ comply with the City of Merced’s RHNA housing production policies by providing sufficient units that would be restricted for affordability;
- ▶ provide diverse multimodal and active transportation alternatives and a network of bike paths, pedestrian paths, and transit connections;
- ▶ connect to UC Merced’s existing and planned circulation facilities to provide a seamless connection between the VST plan area and the UC Merced campus for pedestrian, bicycle, vehicle, and transit modes;
- ▶ create a continuous network of parks and open spaces; and
- ▶ prioritize livability, activity, and shared community space, with neighborhoods centered around parks and schools.

1.4 SUMMARY DESCRIPTION OF THE UCP Update and VST Specific Plan

1.4.1 Overview of the Proposed Changes to the UCP

As described in further detail in Chapter 2, “Project Description,” proposed update to the Adopted UCP would modify the UCP boundary to exclude land within the planning boundary of UC Merced; revise the policy plan to reflect current conditions, regulations, and best practices; and update the land use and circulation diagram to reflect the land uses proposed within the VST Specific Plan and alignment of Campus Parkway.

1.4.2 Overview of the VST Specific Plan

The VST Specific Plan is intended to satisfy the requirement for a specific plan for each “village” within the UCP. The proposed VST Specific Plan re-envisioned the portion of the UCP owned by VST so that it would be more responsive to expected market conditions, while preserving the basic components of the UCP: commercial uses, the town center

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

1.5 MAJOR CONCLUSIONS OF THE ENVIRONMENTAL ANALYSIS

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

1.6 CEQA PUBLIC REVIEW PROCESS

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

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

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

1.7 ORGANIZATION OF THE FINAL SEIR

This Final SEIR is organized as follows:

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

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

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

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

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

2 RESPONSES TO COMMENTS

This chapter contains comments received during the public review period for the Draft SEIR. In conformance with Section 15088(a) of the State CEQA Guidelines, written responses are provided to comments on environmental issues received from reviewers of the Draft SEIR.

2.1 LIST OF COMMENTERS ON THE DRAFT SEIR

Table 2-1 presents the list of commenters, including the numerical designation for each comment letter received, the author of the comment letter, and the date of the comment letter. For ease of review, individual comments addressing separate subjects within each letter are labeled based on the letter's numeric designation and comment number (e.g., the first comment in the first letter is Comment 1-1). Each comment is identified by a line bracket and an identifying number in the margin of the comment letter in the following section.

Table 2-1 List of Commenters

Letter No.	Commenter	Date
1	California Department of Fish and Wildlife	6/7/23
2	State Water Resources Control Board*	6/19/23
3	University of California Merced	6/12/23
4	Merced Irrigation District	6/12/23
5	San Joaquin Valley Air Pollution Control District*	6/19/23
6	Leadership Counsel for Justice and Accountability	6/12/23
7	Anchor Valley Partners	6/12/23

* Comments received after the close of the Comment Period

2.2 COMMENTS AND RESPONSES

This section contains each comment letter received, followed by responses. Note that some of the written comments offer suggestions or express preferences related to the proposed development and do not address environmental issues or the adequacy of the EIR. All comment letters will be forwarded to the Board of Supervisors for consideration via this EIR. In conformance with Section 15088(a) of the State CEQA Guidelines, written responses were prepared addressing comments on environmental issues raised in comments on the EIR.

In addition, an opportunity for oral comment on the Draft SEIR was offered at the at the Planning Commission hearing on July 12, 2023. The comments provided at this public hearing were either related to aspects of the specific plan proposal and did not address the analysis or conclusion in the Draft SEIR or expressed general support for the project. Comments on the plan were responded to by County staff during the meetings and are not included herein. Video recording of the hearing is available online at <https://www.countyofmerced.com/2229/Planning-Commission-Meetings>.

DocuSign Envelope ID: 85B5CB7B-7C38-4FA8-93C0-E6DAF7B55601



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 7, 2023

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

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

Dear Tiffany Ho:

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

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

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

ENVIRONMENTAL DATA

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

1-1

1-2

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

Conserving California's Wildlife Since 1870

DocuSign Envelope ID: 85B5CB7B-7C38-4FA8-93C0-E6DAF7B55601

Tiffany Ho, Planner III
Merced County Community and Economic Development Department
June 7, 2023
Page 2

subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project to assist Merced County Community and Economic Development Department in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3203, or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

DocuSigned by:

12950B95267A4F5...
Krista Tomlinson for Julie A. Vance
Regional Manager

ec: State Clearinghouse, Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov.

Letter 1 California Department of Fish and Wildlife

Krista Tomlinson for Julie A. Vance, Regional Manager

June 7, 2023

Response 1-1

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

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

Response 1-2

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

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



Letter 2

State Water Resources Control Board

June 19, 2023

County of Merced
Attn: Tiffany Ho
2222 M Street, 2nd Floor
Merced, CA 95340



COUNTY OF MERCED (COUNTY), SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE UNIVERSITY COMMUNITY PLAN (UCP) UPDATE AND VIRGINIA SMITH TRUST (VST) SPECIFIC PLAN PROJECT (PROJECT); STATE CLEARINGHOUSE # 2001021056

Dear Ms. Tiffany Ho:

Thank you for the opportunity to review the EIR for the proposed Project. The State Water Resources Control Board, Division of Drinking Water (State Water Board, DDW) is responsible for issuing water supply permits pursuant to the Safe Drinking Water Act. The Project is within the jurisdiction of the State Water Board, DDW's Merced District. DDW Merced issues domestic water supply permit amendments to the public water systems serviced with a new or modified source of domestic water supply or new domestic water system components pursuant to Waterworks Standards (Title 22 CCR chapter 16 et. seq.). A public water system requires a water supply permit amendment for changes to a water supply source, storage, or treatment and for the operation of new water system components- as specified in the Waterworks Standards. The City of Merced (City) will need to apply for a water supply permit amendment for this Project.

2-1

The State Water Board, DDW, as a responsible agency under CEQA, has the following comments on the County's EIR:

- Under Section 2.7- Required Discretionary Actions, please include "a water supply permit amendment". Under Section 2.7.2 please include "The State Water Resources Control Board" and "The project would require the following actions, permits, or approvals from the State Water Board: Approval of a water supply permit amendment."
- The CEQA document does not cover all of the Project. The document only discusses plans to install a well, use an old well, and install piping for the Project. The CEQA document should address the location and impacts of the entire proposed water system infrastructure that will be needed for the development in coordination with the City.

2-2

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

Ms. Tiffany Ho

- 2 -

June 19, 2023

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

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

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

Ms. Tiffany Ho

- 3 -

June 19, 2023

- Copy of the date stamped Notice of Determination filed at the Merced County Clerk's Office and the Governor's Office of Planning and Research, State Clearinghouse.

Please contact Lori Schmitz of the State Water Board at (916) 449-5285 or Lori.Schmitz@waterboards.ca.gov, if you have any questions regarding this comment letter.

Sincerely,

Lori Schmitz
Digitally signed by
Lori Schmitz
Date: 2023.06.19
14:35:44 -07'00'

Lori Schmitz
Environmental Scientist
Division of Financial Assistance
Special Project Review Unit
1001 I Street, 16th floor
Sacramento, CA 95814

Cc:

Office of Planning and Research, State Clearinghouse

Austin Ferreria
Water Resource Control Engineer
Merced District

Shawn Demmers
District Engineer
Merced District

Letter 2 State Water Resources Control Board

Lori Schmitz, Environmental Scientist

June 19, 2023

Response 2-1

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

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

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

Response 2-2

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

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

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

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

their own individual CEQA review and would be implemented independent of the UCP Update and VST Specific Plan. No revisions to the Draft SEIR are necessary in response to this comment.

Response 2-3

The comment references the description of existing hydrology and drainage conditions in Section 3.5, "Hydrology and Water Quality," and requests the State Clearinghouse number or a direct link to the CEQA document that evaluates the construction and operation of the 10-million gallon per day surface water treatment plant that is described as a component of the City's future water supply infrastructure in the City's *2020 Urban Water Management Plan*. As indicated in the analysis that follows in the Draft SEIR (see pages 3.5-22 and 3.5-23), the UCP Update would not result in a new or substantially more severe impact related to water quality control plan compliance, in part because the water demand associated with the development has been incorporated into the applicable groundwater sustainability plans and because the City has plans to supplement groundwater extraction with surface water treatment.

Insofar as the County is aware, a CEQA document evaluating the environmental impacts of the City's planned surface water treatment plant has not been prepared. The County will forward to the City SWRCB's request to be included in the notification for any future CEQA review.

The comment is not related to the adequacy of the analysis in the Draft SEIR for the UCP and VST Specific Plan. No revisions to the Draft SEIR are necessary in response to this comment.

Response 2-4

The comment requests that the text in Figure 2-10 of the Draft SEIR be revised for improved legibility. Figure 2-10 on page 2-33 of the Draft SEIR has been revised accordingly (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft is not required.

Response 2-5

The comment requests clarification regarding the number and location of wells that would be drilled as part of the project and asks whether on-site treatment would be needed for the wells. As stated on page 2-31 of the Draft SEIR, one on-site municipal well would be developed in Phase 1A of the VST Specific Plan, which would be located in the Community Recreation Center in Phase 1D. Although three wells were proposed for the Adopted UCP and evaluated in the 2001/2004 UCP EIR, the UCP Update/VST Specific Plan only proposes use of one existing municipal well located on the UC Merced campus and installation of one new onsite municipal well in Phase 1A of the VST Specific Plan (refer to pages 3.5-18 and 3.8-16 of the Draft SEIR). It is likely that an additional well will be required for the UCP South area based on the City's rough siting criteria of one water well per square mile of service area, but the need for, and location of, this well is speculative. The design of the new municipal well has not been completed, and it is not known at this time if treatment of the groundwater would be required. As indicated on page 3.8-24 of the Draft SEIR, new water infrastructure would be constructed in conformance with applicable UCP polices, the City's design and development standards, and the City's 2014 Water System Master Plan. No revisions to the Draft SEIR are necessary in response to this comment.

Response 2-6

The comment requests access to the 2001/2004 UCP EIR to support responsible agency determinations. The 2001/2004 UCP EIR is available at the Merced County Community and Economic Development Department (2222 M Street, Merced). In addition, the document has been transmitted electronically to the commenter.

Response 2-7

The comment requests copies of the Draft and Final SEIR, Mitigation Monitoring and Reporting Plan (MMRP), comment letters received and lead agency responses, and Resolution or Board Minutes adopting the SEIR and MMRP in support of the City of Merced's permit application. The County will inform the City of the specific information requested in conjunction with the City's permit application to the SWRCB. It is anticipated that the City would pursue the appropriate Division of Drinking Water permits as a subsequent action if the County approves the proposed UCP

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

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

UNIVERSITY OF CALIFORNIA

Letter
3

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

UNIVERSITY OF CALIFORNIA, MERCED
5200 N. LAKE ROAD | MERCED, CA 95343
(209) 349-2561

June 12, 2023

Tiffany Ho, Planner III
Merced County
Community and Economic Development Department
2222 M Street
Merced CA 95340

Subject: *Draft EIR for the UCP Update and VST SP Project*

Dear Ms. Ho:

The University of California Merced (UC Merced) has reviewed the Draft Subsequent Environmental Impact Report (SEIR) prepared by the County for the UCP Update and VST Specific Plan (SP) Project. As the proposed project lies immediately south of the campus, it is in the interest of both the County and UC Merced that the proposed development be compatible with UC Merced’s development plans for the campus and that the proposed development does not result in inadvertent environmental and land use effects on the campus. We offer the following comments on the Draft SEIR.

3-1

Executive Summary

Page ES-1. The text in the second paragraph needs to be corrected. The 2,133-acre area covered by the UCP has never included the UC Merced campus. In 2004, when the UCP was approved, the 2,133-acre UCP area comprised UCP North which was owned at that time by University Community Land Company (UCLC) and UCP South which was then and still is privately owned by LHW Farms LLC. Please see Figure 2-2 in the SEIR which shows the limits and components of the UCP as adopted.

3-2

Page ES-1. The text in the third paragraph does not inform the reader as to which prior EIR the current Draft SEIR is supplementing.

3-3

Page ES-2. In Section ES.1.1, the text reads UC Merced Expansion Area. There is no such area, separate and apart from the UC Merced campus. Recommend that the phrase be deleted here and anywhere else it is used in the Draft SEIR.

3-4

Page ES-2. The text in the first paragraph on this page states that the VST Project includes 3,950 residential units. This appears to be incorrect as the Project Description chapter states that the project includes 3,857 residential units.

3-5

UNIVERSITY OF CALIFORNIA

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

UNIVERSITY OF CALIFORNIA, MERCED
5200 N. LAKE ROAD | MERCED, CA 95343
(209) 349-2561

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

3-6

Chapter 2 Project Description

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

3-7

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

3-8

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

3-9

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

3-10

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

3-11

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

3-12

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

3-13

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

3-14

UNIVERSITY OF CALIFORNIA

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

UNIVERSITY OF CALIFORNIA, MERCED
5200 N. LAKE ROAD | MERCED, CA 95343
(209) 349-2561

Page 2-32. Similarly, this page also lists a subset of off-site intersection improvements which do not line up fully with those on page 2-29 and in the Transportation section.

3.7 Transportation

As noted above, the list of off-site transportation improvements in this section is not consistent with the lists in the Project Description. Please reconcile the differences.

Appendix B

The Public Hearing Draft Specific Plan, Virginia Smith Trust CUP Village No. 1 and UCP Village No. 2 (April 7, 2023) is included in the EIR as Appendix B. In this document, Tables 9, 10 and 11 describe the proposed funding plan for on-site and off-site transportation improvements. Appendix N to the Specific Plan provides the proportional share percentages underlying the Specific Plan allocations in Table 9. The VST percentages are consistent with those presented in Table 4-4 of the Transportation Impact Study.

The total cost of all improvements identified, including on-site and off-site improvements, is listed at \$78,730,748. The total cost allocated to VST includes \$5,910,100 for in-kind/build improvements and \$10,621,938 for the Specific Plan allocation for other improvements. (Note that there is a separate indication for "Specific Plan fair share" that is slightly different than the "Specific Plan allocation" value; the distinction between the two is not clear.) The costs allocated to UC Merced are shown at \$13,444,392 and are cited as "based on current funding agreements." These costs include \$4,873,446 for the Bellevue Road widening between G Street and Lake Road, and \$5,535,325 for Campus Parkway between Yosemite and Bellevue Roads. The only cost allocated to the Hunt property is an in-kind payment of \$3,898,153 for Campus Parkway between Yosemite and Cardella Road. The remaining costs not allocated to UC Merced, VST or Hunt are allocated to County/Caltrans/Other (\$8,772,535) and Unfunded/City TIF (\$51,079,005). We note that these various components add up to more than the total \$78M cost of improvements, and we have not been able to determine why this is. The source(s) for the infrastructure project costs are not provided; as such UC Merced considers them to be VST's estimates, which UC Merced neither agrees nor disagrees with. We request that the infrastructure project cost estimate sources be provided, and that the derivation of the UC Merced allocations be clarified along with an explanation of how the various allocations relate to the total cost.

Other Comments

- 1) As UC Merced stated in response to the NOP, consistent with the transportation agreements executed between the University and the County and City, it is important that the County enact appropriate development fees for all new developments to reimburse the University for any improvements funded by the University that accommodate traffic from that development.

3-14
Cont.

3-15

UNIVERSITY OF CALIFORNIA

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

UNIVERSITY OF CALIFORNIA, MERCED
5200 N. LAKE ROAD | MERCED, CA 95343
(209) 349-2561

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

3-16

3-17

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

Sincerely,

Phillip Woods
Director of Physical and Environmental Planning
UC Merced

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

Letter 3 University of California Merced

Phillip Woods, Director of Physical and Environmental Planning
June 12, 2023

Response 3-1

The comment provides introductory remarks and suggests that development under the UCP Update and VST Specific Plan should be compatible with UC Merced's campus development plans. This comment does not address the adequacy of the analysis or conclusions in the Draft SEIR and does not raise a significant environmental issue requiring a response.

Response 3-2

The comment identifies an error regarding the inclusion of the UC Merced campus in the description of the 2,133-acre UCP area. Page ES-1 of the Draft SEIR has been revised to remove reference to the UC Merced campus from the UCP area description (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-3

The comment states that page ES-1 of the Draft SEIR does not identify which prior EIR the current Draft SEIR is supplementing. Page ES-1 of the Draft SEIR has been revised to clarify which EIR the subsequent CEQA analyses in the Draft SEIR is based upon (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-4

The comment recommends that the phrase "UC Merced Expansion Area" be deleted throughout the Draft SEIR. Pages ES-1, 1-3, and 2-1 of the Draft SEIR have been revised to remove this language (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-5

The comment identifies an inconsistency in the total number of residential units that would potentially be developed under the VST Specific Plan between the Executive Summary (3,950 units) and Chapter 2, "Project Description," (3,857 units) of the Draft SEIR. Page ES-2 of the Draft SEIR has been revised to reflect the correct number of residential units (3,857 units), as it appears in the Project Description and as assumed in the analysis presented throughout the Draft SEIR (refer to Chapter 3, "Revisions to the Draft SEIR"). Because the analysis in the Draft SEIR is based on the correct number of residential units (3,857 units), no further revisions to the Draft SEIR are necessary in response to this comment. This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-6

The comment states that the first mention of the 2001/2004 UCP EIR in the Draft SEIR is unclear to the reader because the document was not previously introduced in the text. Page ES-1 of the Draft SEIR has been revised to introduce the document (refer to Chapter 3, "Revisions to the Draft SEIR"). This revision is made for the purposes of clarification and amplification of information in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft SEIR is not required.

Response 3-7

The comment requests that the adoption dates of the Adopted UCP and first UC Merced Long Range Development Plan (LRDP) presented on page 2-5 of the Draft SEIR be checked for accuracy. Page 2-5 of the Draft SEIR has been

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

Response 3-8

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

Response 3-9

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

Response 3-10

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

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

Response 3-11

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

Response 3-12

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

Response 3-13

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

Response 3-14

Chapter 2, "Project Description," in the Draft SEIR lists 12 offsite roadway improvements that the Transportation Impact Study (TIS) identifies as necessary to support development of the project, which could be implemented through the "payment of citywide impact fees, special specific plan impact fees, or by direct improvement and construction" (Draft SEIR, page 2-29). These offsite improvements are considered a part of the project and the potential for physical environmental effects from implementing these improvements are evaluated throughout the Draft SEIR.

The comment indicates that page 2-32 lists a subset of the off-site intersections that is inconsistent with those described on page 2-29. In fact, no intersection improvements are listed on page 2-32 of the Draft SEIR. The intersection improvements are summarized on page 3-35 of the Project Description; this list is entirely consistent with the list provided on page 2-29.

However, in conducting a review of the listed intersection improvements, the County identified one intersection improvement that was inadvertently omitted from both lists. The intersection of McKee Road and Yosemite Avenue has been added to the lists on page 2-29 and page 3-35 (refer to Chapter 3, "Revisions to the Draft SEIR"). The intersection of McKee Road and Yosemite Avenue would not require any improvements in the near term (through 2030). Improvements for the 2042 Horizon Year scenario include widening the eastbound approach to two through lanes and one (new) right turn lane, and widening the westbound approach to two left turn lanes and two through lanes and one right turn lane (adding one left turn lane and one through lane). This intersection improvement was evaluated in the Draft SEIR and supporting technical reports, including a Biological Resources Constraints analysis (Live Oak Associates 2022).

Two additional intersection improvements are identified in the TIS: Lake Road at Bellevue Avenue, which UC Merced is constructing, and Lake Road at Yosemite Avenue, which has already been installed by others. These intersections have not been added to the list of intersection improvements in Chapter 2 of the Draft SEIR.

The comment also identifies an apparent inconsistency between the list of offsite improvements identified as a part of the project in Chapter 2 and a list of roadway intersections and road segments provided on pages 3.7-24 and 3.7-25 in Section 3.7, "Transportation and Circulation," of the Draft SEIR. Here, the cumulative impact analysis lists roadway intersection improvements and roadway segments analyzed in the development of traffic impact fees. The list was included to demonstrate the scope of analysis completed for General Plan and UCP conformity which, as noted in the impact evaluation, addresses the level of service concerns that are now outside the scope of the CEQA evaluation. The text identifies these intersections as evaluated in the VST Specific Plan for financial "fair share" contribution and does not indicate that these improvements are part of the project as proposed or that the project would be conditioned on these improvements. For clarity, however, the lists of roadway intersections and roadway segments on pages 3.7-24 and 3.7-25 of the Draft SEIR have been revised to eliminate all intersections and improvements that would not be constructed as part of the project.

The minor modifications and corrections to text made in response to this comment clarify the content of the Draft SEIR and do not result in the potential for new or more substantial environmental effects. Pursuant to CCR Section 15088.5, recirculation of the Draft SEIR is not required.

Response 3-15

The comment requests additional information regarding the cost estimates and funding allocation for the VST Specific Plan, and states that appropriate development fees should be enacted. The requested information was provided on July 12, 2023 during a meeting between VST and UC Merced. The comment is specific to the details of the proposed VST Specific Plan and administrative processes related to VST Specific Plan approval. Note that the funding plan for public improvements has been modified to reflect how Campus Parkway would be implemented.

This comment does not address the adequacy of the analysis or conclusions in the Draft SEIR and does not raise a significant environmental issue requiring a response. The comment is acknowledged for the record and will be forwarded to the decision makers for consideration.

Response 3-16

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

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

Response 3-17

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

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

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

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



<p>Letter 4</p>

June 12, 2023

Tiffany Ho, Deputy Director of Planning
 Community and Economic Development Department
 2222 M Street, 2nd Floor
 Merced, California 95340

Subject: Comments to Draft Focused Subsequent Environmental Impact Report for the UCP Update and VST Specific Plan.

Ms. Ho:

The Merced Irrigation District (MID) has reviewed the proposed Updated University Community Plan and VST Specific Plan and has determined that it impacts the following MID facilities:

1. MID operates and maintains the Fairfield Canal, a major distribution canal and flood control facility, located within a 100-foot wide combination of easements and fee-title strips, being within Section 2, 3 & 11, T. 7 S., R. 14 E., M.D.B. & M.
2. MID operates and maintains the Le Grand Canal, major distribution canal and flood control facility, within a 150-foot wide easement, recorded in Volume 21, Page 295, Official Records of Merced County, being within Section 2, T. 7 S., R. 14 E., M.D.B. & M.
3. MID operates and maintains the Dunn Lateral within a 60-foot wide fee strip, recorded in Volume 646, Page 65, Official Records of Merced County, being within Section 2, T. 7 S., R. 14 E., M.D.B. & M.
4. MID operates and maintains the Fairfield Lateral "A" within a 60-foot wide easement, recorded in Volume 635, Page 86, Official Records of Merced County, being within Section 10 & 11, T. 7 S., R. 14 E., M.D.B. & M.
5. MID operates and maintains the Fairfield Lateral "A-A" within a unspecified width prescriptive easement, in Section 11, T. 7 S., R. 14 E., M.D.B. & M.
6. MID operates and maintains Well 221 within an 11.28-acre fee-title parcel of land, recorded in Volume 44 of Deeds, Page 236, Official Records of Merced County, located in the Southwest corner of Section 12, T. 7 S., R. 14 E., M.D.B. & M.

4-1

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

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

4-1
Cont

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

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

Le Grand Canal

4-2

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

Fairfield Canal

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

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

enter into a “Storm Drainage Agreement” with the Merced Irrigation District Drainage Improvement District (MIDDID No. 1). Those portions of the development outside of the MID Boundary would be required to enter into an agreement with MID, pending MID Board approval.

Fairfield Lateral “A”

1. Place the open earthen canal in an underground pipeline to MID standards.
2. The Fairfield Lateral “A” may accept storm drainage water from the proposed development. If utilized, the portions of the development within the MID Boundary would be required to enter into a “Storm Drainage Agreement” with the Merced Irrigation District Drainage Improvement District (MIDDID No. 1).

4-2
Cont.

Fairfield Lateral “A-A”

1. This pipeline can be abandoned when the agricultural ground serviced is developed.

Dunn Lateral

1. Place the open earthen canal in an underground pipeline to MID standards while it continues to service agricultural lands. Alternatively, the developer could purchase the fee strip now and ensure that downstream users are continued to be served through dedicated easements.

Well 221

1. MID will retain the use of this fee parcel facility.

Lake Yosemite – Un-gated Spillway

1. The proposed development must analyze potential impacts of overflowing flood waters from Lake Yosemite along its southeast shoreline through the UC campus and onto the proposed development.

4-3

General Comments

1. An MID signature block on any Improvement Plans for the proposed development that affect MID facilities will be required.
2. An Encroachment Agreement with MID will be required for work associated with improvements to MID and for any roadways, walkways, bike paths, utilities and pipelines crossing MID facilities.
3. Execute an exclusive easement for any canals that are relocated from their present easements with an appropriate width exclusive easement. The old easement would be quitclaimed to the property owner to clear up title. For MID fee parcels, the developer

4-4

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

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

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

4-4
Cont.

4-5

4-6

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

Sincerely,

Mike Morris

Mike Morris LS
Survey Project Manager
Merced Irrigation District

Letter 4 Merced Irrigation District

Mike Morris LS, Survey Project Manager

June 12, 2023

Response 4-1

The comment states that eight Merced Irrigation District (MID) facilities would be impacted from development under the UCP Update and VST Specific Plan. These facilities are discussed in detail below.

1. Fairfield Canal: This facility is within the UCP area and would be affected by the UCP Update and the VST Specific Plan, as evaluated in the Draft SEIR. The Fairfield Canal runs roughly north to south through the VST Specific Plan area. See Figure 3.5-1, "Hydrology," in the Draft SEIR. The project includes removal of an oxbow to partially straighten the canal alignment. The environmental impacts associated with the proposed modifications to Fairfield Canal are evaluated in the Draft SEIR. For example, pages 3.5-20 through 3.5-22 describe project impacts to existing drainage patterns associated with the proposed modifications to Fairfield Canal and Mitigation Measure 3.5-3 requires the applicant or subsequent developer to submit evidence to the City of Merced or Merced County, as may be appropriate, that necessary permits have been obtained from MID.
2. Le Grand Canal: As stated on page 3.5-10 of the Draft SEIR, Le Grand Canal is located outside the northern edge of the project site boundary. See Figure 3.5-1, "Hydrology," in the Draft SEIR. The project would not involve activities within MID's 150-foot-wide easement for this facility, including any modifications or disruptions in access to this facility.
3. Dunn Lateral: This facility is within the UCP area and would be affected by the VST Specific Plan portion of the project, as evaluated in the Draft SEIR. The Dunn Lateral is an irrigation ditch within the VST Specific Plan area that extends south from the Fairfield Canal approximately 1,600 feet before ending at an underground pipe adjacent to the southern property boundary. Page 2-32 of the Draft SEIR states that the VST Specific Plan proposes to fill and remove the Dunn Lateral. The environmental impacts associated with the proposed modifications to the Dunn Lateral are evaluated in the Draft SEIR. For example, pages 3.5-20 through 3.5-22 note that the Dunn Lateral is no longer used to transport water; therefore, its removal is not anticipated to substantially alter drainage patterns. Mitigation Measure 3.5-3 requires the project applicant or subsequent developer to submit evidence to the discretionary land use authority (i.e., City of Merced or Merced County) that necessary permits have been obtained from MID.
4. Fairfield Lateral "A": This facility is a portion of the Fairfield Canal located at the eastern edge of the UCP South. The project would not involve activities within MID's 60-foot-wide easement for this facility, including any modifications or disruptions in access to this facility. See Figure 2-6, "Proposed UCP Land Use and Circulation Diagram," in the Draft SEIR, which shows the land uses proposed on the west side of the lateral.
5. Fairfield Lateral "A-A": This facility is a portion of the Fairfield Canal located at the eastern edge of UCP South. The project would not involve activities within MID's prescriptive easement for this facility, including any modifications or disruptions in access to this facility. See Figure 2-6, "Proposed UCP Land Use and Circulation Diagram," in the Draft SEIR, which shows the land uses proposed on the west side of the lateral.
6. Well 221: This facility is located outside of the southeast corner of the UCP South, near the convergency of the Fairfield Canal, Black Rascal Creek, and the proposed extension of Yosemite Avenue. The parcel that includes this well is not within the boundaries of the UCP Update. The UCP Update and the VST Specific Plan would not involve any modifications or disruptions in access to this well.
7. Lake Yosemite (un-gated overflow/spillway): As discussed on page 3.5-9 of the Draft SEIR, Lake Yosemite is located approximately 1 mile north of the UCP Update area. (See also Figure 2-2, "University Community Plan and Virginia Smith Trust Specific Plan Area" in the Draft SEIR.) The project would not involve modifications or disrupt access to MID facilities connected with Lake Yosemite. See also Response 4-3, which describes why overflowing flood waters from Lake Yosemite would not have potential to affect development within the UCP Update area.

8. Cottonwood Creek: This facility is within the UCP area and would be affected by the UCP Update and the VST Specific Plan, as evaluated in the Draft SEIR. As noted on pages 3.5-20 and 3.5-21 of the Draft SEIR, flows in Cottonwood Creek are anticipated to decrease with implementation of the UCP Update and the Cottonwood Creek drainage would be preserved under the VST Specific Plan.

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

Response 4-2

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

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

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

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

not identify any potentially significant impacts to the Fairfield Lateral "A-A" that would warrant mitigation. No revisions to the Draft SEIR are necessary.

- ▶ Dunn Lateral: As noted above, page 2-32 acknowledges that modifications to the Dunn Lateral would be subject to MID approval of detailed facility designs and confirmation of conformance with MID's design specifications. Mitigation Measure 3.5-3 requires the applicant or subsequent developer to submit evidence to the discretionary land use authority (i.e., City of Merced or Merced County) that necessary permits have been obtained from MID. No revisions to the Draft SEIR are necessary.
- ▶ Well 221: As noted in Response 4-1, the project would not involve activities any modifications or disruptions in access to this well. No revisions to the Draft SEIR are necessary.

Note that the VST Specific Plan identifies parkland and open space in the area adjacent to the canals to allow for groundwater infiltration and limit the potential for damage due to seepage. MID would retain control over the existing facilities; the VST Specific Plan includes specific fencing and setback requirements to limit the potential for safety and operational issues. No revisions to the Draft SEIR are necessary in response to this comment.

Response 4-3

The comment states that the potential impact of overflowing flood waters from Lake Yosemite onto the proposed development must be analyzed. As discussed on pages 3.5-9 and 3.5-10 of the Draft SEIR, Lake Yosemite is located approximately 1 mile north of the UCP Update area and a 53-foot-high earthen dam is located along the lake's southwest side. See also Section 4.8 of the 2001/2004 UCP EIR at page 4.8-3. The crest of Lake Yosemite Dam is approximately 4 feet higher than the edge of the rim of the lake. Failure of the earthen dam would occur if the lake were overtopped by water. The area to the west and southwest of the lake would experience a gradual flooding if the earthen dam were to fail. Because the UCP Update area is located south and southeast of the lake, development under the UCP Update and VST Specific Plan would be unaffected by flooding. No revisions to the Draft SEIR are necessary in response to this comment.

Response 4-4

The comment identifies approvals, agreements, easements, and other requirements that would be necessary for any work affecting MID facilities. This comment is noted and page 2-43 of the Draft SEIR has been revised to identify MID as a responsible agency with authority to approve improvement plans, issue encroachment agreements, and execute easements for work affecting MID facilities (refer to Chapter 3, "Revisions to the Draft SEIR").

Note also that the VST Specific Plan would not result in discharge of agricultural tail water or untreated storm water runoff into the MID canal system. Detention basins are proposed to filter and accommodate peak drainage flows, as noted in the comment.

Response 4-5

The comment states that capacity restrictions should be analyzed if the project would result in discharge of stormwater to Cottonwood Creek. These capacity restrictions have been evaluated in the Draft SEIR. The VST Specific Plan would comply with the City's drainage ordinance and City drainage regulations, which limit discharge rates to Cottonwood Creek. Chapter 2, "Project Description," provides additional information about stormwater treatment and management improvements that would be used to capture, treat, and release stormwater at the discharge rates prescribed by state and local regulations (see page 2-31).

As indicated on page 3.5-20 of the Draft SEIR, the 2001/2004 UCP EIR determined that the development would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems. The Draft SEIR summarizes the results as follows:

Modeling of the post-development condition (that would include buildout of the stormwater conveyance system that incorporated numerous detention basins, conveyance pipelines, and pump stations to regulate flow of stormwater) showed that total flows in Fairfield Canal would increase while flows in Cottonwood Creek would decrease with the implementation of the Adopted UCP. Peak flows in Fairfield Canal would not increase because Adopted UCP policies and MID regulations require that water is metered into the canal

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

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

Response 4-6

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



June 19, 2023

Tiffany Ho
Merced County
Economic Development Department
2222 M Street, 2nd Floor
Merced, CA 95340

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

District CEQA Reference No: 20230405

Dear Ms. Ho:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Subsequent Environmental Impact Report (SEIR) from Merced County (County) for the University Community Plan (UCP) Update, which includes the Virginia Smith Trust (VST) Specific Plan (Project). Per the SEIR, the Project is located in Merced, CA and consists of the following:

- The removal of 468.7 acres belonging to UC Merced
The addition of 176.6 acres to the VST Specific Plan area
The reduction of 1,936 dwelling units from 11,616 to 9,680
The reduction of 775,990 square feet of non-residential development from 2,022,990 square feet to 1,247,000 square feet
The reallocation of 1,440 dwelling units from the original UCP North and South to the VST Specific Plan area
The reallocation of 709,000 square feet of non-residential development from the original UCP North and South to the VST Specific Plan Area
The inclusion of the development of a school, a fire station, a police substation, public recreation facilities, and new roads with Class IV bicycle lanes in the VST Specific Plan

5-1

The District offers the following comments regarding the Project:

1) Project Construction Related Emissions

Mitigation Measure 3.1-1a stipulates that if Tier 4 off-road construction equipment is not available, Tier 3 equipment can be substituted. However based on the CalEEMod analyses in Appendix D, the quantification of the Project air quality

5-2

Samir Sheikh
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

www.valleyair.org www.healthyairliving.com

Printed on recycled paper. Recycled logo

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

Page 2 of 12

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

5-2
Cont.

2) Voluntary Emission Reduction Agreement

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

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

5-3

2a) Timing of VERA Execution

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

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

3) Health Risk Screening/Assessment

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

5-4

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

Page 3 of 12

Project construction is expected to occur over a 25-year period. Additionally, large mixed used commercial developments, such as those included in the Project, have the ability to result in increased truck travel with the potential to emit Diesel Particulate Matter (DPM) emissions during operations. Due to the Project's multi-year construction period and potential to emit increased DPM emissions from mobile sources during construction and operational activities, the District recommends that to determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for the Project. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Health risk analyses should include all potential air emissions from the project, which include emissions from construction of the project, including multi-year construction, as well as ongoing operational activities of the project. Note, two common sources of TACs can be attributed to diesel exhaust emitted from heavy-duty off-road earth moving equipment during construction, and from ongoing operation of heavy-duty on-road trucks.

5-4
Cont.

Prioritization (Screening Health Risk Assessment):

A "Prioritization" is the recommended method for a conservative screening-level health risk assessment. The Prioritization should be performed using the California Air Pollution Control Officers Association's (CAPCOA) methodology.

The District recommends that a more refined analysis, in the form of an HRA, be performed for any project resulting in a Prioritization score of 10 or greater. This is because the prioritization results are a conservative health risk representation, while the detailed HRA provides a more accurate health risk evaluation.

To assist land use agencies and project proponents with Prioritization analyses, the District has created a prioritization calculator based on the aforementioned CAPCOA guidelines, which can be found here:

http://www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION-CALCULATOR.xls

Health Risk Assessment:

Prior to performing an HRA, it is strongly recommended that land use agencies/project proponents develop and submit for District review a health risk modeling protocol that outlines the sources and methodologies that will be used to perform the HRA. This step will ensure all components are addressed when performing the HRA.

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

Page 4 of 12

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

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

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

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

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

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

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

4) Ambient Air Quality Analysis

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

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

5-4
Cont.

5-5

as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts: <https://www.valleyair.org/transportation/GAMAQI.pdf>. When a project is expected to exceed 100 lbs/day of any pollutant, an AAQA should be performed to determine if the project will violate state or federal health based ambient air quality standards.

5-5
Cont.

5) Truck Routing

Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors.

As the Project includes non-residential developments, such as commercial and retail developments, which will generate HHD truck traffic, the District recommends the County evaluate HHD truck routing patterns for the Project, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

5-6

6) Cleanest Available Heavy-Duty Trucks

The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from HHD trucks, the single largest source of NOx emissions in the San Joaquin Valley. The District's CARB-approved 2018 PM2.5 Plan includes significant new reductions from HHD trucks, including emissions reductions by 2023 through the implementation of CARB's Statewide Truck and Bus Regulation, which requires truck fleets operating in California to meet the 2010 standard of 0.2 g-NOx/bhp-hr by 2023. Additionally, to meet federal air quality attainment standards, the District's Plan relies on a significant and immediate transition of HHD fleets to zero or near-zero emissions technologies, including the near-zero truck standard of 0.02 g/bhp-hr NOx established by CARB.

5-7

As the Project includes non-residential developments, such as commercial and retail developments, which have the ability to generate HHD truck traffic, a, the District recommends that the following measures be considered by the County to reduce Project-related operational emissions:

- *Recommended Measure:* Fleets associated with operational activities utilize the cleanest available HHD trucks, including zero and near-zero (0.02 g/bhp-hr NOx) technologies.

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

Page 6 of 12

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

7) Reduce Idling of Heavy-Duty Trucks

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

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

5-7
Cont.

8) Under-fired Charbroilers

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

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

5-8

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

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

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

Page 7 of 12

9) Vegetative Barriers and Urban Greening

The District suggests the County consider incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., residences, schools, healthcare facilities).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population’s exposure to air pollution through the interception of airborne particles and the uptake of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

5-9

10) Clean Lawn and Garden Equipment in the Community

Since the Project consists of residential and commercial development, gas-powered lawn and garden equipment have the potential to result in an increase of NOx and PM2.5 emissions. Utilizing electric lawn care equipment can provide residents with immediate economic, environmental, and health benefits. The District recommends the Project proponent consider the District’s Clean Green Yard Machines (CGYM) program which provides incentive funding for replacement of existing gas powered lawn and garden equipment. More information on the District CGYM program and funding can be found at: <http://www.valleyair.org/grants/cgym.htm> and <http://valleyair.org/grants/cgym-commercial.htm>.

5-10

11) District’s Bikeway Incentive Program

Since the Project includes the installation of bikeways, it may be eligible for funding through the District’s Bikeway Incentive Program. The Bikeway Incentive Program provides funding for eligible Class 1 (Bicycle Path Construction), Class II (Bicycle Lane Striping), or Class III (Bicycle Route) projects. These incentives are designed to support the construction of new bikeway projects to promote clean air through the development of a widespread, interconnected network of bike paths, lanes, or routes and improving the general safety conditions for commuter bicyclists. Only municipalities, government agencies, or public educational institutions are eligible to apply. More information on the grant program can be found at: <http://valleyair.org/grants/bikepaths.htm>

5-11

Guidelines and Project Eligibility for the grant program can be found at: http://valleyair.org/grants/documents/bikepaths/2015_Bikeway_Guidelines.pdf

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

Page 8 of 12

12) District Rules and Regulations

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

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

5-12

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

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

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

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

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

Page 9 of 12

For further information or assistance, project proponents may contact the District’s SBA Office at (209) 557-6446.

12b) District Rule 9510 - Indirect Source Review (ISR)

The purpose of District Rule 9510 is to reduce the growth in both NOx and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. District Rule 9510 also applies to any transportation or transit development projects where construction exhaust emissions equal or exceed two tons of NOx or two tons of PM. The ISR Rule requires developers to mitigate their NOx and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

Per Section 5.0 of the ISR Rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency.

A project is subject to District Rule 9510 when it will receives a project-level discretionary approval from a public agency and will equal or exceed any of the following applicability thresholds, depending on the type of development and public agency approval mechanism:

5-13

Table 1: ISR Applicability Thresholds

Development Type	Discretionary Approval Threshold	Ministerial Approval / Allowed Use / By Right Thresholds
Residential	50 dwelling units	250 dwelling units
Commercial	2,000 square feet	10,000 square feet
Light Industrial	25,000 square feet	125,000 square feet
Heavy Industrial	100,000 square feet	500,000 square feet
Medical Office	20,000 square feet	100,000 square feet
General Office	39,000 square feet	195,000 square feet
Educational Office	9,000 square feet	45,000 square feet
Government	10,00 square feet	50,000 square feet
Recreational	20,000 square feet	100,000 square feet
Other	9,000 square feet	45,000 square feet

Please inform the project proponent to submit an AIA application to the District to comply with District Rule 9510 so that proper mitigation and clean air design under ISR can be incorporated into the Project’s design.

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

Page 10 of 12

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

5-13
Cont.

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

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

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

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

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

5-14

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

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

12e) District Rule 4601 (Architectural Coatings)

The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:
<http://www.valleyair.org/rules/currnrules/r4601.pdf>

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

Page 11 of 12

12f) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at:

<https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>

Information about District Regulation VIII can be found online at:

http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm

12g) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

5-14
Cont.

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

Page 12 of 12

13) District Comment Letter

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

5-15

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

Sincerely,

Brian Clements
Director of Permit Services



For: Mark Montelongo
Program Manager

Letter 5 San Joaquin Valley Air Pollution Control District

Brian Clements, Director of Permit Services (for Mark Montelongo, Program Manager)

June 19, 2023

Response 5-1

The comment provides introductory remarks and a summary of the project description. This comment does not address the adequacy of the analysis or conclusions in the Draft SEIR and does not raise a significant environmental issue requiring a response.

Response 5-2

The comment states that Mitigation Measure 3.1-1a allows for the use of Tier 3 engines if Tier 4 engines are not available, and notes that the modeling performed for the mitigated scenario for the UCP South assumed all Tier 4 engines. As a result, the quantification may overstate the emissions reductions achieved through application of the measure.

The 2001/2004 UCP EIR previously evaluated and confirmed that the UCP would generate less than significant construction-related PM₁₀ emissions with mitigation incorporated into the project. Construction-generated emissions of ROG, NO_x, and CO would be significant and unavoidable with implementation of UCP policies and mitigation. Because this is an SEIR, the environmental review need only evaluate new significant impacts or substantially greater impacts that the program EIR did not previously evaluate. (CEQA Guidelines, § 15168(d)(3).) Accordingly, the SEIR evaluated the UCP update in relation to the 2001/2004 UCP EIR analysis. The Draft SEIR evaluated the project using more effective construction equipment that nonetheless estimated "higher worst-case scenarios than reality" (Draft SEIR, page 3.1-32). Moreover, the Draft SEIR notes that project phasing would overlap, so construction equipment would be shared, resulting in an overestimate of likely daily emissions (Draft SEIR, page 3.1-32). Thus, the emissions analysis already overestimates total emissions. The SEIR also requires implementation of Mitigation Measure 3.1-1b, which would require preparation of an Ambient Air Quality Analysis to further verify air quality impacts, and may require the developer to implement additional emission reduction measures (Draft SEIR, page 3.1-29). Finally, the UCP Update proposes a reduction in total overall development, from 2,133 acres to 1,841 acres—a reduction of nearly 14 percent (Draft SEIR, page 2-12). Compared to the Adopted UCP, overall development is less than that previously evaluated. Taken together, the Draft SEIR properly determined that these construction-generated impacts caused by the UCP Update would not be substantially more severe than the impact identified in the 2001/2004 UCP EIR (Draft SEIR, page 3.1-32).

The comment also suggests that Mitigation Measure 3.1.-1a be applied to the VST portion of the plan area. Table 3.1-6 in Section 3.1, "Air Quality," summarizes the anticipated level of emissions generated from the VST Specific Plan. As shown in Table 3.1-6, the VST Specific Plan's emissions would not exceed San Joaquin Valley Air Pollution Control District's (SJVAPCD's) annual mass emissions thresholds; therefore, the VST Specific Plan's contribution of construction-generated criteria air pollutants and ozone precursors would not be significant. Mitigation Measure 3.1-1a would not be necessary to reduce the VST Specific Plan's less-than-significant impact.

The Draft SEIR analysis for the UCP South is intended to be programmatic in nature. Future development under the UCP South would require a separate specific plan and would undergo further environmental review prior to the issuance of any development entitlements including building or construction permits, at which time the efficacy of Mitigation Measure 3.1-1a would be reevaluated. Future project proponents may commit to the use of Tier 4 or Tier 3 engines, and the emissions reduction achieved through those commitments would be quantified and disclosed at that time.

Response 5-3

The comment addresses the language and application of Mitigation Measure 3.1-b. This mitigation measure includes separate requirements for the UCP South, which is evaluated programmatically in the Draft SEIR, and the VST Specific Plan, for which emissions are fully quantified. The comment quotes language from the portion of the mitigation measure that applies to the UCP South and suggests that future project applicants should consult with the air district prior to issuance of a certificate of occupancy to "ensure the VERA [Voluntary Emissions Reduction Agreement] is

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

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

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

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

Response 5-4

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

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

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

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

million is used by several air districts in California to determine the significance of TAC impacts and is therefore similarly applied in the Prioritization Risk Screening Tool. However, of note, SJVAPCD's CEQA threshold for assessing the significance of TAC impacts is 20 in one million, not 10 in one million. Therefore, projects that exceed SJVAPCD's 10 in one million prioritization score may result in less-than-significant impacts when compared to SJVAPCD's CEQA threshold of 20 in one million.

While SJVAPCD has recommended an HRA, it does not appear to have been adopted by SJVAPCD as a threshold of significance pursuant to Section 15064.7 of the CEQA Guidelines. Adopted thresholds promote "consistency in significance determinations and integrates environmental review with other environmental program planning and regulation." (CEQA Guidelines, § 15064.7(d).) Thresholds must be "ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence." (CEQA Guidelines, § 15064.7(b).) HRA screening is not an applicable threshold that has been adopted by SJVAPCD. Thus, the SEIR is only required to evaluate new effects which had not been previously considered in the 2001/2004 UCP EIR. (See CEQA Guidelines, § 15168(d)(3).) Both the 2001/2004 UCP EIR and the Draft SEIR evaluated the impact of the project—both at construction and operation stages—to sensitive receptors. Since the UCP Update and VST Specific Plan represent less intensive uses than what was previously analyzed, the Draft SEIR adequately determined that impacts would remain less than significant. Lead agencies are not required to conduct an HRA where analysis concludes that emissions associated with construction and operation of the project did not exceed air quality significance thresholds. (Citizens for Responsible Equitable Environmental Development v. City of Chula Vista (2011) 197 Cal.App.4th 327, 333.)

Preparation of an HRA requires detailed information to provide a meaningful assessment. Specific inputs such as types of industrial or commercial land uses, proposed activities and materials used in operation, number of haul trips, and location of loading docks relative to sensitive receptors are required. This information is used to create an assessment of health risk for each nearby sensitive receptor. As explained in the Draft SEIR (page 3.1-5), sensitive receptors are "people or facilities that generally house people (e.g., residences, schools, hospitals) that may experience adverse effects from unhealthful concentrations of air pollutants."

The UCP Update does not include industrial sources of air pollution and, given the scale of the project (i.e., the UCP Update which includes the VST Specific Plan), a construction and operation HRA was not prepared (Draft SEIR, page 3.1-38). There is inherent uncertainty surrounding the exact location where construction would occur to implement the land uses proposed under the UCP Update. Therefore, the risk to a receptor cannot be quantified with a high degree of accuracy. For the purpose of the evaluation in this SEIR, the level of health risk from exposure to construction- and operation-related TAC emissions was assessed qualitatively. This assessment was based on the proximity of TAC-generating construction activity to off-site sensitive receptors, the number and types of diesel-powered construction equipment being used, and the duration of potential TAC exposure.

The County evaluated the potential effects of air pollutants generated by buildout of the VST Specific Plan and UCP Update. As discussed under Impact 3.1-4, the 2001/2004 UCP EIR did not identify any significant impacts related to TAC exposure. As summarized in the Draft SEIR (page 3.1-37):

Impact 4.3-6 of the 2001/2004 UCP EIR evaluated the potential for sensitive receptors to be exposed to onsite and offsite concentrations of TACs emanating from stationary sources. The analysis indicated that no industrial or research and development facilities would be anticipated and if any were constructed, new facilities must obtain a permit from SJVAPCD as directed by Policy AQ 3.1. This impact was concluded to be less than significant because both onsite and offsite facilities that may emit TACs would be required to comply with established emission standards through the SJVAPCD permitting process.

In analyzing the proposed UCP Update and VST Specific Plan, the Draft SEIR finds that "construction-related TACs would not expose sensitive receptors to an incremental increase in cancer risk that exceeds 10 in one million or a hazard index of 1.0 or greater" due to "the highly dispersive properties of diesel PM and the relatively low mass of diesel PM emissions that would be generated at any single place during project construction" (page 3.1-38). The maximum daily emissions of respirable particulate matter (PM₁₀) exhaust, which is considered a surrogate for diesel PM, would be a maximum of 2 pound per day (lb/day) for the UCP Update during the most intense period of construction activity, which would not exceed the daily threshold of 100 lb/day. Similarly, stationary source TACs

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

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

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

Response 5-5

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

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

Also shown in Table 3.1-13, the operational emissions of the VST Specific Plan would generate emissions of ROG and carbon monoxide that exceed SJVAPCD's 100 lb/day screening criteria. The SEIR evaluates the VST Specific Plan in consideration of the analysis prepared in the 2001/2004 UCP EIR. Given the results of the comparative analysis of the UCP Update and considering the project design commitments made by the VST Specific Plan, which are reflected in the emissions reductions shown in Table 3.1-12, the VST Specific Plan was determined to result in a decrease in operational emissions compared to the analogous portion in the previously adopted UCP. A new exceedance of an ambient air quality standard would not be anticipated as compared to what would have occurred from the land uses evaluated in the 2001/2004 UCP EIR.

Moreover, in 2018, Appendix G of the State CEQA Guidelines were amended to remove the significance criterion (b) "violate any air quality standard or contribute substantially to an existing or project air quality violation." SJVAPCD's guidance, published in 2015, uses the preparation of an AAQA to satisfy this criterion, which is no longer retained in the most current version of Appendix G of the State CEQA Guidelines. Even though it is no longer required, an AAQA will be incorporated into Mitigation Measure 3.1-1b.

Implementation of Mitigation Measures 3.1-1b, 3.1-2a, and 3.1-2b would ensure that the UCP Update and VST Specific Plan's emissions would be reduced to SJVAPCD's CEQA annual mass emissions thresholds. Through the VERA and AAQA, the UCP Update and VST Specific Plan would reduce emissions to less-than-significant levels. This impact would be less than significant with mitigation.

Response 5-6

The comment recommends that the SEIR include an assessment of the patterns of heavy heavy-duty (HHD) trucks within the plan area. As discussed in Response 5-4, above, the UCP Update was evaluated on a programmatic level. It is speculative to predict the locations or number of HHD trucks that would access the plan area following buildout. With respect to the VST Specific Plan, which has a detailed land use plan, the individual occupants and commercial businesses are not known at this time and the use of HHDs to operate is also speculative at this time. As discussed above, an HRA was not prepared for the project given the project's size and uncertainty surrounding the types of land uses that may be constructed under the UCP Update. Therefore, the dispersal of emissions from the operation of HHDs was not prepared as it is considered a speculative exercise.

Response 5-7

The comment recommends that the County consider the feasibility of requiring that commercial and retail development in the UCP area use the cleanest available HHD trucks in vehicle fleets and that all onsite service equipment use zero-emission technologies. The comment also recommends a stringent 3-minute idling restriction and requiring appropriate signage and enforcement of idling restrictions for HHD truck trips. In response to this comment, the language of Mitigation Measure 3.1-2a on page 3.1-34 of the Draft SEIR has been amended to include restriction of idling times for HHD trucks. See Chapter 3, "Revisions to the Draft SEIR."

The SEIR evaluated impacts caused by mobile source TACs to sensitive receptors, including impacts caused by increased roadway traffic at buildout (Draft SEIR, pages 3.1-38—39). CARB already imposes strict limitations on diesel-fueled trucks idling within 100 feet of a restricted area, defined to include residential uses. Utilizing the CARB recommended threshold, the SEIR concluded these impacts would be less than significant (Draft SEIR, page 3.1-39). The VST Specific Plan can impose this stricter 3-minute restriction for facilities within 100 feet of residential uses. To the extent that any proposed commercial use will increase truck traffic on local roads that will cause a significant increase in emissions, such proposed use will be subject to SJVAPCD regulations and permitting at that date of proposal.

The only non-residential or community uses in the UCP Update and VST Specific Plan are retail and other commercial/office uses. These uses are not the type of uses that will maintain their own fleet of HHD trucks. Accordingly, this impact is not likely to arise within UCP Update and VST Specific Plan area. On-site service equipment will comply with the most current state regulations for such equipment.

The County has reviewed the recommended measures related to low and zero emission HHD trucks and equipment and considers these measures to be infeasible. Commercial and retail buildings would, presumably, receive deliveries

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

Response 5-8

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

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

Response 5-9

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

Response 5-10

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

Response 5-11

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

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

in the Draft SEIR and does not constitute significant new information as described in CCR 15088.5; therefore, recirculation of the Draft is not required. This comment does not address the adequacy of the analysis or conclusions in the Draft SEIR and does not raise a significant environmental issue requiring a response. The comment is acknowledged for the record and will be forwarded to the decision makers for consideration.

Response 5-12

The comment introduces the various SJVAPCD rules that could apply to the project. The comment recommends a mitigation measure requiring future projects subject to SJVAPCD permitting to demonstrate compliance with District Rule 2201 (new and modified stationary source emissions) prior to issuance of a building permit. In evaluating the effects of the UCP Update on stationary source TACs, the Draft SEIR (page 3.1-38) states:

The UCP Update would continue to comply with SJVAPCD Rule 2010, which regulates sources with the potential to emit TACs through a permitting process. Permits may only be granted to these operations provided that they are constructed and operated in accordance with applicable regulations, and they include best available control technology, if applicable, based on regulations including Rule 2201 (New and Modified Stationary Source Review Rule), Rule 4001 (New Source Performance Standards), and Rule 4002 (National Emissions Standards for Hazardous Air Pollutants). Compliance with these rules would ensure that these stationary sources would meet established health standards for TACs. Given that compliance with applicable standards is required for the construction and operation of facilities that may emit TACs, the TAC emissions from the routine use of TACs in manufacturing processes, both on and off the project site, are expected to be within established standards.

Because the UCP Update would not introduce any new potential for TAC-generating land uses, and the stationary sources of TACs associated with these land uses would comply with the SJVAPCD permitting process (which reduces the potential for sensitive receptors to be exposed to substantial pollutant concentration), there is no new significant impact and the impact is not substantially more severe than the impact identified in the 2001/2004 UCP EIR. This impact would remain **less than significant** as identified in the 2001/2004 UCP EIR.

The lead agency would confirm compliance with established regulations, including Rule 2201, during review of any subsequent discretionary development in the plan area.

Response 5-13

The comment states that development under the project would be subject to SJVAPCD Rules 2010, "Permits Required," 2201, "New and Modified Stationary Source Review," and 9510, "Indirect Source Review," and requests that the County inform the project applicant about District Rule 9510 so that "proper mitigation and clean air design under ISR can be incorporated into the Project's design." SJVAPCD is correct that portions of the project would be subject to Rules 2010, 2201, 9510. The importance of District Rule 9510 in identifying project-specific mitigation and design for subsequent developments is noted. As indicated in the Draft SEIR (page 3.1-35), Mitigation Measure 3.1-2a would require projects in the UCP Update area outside of the VST Specific Plan area to implement specific measures that include SJVAPCD consultation and the ISR process. Compliance with these rules would occur through the permitting process when obtaining an Authority to Construct or Permit to Operate prior to the operation of any new emissions generating unit. Permits can be obtained through SJVAPCD's permit application process.

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

Response 5-14

The comment states that the project may be subject to SJVAPCD's Rule 9410, "Employer Based Trip Reduction." Rule 9410 applies to each employer in the San Joaquin Valley Air Basin (SJVAB) that hires at least 100 eligible employees at a worksite for at least 16 consecutive weeks during the employer's previous fiscal year. Rule 9410 requires these

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

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

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

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

Response 5-15

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



<p>Letter 6</p>

June 12, 2023

Tiffany Ho, Deputy Director of Planning
 Community and Economic Development Department
 2222 M Street, 2nd Floor
 Merced, CA 95340
 (209) 385-7654 x4407
Tiffany.Ho@countyofmerced.com

Sent Via Email

RE: UCP Update and VST Specific Plan (SCH # 2001021056)

Dear Ms. Ho:

The undersigned South Merced residents and Leadership Counsel for Justice and Accountability submit this letter in response to the Draft Focused Subsequent Environmental Impact Report (SEIR) for the University Community Plan (UCP) Update and the Virginia Smith Trust Specific Plan.

The project area is in unincorporated Merced County, northeast of the City of Merced, but within the City of Merced’s sphere of influence. The project proposes the development of 3,860 residences, a daycare, drug stores, restaurants, schools, an upscale convenience store, a bank, several places of worship, a fitness center, medical/dental services, personal care services, and a full-service supermarket into the City and its services. Meanwhile, disadvantaged unincorporated areas of South Merced within the City’s sphere of influence continue to go without basic city water and wastewater services, stormwater drainage, fire protection services, or grocery stores.

This proposal would continue a pattern and practice of inequitable public and private investment in North Merced and neglect and disinvestment in under-resourced areas of South Merced. Despite repeated calls for City and County officials to allocate funding and staff time to South Merced’s needs and issues, those resources have been spent on projects like this. The project would further sprawl within the City of Merced to the north while ignoring needed infrastructure investments in South Merced. Therefore, the Project and projects like it must be altered to address the region's needs, including increased affordability and investment outside North Merced. Additionally, the draft SEIR fails to adequately analyze and mitigate the impacts associated with the proposed land use, as required by the California Environmental Quality Act (CEQA). Continuation of the project without full environmental analysis and mitigation will

6-1

2210 San Joaquin Street, Fresno, CA 93721
 Telephone: (559) 369-2790

Tiffany Ho
June 12, 2023
Page 2

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

6-1
Cont.

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

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

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

6-2

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

¹ <https://www.zillow.com/merced> (Accessed June 9, 2023)
2210 San Joaquin Street, Fresno, CA 93721
Telephone: (559) 369-2790

Tiffany Ho
 June 12, 2023
 Page 3

The Project does intend to provide some medium-high density and high-density residential through its R-3 and R-4 but fails to ensure those are affordable. Without deed restriction requirements, the SEIR provides no guarantee that the units will be affordable for lower-income families (i.e., with the units and utilities combined costing less than 30% of households income). The VST Specific Plan points out that sites for 200 of the R-4 units would be contributed to a local nonprofit housing provider to provide deed-restricted housing for low-, very low-, and extremely low-income housing. While this contribution is positive, it constitutes only 5% of the total units in the Project – falling far below the share of lower-income households needs for housing as a proportion of total housing needs in the County.²

In addition to the concerns expressed above, the project does nothing to ensure that households with special housing needs, such as large families, farmworker households, single-parent households and others with special and/or heightened housing needs are able to access and enjoy the units created as a result of this project.

If approved in its current iteration, the Project would concentrate wealth in the planned community, further entrenching segregated living patterns within the City of Merced. As discussed below, this is at odds with the County, City and State’s duties under civil rights law.

6-2
 Cont.

II. The Project Does Not Align with the City, County, and State’s Duty to Affirmatively Further Fair Housing

The Project as proposed would run contrary to the City, County, and State mandates to Affirmatively Further Fair Housing. Gov’t Code § 8899.50. The state proposed the Project, the County acted as the lead agency in conducting the environmental analysis, and the City will ultimately annex the Project area. Without increased environmental analysis and revisions to the Project, all three agencies will have failed in their duties’ to affirmatively further fair housing as required under Gov’t Code § 8899.50.

A public agency’s duty to AFFH requires it to take meaningful actions that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Gov’t Code § 8899.50(a)(1) Those actions must address significant disparities in housing needs and access to opportunity. By encouraging the construction of largely unaffordable, market rate housing units in North Merced, the City will further entrench segregated living patterns. If the State moves ahead with the current proposal, it will fail to meet its duty to AFFH.

This Project proposes to continue the City of Merced’s long history of northward sprawl which has divided Merced based on race and income. The project will exacerbate those patterns and undermine the ability of the state, the County, and the City to address long-standing issues in

² The City of Merced was allocated 40.7% of its regional housing needs allocation for low and very low income households.

2210 San Joaquin Street, Fresno, CA 93721
 Telephone: (559) 369-2790

Tiffany Ho
 June 12, 2023
 Page 4

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

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

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

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

2210 San Joaquin Street, Fresno, CA 93721
 Telephone: (559) 369-2790

6-2
 Cont.

Tiffany Ho
June 12, 2023
Page 5

current form, and the City in its plans to annex the area will all have failed in their duties to affirmatively further fair housing as required by Gov't Code § 8899.50.

6-2
Cont.

III. The SEIR Inadequately Analyzes the Project's Significant Environmental Impacts and Fails to Identify and Adopt Adequate Alternatives and Mitigation Measures

The central purpose of CEQA is to "inform the public and responsible officials of the environmental consequences of their decisions before they are made" and to ensure the environmental harms are avoided and mitigated to the extent feasible³ If an agency fails to inform the public – by developing an incomplete or inaccurate analysis, the agency has failed to fulfill the goals of the EIR process.⁴ Here, the County has failed to adequately analyze environmental impacts relating to water, transportation, and air quality impacts. Under analyzing and failing to mitigate those impacts has resulted in a deficient CEQA analysis, exposing Merced County residents, and residents of environmentally-burdened disadvantaged communities in particular, to harm.

6-3

A. Hydrology and Water Quality – Insufficient water system capacity and adequate water quality analysis have been conducted.

The SEIR did not adequately analyze impacts to groundwater quality or quantity. Due to the Project's likely impacts it failed to consider relevant mitigation measures to impacts that are significant, but the SEIR concluded were less than significant.

The Merced subbasin contains localized impairments, including areas high in hardness, iron, nitrate, and chloride.⁵ To deliver groundwater to the additional residents proposed in the Project, 1-2 additional groundwater wells would need to be drilled. These groundwater wells would pull from deep aquifers, increasing the chances of naturally occurring contaminants entering the water supply, and endangering the quality of residents' water. As the Virginia Smith Trust Development Senate Bill 610 Water Supply Assessment explains "[w]ith deeper wells, the potential of water quality problems is also increased in certain parts of the groundwater basin."⁶ To determine the potential effects on existing communities, the SEIR should have undertaken water testing at increasing depths to determine water safety. Additional tests should also be conducted in areas that rely on wells not connected to the City's system but will be impacted by the lower water table. The additional depth required for the well was not analyzed and, therefore, inadequately informs possible groundwater quality impacts. The SEIR failed to consider or analyze these potential impacts.

6-4

Further, the SEIR acknowledges that installing deep aquifer wells would likely impact nearby shallow wells used by adjacent residences. The new wells would lower groundwater

6-5

³ Laurel Heights Improvement Ass'n v. Regents of the University of California (1993) 6 Cal.4th 1112, 1123.
⁴ Association of Irrigated Residents v. County of Madera (2003) 107 Cal.App.4th 1383, 1391
⁵ Draft Focused Subsequent Environmental Impact Report for the UCP Update and Specific Plan, April 2023, Page
⁶ Virginia Smith Trust Development Senate Bill 610 Water Supply Assessment (Water Supply Assessment November 17,2021) Page 2-8

Tiffany Ho
June 12, 2023
Page 6

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

6-5
Cont.

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

6-6

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

6-7

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

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

6-8

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

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

2210 San Joaquin Street, Fresno, CA 93721

Telephone: (559) 369-2790

Tiffany Ho
 June 12, 2023
 Page 7

in the City of Merced have been able to reach such high levels of cycling or walking. Therefore, it is unlikely 30% of trips will not involve a vehicle, thereby underestimating how many VMTs the Project will generate. The underestimation must be further analyzed.

6-8
 Cont.

The VMT analysis likely also overestimates the number of trips that will be undertaken within the Project. Due to a low vacancy rate across the City, without restrictions that people in the VST area are affiliated with UC Merced, the VST is likely to be filled with people that may have to commute to and from distant job centers, drastically increasing VMTs. The Project does not include transit options that would connect the City, VST, and UC Merced, thereby increasing reliance on personal vehicle use. These factors likely increase VMT, and yet, the DEIR failed to acknowledge or analyze their contribution to VMT and VMT were found to be less than significant.

6-9

Due to a likely undercount of VMT, the SEIR should consider VMT reducing mitigation measures. These could include greater commitments to deed restricted affordability with lot and unit square footages compatible with affordable housing subsidy and development requirements, and support for planned transit expansions. These measures have repeatedly shown to lower vehicle miles travelled.⁹ Without an accurate VMT analysis, sufficient mitigation measures like those will go unincorporated, cementing increased unnecessary and unquantified environmental degradation for decades.

C. Air quality, Public Health, and Greenhouse Gas Impacts

As mentioned above, underestimating VMT has further downstream effects. Higher VMT would also increase pollution impacting air quality, thereby impacting public health. Greenhouse gas emissions would also be increased. As a result, reanalyzing VMT must also determine the new values' impact on air quality, greenhouse gas emissions, and public health.

6-10

Increased air pollution is likely to have an outsized impact on public health due to the poor air quality conditions that already exist in the region. The "State of the Air" report by the American Lung Association ranked Merced County as the 19th worst for year round particle pollution nationwide.¹⁰ Further, according to CalEnviroScreen 4.0 several City of Merced census tracts rank in the top 15th percentile for PM2.5 and Diesel Particulate Matter pollution and in the top 30th percentile for air pollution-related impacts related to ozone.

Further analysis of air quality must also address air quality impacts on public health. In *Sierra Club v. County of Fresno*, the Court held that a discussion of air quality impacts must include an explanation of the nature and magnitude of the health and safety problems caused by the physical change of the project.¹¹ The Project SEIR acknowledges but disagrees with the Court's holding "According to the Court, the EIR could estimate the level of ozone that would be produced from the project, measure to what extent human health would be affected, and describe where daily exceedances of the NAAQS and CAQSS would occur in an air basin. This detailed

6-11

⁹ <https://nap.nationalacademies.org/read/12747/chapter/5#52>

¹⁰ <https://www.lung.org/research/sota/city-rankings/states/california/merced>

¹¹ *Sierra Club v. Cty. of Fresno*, 6 Cal. 5th 502, 241

2210 San Joaquin Street, Fresno, CA 93721
 Telephone: (559) 369-2790

Tiffany Ho
June 12, 2023
Page 8

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

6-11
Cont.

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

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

6-12

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

* * * * *

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

6-13

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

¹³ <https://cms6.revize.com/revize/burlingamecity/App%20B%20-%20HRA%20ASMBLD.pdf>

2210 San Joaquin Street, Fresno, CA 93721

Telephone: (559) 369-2790

Tiffany Ho
June 12, 2023
Page 9

significant revisions to ensure that it includes affordable units for lower-income households proportionate to the need, ensure that the project does not misdirect resources away from addressing critical South Merced resource needs, and incorporates all feasible measures to avoid and mitigates environmental harms. Without addressing the flaws discussed above, the Project must not move forward. Please feel free to contact me if you would like to find a time to discuss these comments.

6-13
Cont.

Respectfully,

Isaac Serratos
Leadership Counsel for Justice and Accountability
Staff Attorney

Ana Maria Fabian
South Merced Resident

Sofie Prado
South Merced Resident

Sara Hernandez
South Merced Resident

Bernardo Vega
South Merced Resident Eulalio Reyes
South Merced Resident

Martha Bedolla
South Merced Resident

Jose Avila
South Merced Business Owner and Merced Resident

Maria Calderon
South Merced Resident

cc:

City of Merced Planning Division

2210 San Joaquin Street, Fresno, CA 93721
Telephone: (559) 369-2790

Letter 6 Leadership Counsel for Justice and Accountability

Isaac Serratos, Staff Attorney; Ana Maria Fabian, South Merced Resident; Sofie Prado, South Merced Resident; Sara Hernandez, South Merced Resident; Bernardo Vega, South Merced Resident; Eulalio Reyes, South Merced Resident; Martha Bedolla, South Merced Resident; Jose Avila, South Merced Business Owner and Merced Resident; Maria Calderon, South Merced Resident
June 12, 2023

Response 6-1

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

Response 6-2

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

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

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

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

The comment also claims that the VST Specific Plan “lacks meaningful requirements for deed-restricted affordable housing for lower-income households.” A total of 500 units (13.1%) would be deed-restricted, in excess of the City of Merced’s RHNA Unit Production Policy. Table 2 of the VST Specific Plan and pages 35-39 summarize the affordable housing plan. This would provide a mechanism to ensure that a portion of the housing is set aside for the target population.

The April 2023 VST Specific Plan (Draft SEIR Appendix B) indicates (pages 35-39 and Table 2) the VST Specific Plan will dedicate land to affordable housing providers for deed restricted units, in the R-4 and R-2 areas. Chapter 2, “Project Description,” in the Draft SEIR includes a typo indicating that 200 R-4 units would be contributed to the non-profit. This description has been updated to provide the correct number of units (325) in the most current version of the VST Specific Plan on page 2-20. See Chapter 3, “Revisions to the Draft SEIR.” In addition to these units, there will be 25 deed-restricted units Very Low Income units constructed in the Mixed Use Village Center residential area, and 150 deed restricted units for Moderate Income households. Table 2 of the VST Specific Plan identifies the timing of these units during the buildout of the project. This update to the number of housing units subject to deed restriction would not change the analysis or conclusions in the Draft SEIR. Moreover, there are no CEQA impacts associated with the project’s inclusion of affordable housing as part of the VST Specific Plan.

In addition, the comment makes general claims related to incentivizing higher vehicle miles traveled (VMT) and water use that are addressed below in Response 6-8 and Response 6-4, respectively. As explained further below in Response 6-9, the project includes a robust transit, pedestrian, and bicycle network that would connect to locations in the city and on the UC Merced campus. See, specifically, Figure 35 and Figure 49 which show bicycle and transit features and improvements for the VST Specific Plan, respectively. Assertions that the project would be “without transit” are inaccurate and inconsistent with the Draft SEIR analysis.

Finally, the comment inaccurately asserts that the State has proposed the project. The Virginia Smith Trust is the applicant for the VST Specific Plan. The trust is not a state agency. VST is a private charitable trust that donated the land for construction of UC Merced to the State with an agreement that the proceeds from the development of the remaining land by VST would increase the size and reach of the trust’s scholarship program in support of higher education. Merced County is the lead agency evaluating the environmental effects of the proposed plan and updates to the adopted UCP. The City of Merced is a responsible agency under CEQA due to the proposed annexation.

The comment states that the project does not align with the State’s mandates to affirmatively further fair housing pursuant to Government Code Section 8899.50. This regulation requires that a public agency administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing.

The comment focuses on unrelated actions taken by the City of Merced that are outside the scope of the lead agency’s control and this SEIR. These concerns, and the recommendation that said concerns are addressed through adoption of “inclusive and equitable development strategies that prioritize the needs of South Merced” are largely unrelated to the County’s evaluation of environmental impacts of the UCP Update and the VST Specific Plan. Nonetheless, the comment is noted for the record and will be provided to decision makers for consideration.

Response 6-3

The comment cites case law pertaining to CEQA and the EIR process. The comment restates that the Draft SEIR is deficient in analyzing and mitigating environmental impacts related to water, transportation, and air quality. The comment also suggests that the deficient CEQA analysis would expose Merced County residents, including disadvantaged communities, to harm.

This SEIR provides a supplemental environmental analysis in accordance with Section 15162 of the State CEQA Guidelines and fulfills the County’s obligation under CEQA to inform the public and decision-makers of the environmental consequences of their decisions. In fact, the County has conducted extensive CEQA review for more than 20 years with respect to the UCP update and the VST Specific Plan. In particular, water issues are covered in Section 3.5, “Hydrology and Water Quality,” of the Draft SEIR, transportation issues are covered in Section 3.7, “Transportation and Circulation,” of the Draft SEIR, and air quality issues are covered in Section 3.1, “Air Quality,” of

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

Response 6-4

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

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

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

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

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

Response 6-5

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

would extend to groundwater wells outside the immediate vicinity of the new wells. Based on the information included in the comment (e.g., mention of 25-to-35-foot drawdown) the comment seems to be focused on the anticipated impacts of the Adopted UCP, not the UCP Update or VST Specific Plan currently under evaluation.

The Adopted UCP, as evaluated in the 2001/2004 UCP EIR and summarized on pages 3.5-17 and 3.5-18 of the Draft SEIR, is planned assuming a system of wells to provide onsite water to the UCP plan area through a mutual water company or a services district. A detailed evaluation of the potential effects of this adopted plan was performed as part of the 2001/2004 UCP EIR that included on-site well testing, geohydrologic studies, and groundwater modeling, to determine the effect of groundwater pumping on adjacent domestic wells that serve the nearby residents. The modeling assumed construction of three deep wells near the western edge of the plan area to serve the UC Merced campus and the Adopted UCP. As summarized in the Draft SEIR (page 3.5-17):

With respect to the Adopted UCP, the study used an estimated annual demand of 3,583 acre-feet and assumed that this water would be pumped using two wells, one near the intersection of Cardella Road and Lake Road and the second well near the intersection of Yosemite Avenue and Lake Road. Similar to City groundwater wells, all three wells were assumed to draw water from the deep aquifer and not from the shallow aquifer, which is used by the adjacent residences to draw water. All three wells were modeled to pump groundwater at these rates for a period of 100 years. The analysis showed that groundwater interference could affect the ability of some of the local wells to supply water at the existing rates. However, the potential long-term drawdown of the shallow and deep aquifers in the vicinity of the UCP would not have an environmental effect other than lowering groundwater levels by 25 to 35 feet in the area of the rural residences west of Lake Road (Merced County 2004).

In summarizing the impact analysis in the certified 2001/2004 UCP EIR, the Draft EIR (page 3.5-18) states:

Impact 4.8-5 in the 2001/2004 UCP EIR evaluated whether pumping of groundwater from the new wells necessary to meet the projected demand for the Adopted UCP could lower water levels and quality in adjacent wells. As explained in the analysis (page 2-63), Adopted UCP Policies IW 11.2, IW 11.3, and IW 11.4 would require compliance with the City of Merced, MID, and the Merced Water Supply Plan's strategies and standards. Adopted UCP Policies IW 8.1 and IW 12.6 would ensure that groundwater extraction does not result in drawdown that would adversely affect existing or planned neighboring uses. The 2001/2004 UCP EIR concluded the impact to be less than significant.

Although the comment expresses general disagreement with this prior conclusion, the 2001/2004 UCP EIR was certified as adequate and the UCP was adopted without legal challenge. The prior EIR is legally adequate as determined by the court. The analysis of the UCP Update that follows is distinct from this prior analysis because the UCP Update proposes annexation to the City of Merced or an out of boundary service agreement, with onsite well networked into the overall citywide water distribution system. As explained on pages 3.5-18 through 3.5-20 of the Draft SEIR, this fundamentally affects the analysis of potential impacts. Page 3.5-19 of the Draft SEIR explains:

water would be provided by the City from a combination of an onsite well and other City wells. As noted in Chapter 2, "Project Description," the on-site well would be needed to meet the City fire flow and peak demands and to provide redundancy for the UC Merced well.

Because of the reduction in onsite usage of groundwater, the distribution of water wells throughout the city and the location of water wells away from the Lake Road frontage (the VST water well is 2,500 feet east of Lake Road) onsite water usage will no longer have the potential to lower groundwater levels by 25 to 35 feet in the area of the rural residences west of Lake Road, as was the case for the Adopted UCP.

As discussed on pages 3.5-17 through 3.5-20, the 2001/2004 UCP EIR concluded that the Adopted UCP would not substantially decrease groundwater supplies because (1) proposed development would comply with the City of Merced, MID, and the Merced Water Supply Plan's strategies and standards and (2) the Adopted UCP would include policies to ensure that groundwater extraction does not result in drawdown that would adversely affect existing or planned neighboring uses.

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

Response 6-6

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

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

Response 6-7

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

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

Response 6-8

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

percent of trips would consist of cycling and walking because evidence that the City of Merced has achieved this rate of bicycling and walking was not provided. However, the proposed project is unlike existing development in the city of Merced because it is specifically designed to integrate with, and provide housing for, UC Merced students and staff in accordance with the County's plans in effect for more than 20 years. For this reason, modeling was based on published mode split studies conducted for similar developments at UC Santa Cruz and UC Davis, as well as previous transportation studies of the UC Merced campus.

The Traffic Impact Study Assumptions/Methodology for the Virginia Smith Trust Property Planning Project memorandum included as Appendix A to the Vehicle Miles Traveled Analysis explains on page 8 that the internal and external mode split trip factors are based on proximity to the UC and features of the plan, specifically:

UC-supporting multifamily and town center commercial uses are located closest to UC (and will eventually be physically adjacent); commercial shopping areas are distributed so that 90 percent of the residential units are located within one-quarter mile or less of commercial areas that provide daily and weekly shopping goods and services; a public park and/or open space is located within walking distance (no farther than 660 feet from any residential unit); and, all arterial and collector level streets have Class I or Class IV bike facilities to encourage bicycled usage for internal and external trips.

The assumptions in the transportation analysis were provided by VRPA Technologies, a transportation planning firm based in Fresno, California that was founded in 1988 and has completed over 1,000 successful transportation planning/modeling, environmental, air quality planning, engineering and Intelligent Transportation Systems projects. Additional detail is provided in the Traffic Impact Study Assumptions/Methodology Memorandum which is included as an appendix to the TIS. The assumptions and methodologies contained in the traffic report and the VMT report were reviewed and approved by the City of Merced, County of Merced, and Caltrans and are considered adequate and appropriate by public officials with technical expertise and regulatory responsibilities in this area. Moreover, this analysis updates the transportation analyses previously conducted for this area as part of prior CEQA documents.

Therefore, the modeling assumptions are adequately supported by available data based on analogous projects. Additional analysis of VMT is not required in response to this comment.

Response 6-9

The comment suggests that the VMT analysis may overestimate the number of internal project trips by overlooking the potential for individuals that are unaffiliated with UC Merced to live in the UCP area and commute to distant job centers. Internal trips were based on the Transportation Research Board's National Cooperative Highway Research Program Report 684: "Enhancing Internal Trip Capture Estimation for Mixed-Use Developments." As indicated above, the analysis was conducted by experienced transportation professionals based on industry-standard assumptions. The internal capture rate is based on the proximity of "major trip ends such as shopping and work" (see page 1 of the Traffic Impact Study Assumptions/Methodology for the Virginia Smith Trust Property Planning Project memorandum included as Appendix A to the Vehicle Miles Traveled Analysis). The Vehicle Miles Traveled Analysis (page 6) describes how this approach is consistent with the OPR's guidelines.

Additional detail is provided in the Traffic Impact Study Assumptions/Methodology Memorandum and the Internal Trip Calculations/ National Cooperative Highway Research Program Worksheets, both of which are included as appendices to the Vehicle Miles Traveled Analysis. The modeling adequately accounts for individuals that reside in the VST Specific Plan and commute to jobs elsewhere.

Although there is variability in market conditions and other factors that influence individual choice and travel patterns, the VMT analysis provides a reasonable estimation of future conditions. Moreover, note that VMT of UC Merced students and faculty that currently commute to the campus due to lack of nearby housing options may be reduced in the future if these individuals were to relocate to the UCP area. These trips have, however, been assumed to be minimal for the sake of providing a conservative estimate.

The comment also indicates that the plan does not include transit options that would connect the city, VST, and UC Merced. In fact, the UCP Update includes several policies related to transit service, including Policy T 5.1 to "participate in the development of high-frequency transit services that seamlessly connect major destinations,

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

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

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

Response 6-10

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

Response 6-11

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

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

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

less, and no new impact was identified, the resulting health impacts from implementation of the UCP Update would be minimized by comparison to the 2001/2004 UCP EIR land uses.

Moreover, there is no available numerical threshold for assessing the significance of a potential health impact from criteria air pollution. Unlike TACs, for which there is no concentration considered safe for human exposure, the US Environmental Protection Agency and the California Air Resources Board have established concentration-based thresholds for exposure to criteria air pollutants in the form of the national ambient air quality standards and California ambient air quality standards. These standards were developed in light of ample scientific research that demonstrates that human exposure to criteria air pollution can be safe under certain concentrations for each pollutant.

As discussed on pages 3.1-12 through 3.1-14 of the Draft SEIR, SJVAPCD's annual mass emissions thresholds are tied to long-term regional air quality planning in the SJVAB. Projects that emit emissions below these thresholds would not conflict with SJVAPCD's long-term air quality plans to attain the NAAQS or the CAAQS, which are standards tied to human health. Therefore, projects generating emissions exceeding these thresholds could conceivably result in an adverse health effect while projects with emissions below would not. Therefore, where significant air quality impacts were identified, the correlation between the UCP Update's emissions and future adverse health impacts were disclosed. Nevertheless, the application of Mitigation Measures 3.1-1a, 3.1-1b, 3.1-2a, and 3.1-2b would be sufficient to reduce impacts related to the emissions of criteria air pollutants to a less-than-significant level, thus avoiding the potential for a health impact to occur from the UCP Update's emissions alone.

The project would introduce new air pollution to the SJVAB that was previously evaluated as part of the cumulative impact analyses contained in the 2001/2004 UCP EIR; however, in a cumulative context, the degree that the project's emissions would result in a singular adverse outcome is speculative. The adverse health outcomes from exposure to high concentrations of air pollution is dependent upon various factors including age, genetics, duration of exposure, and life-style choices (e.g., consuming alcohol, smoking cigarettes). These data points are generally unavailable to decision makers, such as the County. Therefore, the project's individual emissions and any subsequent adverse health impacts cannot be quantified with certainty, and is considered a speculative exercise.

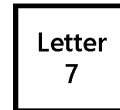
Because of the highly speculative nature of photochemical modeling, the fact that the UCP Update would result in fewer emissions than was previously analyzed in the 2001/2004 UCP EIR, and the lack of a well-substantiated threshold of significance for assessing such impacts, a quantitative analysis of the project's adverse health impacts from exposure to criteria air pollutants was not performed. No further response is required.

Response 6-12

The comment suggests that Mitigation Measure 3.1-2b, "Engage in Regional Programs to Offset Project Emissions of ROG, NO_x, CO, and PM₁₀" would not be sufficient to reduce the project's air quality impacts to a less-than-significant level because SJVAPCD's guidelines for reducing emissions through a VERA from a project may be applied on a regional basis rather than at the local level. The requirement that the project proponent engage in the VERA is intended to reduce emissions of criteria air pollutants, which, unlike TACs, are pollutants of regional concern. It is foreseeable that the funds provided to SJVAPCD through the VERA may be directed to projects within or outside of the County of Merced; however, as criteria air pollution is widely dispersed throughout air basins, and the formation of secondary pollutants such as ozone is dependent on a variety of factors including temperature, sunlight exposure, and the ratio of ROG and NO_x (precursor pollutants to ozone). The County cannot assure that the funds administered through the VERA would be applied within the County of Merced. Nevertheless, the beneficial effects of reducing regional sources of air pollution would be felt by the residents of the county given the regional nature of criteria air pollution. Therefore, the project's contribution of regional air pollution would continue to be less than significant with mitigation as identified in the Draft SEIR.

Response 6-13

The comment summarizes the contents of Comments 6-1 through 6-12. Please see Responses 6-1 through 6-12, above, which demonstrate the adequacy of the analysis in this SEIR and address the fair housing concern. No further response is required.



June 12, 2023

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

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

Dear Ms. Ho:

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

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

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

7-1

2040 Bancroft Way, Ste 301 Berkeley, CA 94704 | 510.900.5205 MAIN • 510-900-5203 FACSIMILE

www.anchorvalley.com

2. The Public Hearing Draft Specific Plan for Virginia Smith Trust (“VST”), UCP Village No.1 and UCP Village No.2 describe Campus Parkway as “an important linkage in the regional transportation system...” and recognizes that the County Circulation Element will need to be amended so that Phase 3 of Campus Parkway is recognized as an “Urban Expressway” (Page 104).

We have the following comments Circulation Framework Section of the Specific Plan:

- a. The discussion on Page 104 references the incorrect Figure numbers for Figure 47 (Overview and Yosemite to Cardella), Figure 48 (Cardella to Bellevue), Figure 49 (Lake Road detail south of Meyers Gate Road), Figure 39 (Campus Parkway), and Figure 35 (Overall Circulation and Key Map).
- b. Phase 3 of Campus Parkway (“Urban Expressway”) is described as having a 100’ to 125’ right-of-way, intersection spacing of no more frequently of ¼ mile, four (4) through lanes, direct access limited to major activity centers with auxiliary/frontage lanes, and a maximum vehicle design speeds of 35 miles per hour with a 500’ centerline radius. However, Figure 38 illustrates Campus Parkway as having a specific right-of-way of 107’ and is not labeled as an “Urban Expressway”.
- c. Figure 47, *Campus Parkway Yosemite to Bellevue* illustrates the intersection of Bellevue Road and Campus Parkway as a roundabout. The ultimate design of this intersection has not been finalized and/or approved by the County of Merced, the City of Merced and UC Merced. Additionally, the Traffic Impact Study Appendix B, *Traffic Counts* analyze the “Lake Street/Lake Road & Bellevue Road” intersection as a signalized intersection (HCM 6th Signalized Intersection Summary) in the various scenarios (Existing, Horizon Year, etc.).
- d. Bellevue Road and Campus Parkway Intersection. We continue to express pedestrian safety concerns regarding the operation safety of a roundabout at this intersection. Proposed projects adjacent to the UC Merced Campus, such as University Visa and UC Villages include a variety of land uses, including student housing, that will increase the need for pedestrians to cross the future Bellevue Road and Campus Parkway intersection. At a roundabout, pedestrians have to wait until there is a gap in traffic to cross, placing them at a considerable disadvantage from traditional signalized intersections. With the anticipated peak hour traffic (AM and PM) in the “Horizon Year (2040) with Project” as detailed in the Traffic Impact Study Appendix B, *Traffic Counts*, pedestrians may have to

7-2

2040 Bancroft Way, Ste 301 Berkeley, CA 94704 | 510.900.5205 MAIN • 510-900-5203 FACSIMILE

www.anchorvalley.com

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

7-2
Cont.

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

7-3

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

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

7-4

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

be revised to be consistent with the Thresholds and Guidelines prepared by MCAG.

7-4
Cont.

5. The Merced Wastewater Collection System Analysis 2021 Update utilizes the City's list of planned and approved developments as of September 2021. This is old information as many of the annexation pre-applications were presented to City Council in 2022 for review and authorization to proceed with a formal application in accordance with the City's Annexation Pre-Application Process. The Merced Wastewater Collection System Analysis 2021 Update should be revised to include projects that have completed the Annexation Pre-Application Process (listed above in comment #1) to have a more accurate analysis of development projects that will be 1) annexed into the City of Merced, and 2) connect to the City's sanitary sewer system.

7-5

6. The design flow listed in Table 2 shows Bellevue Road to West of Golf Road as an existing flow of 0.70 MGD and a new near-term flow of 0.89 MGD. The last paragraph of page 2 states a much lower flow for the existing scenario and projected near-term scenario, 0.30 MGD and 0.45 MGD respectively. It is unclear whether these existing measured flows are referenced to compare to the design flow in Table 2. A mention of the comparison would help clarify. The estimated design flows seem reasonable and show the system is adequately designed for future developments.

7-6

Again, thank you for the opportunity to submit the comments above. If you have any questions, please do not hesitate to contact me directly at (510) 900-5209 or by email at sid@anchorvalley.com.

Regards,



Sidhardha Lakireddy
Owner

cc. Christopher Brawer, Anchor Valley Partners
John B. Anderson, J.B. Anderson Land Use Planning
David Niskanen, J.B. Anderson Land Use Planning
Bruce Dorfman, Thomson|Dorfman Partners, LLC

2040 Bancroft Way, Ste 301 Berkeley, CA 94704 | 510.900.5205 MAIN • 510-900-5203 FACSIMILE

www.anchorvalley.com

Marlon Just-Vargas, PMP, LEED AP, Thomson|Dorfman Partners, LLC
Joanna Julian, Thomson|Dorman Partners, LLC
Rick Mummert, Benchmark Engineering, Inc.

2040 Bancroft Way, Ste 301 Berkeley, CA 94704 | 510.900.5205 MAIN • 510-900-5203 FACSIMILE

www.anchorvalley.com

Letter 7 Anchor Valley Partners

Sidhardha Lakireddy, Owner

June 12, 2023

Response 7-1

The comment identifies four pre-application annexation projects that were not included in the Draft SEIR's cumulative project list: UC Villages, University Vista, Branford Point, and Yosemite Lake Estates. The comment recommends that the cumulative analysis be updated to include these projects.

Annexation is the process of amending political boundaries. On July 6, 2021, the City Council approved a new pre-application process for annexations that includes early consultation with the City Council and Merced County Local Agency Formation Commission staff to provide early guidance on annexation requests. The City's pre-application process includes a discussion with the applicant and City staff at a regularly scheduled Development Review meeting and a regularly scheduled City Council meeting to guide the development of an application. Pre-application approval does not establish a schedule for subsequent annexation application, commit the applicant to any specific development in the area, if annexed, nor presuppose Merced County Local Agency Formation Commission approval of the application.

For the purpose of the CEQA evaluation, the County must establish the existing, or baseline, conditions used to measure the magnitude of the environmental effects anticipated from project implementation. This "snapshot" occurs early in the environmental review process, typically coinciding with release on the NOP. At this same time, the lead agency identifies reasonably foreseeable projects to include in the cumulative analysis. The County is not obligated to undergo continual updates of the setting information throughout the review process, particularly in the absence of compelling evidence that the changed condition would substantially alter the conclusions in the analysis.

The California Supreme Court identifies multiple Court of Appeals decisions upholding the principle that the existing physical conditions at the time the Notice of Preparation is published is the typical baseline condition. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 320-321.) Separately, the California Supreme Court has interpreted this provision to give lead agencies significant discretion in determining the appropriate baseline conditions, "an agency enjoys the discretion to decide, in the first instance, exactly how the existing physical conditions without the project can most realistically be measured." (*Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th, 310, 329.) Consistent with the CEQA Guidelines (CEQA Guidelines § 15125(a)), the City and County established an environmental baseline of the conditions that existed at the time the NOP was published. Consistent with *Communities for a Better Environment*, it well within the City and County's discretion to proceed based on that baseline and not adjust the baseline in response to changes that occurred (additional annexation applications) after the SEIR's analysis commenced.

The City and the County provided lists of reasonably foreseeable projects to include in the cumulative condition that were considered reasonably foreseeable at the time that the NOP for this SEIR was prepared (January 2022). The environmental conditions that existed when the NOP was published are the baseline conditions against which environmental impacts were assessed. As defined in Section 15355 of the State CEQA Guidelines, a cumulative impact consists of an impact that is created as a result of the combination of the project evaluated in the EIR with other projects resulting in related impacts. In January of 2022, none of the projects listed in this comment had released an NOP. The pre-annexation hearings for the referenced projects occurred after the release of the NOP in late 2022 and early 2023; and, even if the pre-annexation approvals had been approved prior to release of the NOP that would not be sufficient to constitute reasonably foreseeable projects by the City. The analysis in Chapter 3 of the Draft SEIR provides a complete evaluation of the project's potential contribution to significant cumulative effects based on Table 3-2 in the Draft SEIR, which includes 56 cumulative projects.

Based on the status of the projects at the time that environmental assessment began, these projects were not identified as reasonably foreseeable by the City and the County. The County is not required to speculate about the effects of future development that has not been sufficiently defined at the time of the NOP. Further, the comment

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

Response 7-2

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

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

Response 7-3

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

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

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

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

The cumulative analysis approach for VMT is different than that applied in the TIS. According to statewide guidance in the Technical Advisory on Evaluating Transportation Impacts in CEQA (OPR 2018), the VMT impacts of projects are determined by efficiency metrics and, therefore, cumulative projects do not affect the VMT analysis of the subject project. According to OPR, “a project that falls below an efficiency-based threshold that is aligned with long-term goals and relevant plans has no cumulative impact distinct from the project impact.”

This comment does not address the adequacy of the analysis or conclusions in the Draft SEIR and does not raise a significant environmental issue requiring further response.

Response 7-4

The comment quotes the VMT Analysis included as Appendix H to the Draft SEIR. In this methodology discussion, the technical report (which was initiated in 2020 and finalized with the Draft SEIR in the spring of 2023) explains that “VMT analysis guidelines prepared by the Governor’s Office of Planning and Research (OPR 2018, “OPR”) were used as the basis of analysis” because neither the County nor the City had adopted alternative VMT analysis thresholds.

The Draft SEIR includes additional information about the use of the OPR thresholds. As explained therein:

For the purposes of the analysis herein, VMT is expressed by dividing the net VMT by the sum of residents, visitors, and employees (referred to as service population). The VMT per service population metric is a transportation efficiency metric that is used to identify potential impacts associated with implementation of the UCP Update and VST Specific Plan. This methodology provides a framework for analyses that is based on appropriate, adopted State guidance updated to reflect conditions in the city and county. It should be noted that the Merced County Association of Governments (MCAG) adopted the VMT Thresholds and Implementation Guidelines in November 2022, subsequent to initiation and completion of the VMT analysis for this project. However, because this guidance was not available at the time the VMT analysis was conducted it is not utilized herein. The VMT Thresholds and Implementation Guidelines provide a regional guide and recommend the use of the MCAG Travel Demand Model (TDM) for VMT analysis purposes. For land use plans, the existing regional average VMT per capita, VMT per employee, and/or VMT per service population is recommended as the threshold of significance. The MCAG guidelines set forth an assessment methodology that differs from the approach applied in this analysis and it would not be appropriate to apply the MCAG thresholds to the modeled VMT and evaluation of effects in this section.

For informational purposes, a comparison of the methodology used to analyze project VMT and that provided in the MCAG guidelines are detailed below:

- ▶ MCAG’s VMT Thresholds and Implementation Guidelines state that mixed-use projects can be evaluated by analyzing each project land use type separately while taking credit for internal trips. Both components of the project (i.e., the UCP Update and the VST Specific Plan) include a mix of land use types, and the VMT analysis has followed this guidance by analyzing the residential and employment uses of the project separately.
- ▶ The 2001/2004 UCP EIR was certified under CEQA. The MCAG VMT Thresholds and Implementation Guidelines state that projects that were previously approved do not need to conduct a VMT analysis if the land uses are consistent; however, it does not provide guidance on how to analyze previously approved projects that include changes in land use. The project would reduce development in the project area, including a reduction of the number of total dwellings units from 11,700 to 9,700 and a reduction of commercial/office spaces from 2,023,000 square feet to 1,257,000 square feet (see Table 2-1).
- ▶ As described previously, the MCAG VMT Thresholds and Implementation Guidelines recommend that project VMT is determined based on the MCAG TDM. The MCAG TDM only includes trips contained within Merced County, with estimates for external travel based on the California Household Travel Survey and does not include trips originating or ending outside of the county (such as commuter trips from cities within Madera, Fresno, or Stanislaus Counties). The VMT analysis for the project was based on the California Statewide Transportation Demand Model (CSTDM), which is supported by OPR for VMT analysis based on statewide guidance. The CSTDM is a comprehensive, well-researched, and well-

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

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

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

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

The Draft SEIR (page 3.7-8) explains:

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

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

Response 7-5

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

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

Response 7-6

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

west of Golf Road) design flows shown in Table 2. The comment also indicates concurrence with the design flows estimated in the report.

As indicated in the Merced Wastewater Collection System Analysis 2021 Update, there is evidence that actual wastewater generation rates are less than those that the City typically assumes for design purposes. The assumptions in the modeling of the existing condition were not changed in the analysis, although "MKN and Stantec have reached consensus that an appropriate value for existing residential wastewater flows is 60-65 gpd." The design flows, therefore, "likely overstate wastewater flows" because they are based on the established rate of 85 gpcd for existing residential units. This is illustrated by the disparity between measured existing flows from UC Merced and modeled existing design flows noted in the comment.

This comment does not address the adequacy of the analysis or conclusions in the Draft SEIR and does not raise a significant environmental issue requiring further response.

This page intentionally left blank.

3 REVISIONS TO THE DRAFT SEIR

This chapter presents specific text changes made to the Draft SEIR since its publication and public review. The changes are presented in the order in which they appear in the original Draft SEIR and are identified by the Draft SEIR page number. Text deletions are shown in ~~double strikethrough~~, and text additions are shown in double underline.

The information contained within this chapter clarifies and expands on information in the Draft SEIR and does not constitute significant new information requiring recirculation.

Revisions to the Executive Summary

In response to a comment on the Draft SEIR, the following text in the second paragraph on page ES-1 of the Draft SEIR has been revised as follows to correct an error in the description of the UCP area:

Merced County (hereinafter County) completed an extensive community planning process for the University Community Plan (UCP), including certification of an EIR, in 2004. As previously analyzed, the UCP consisted of a community plan for a 2,133-acre area that encompassed the UCP North (land that was previously owned by University Community Land Company) and UCP South (land that was previously and is currently privately-owned by LHW Farms LLC)~~UC Merced campus and the UCP area~~. As originally conceived, the UCP was to be physically intertwined and abutting the UC Merced campus center so that there would be a seamless transition between the campus to the supporting community area. The Adopted UCP established goals and policies for development of a community to support the UC Merced campus, and included conceptual land use, circulation, parks, and public facility plans for the area. In total, the Adopted UCP contemplated the development of 11,616 dwelling units and 2,022,900 square feet (sq ft) of commercial area.

In response to comments on the Draft SEIR, the following text in the third paragraph on page ES-1 of the Draft SEIR has been revised as follows to clarify which EIR the subsequent CEQA analyses in the Draft SEIR is based upon:

A program EIR was certified with adoption of the UCP in 2001 and a supplemental EIR, which focused on hydrology and water quality, was certified in 2004 (referred to collectively herein as the 2001/2004 UCP EIR; State Clearinghouse No. 2001021056). Due to the proposed modifications to the Adopted UCP, the County has determined that preparation of a subsequent EIR (SEIR) to the 2001/2004 UCP EIR is appropriate, per the requirements of State CEQA Guidelines Section 15162. This SEIR provides programmatic analysis of the potential environmental effects associated with future development that could result from implementation of the UCP Update and project-level analysis of the VST Specific Plan within the UCP area.

In response to a comment on the Draft SEIR, the following text in the fifth paragraph on page ES-1 of the Draft SEIR has been revised as follows to remove reference to the "UC Merced Expansion Area":

The UCP area is located in unincorporated Merced County, northeast of the city of Merced and within the City's sphere of influence. The UCP area is bounded by Lake Road on the west, UC Merced property ~~(specifically the proposed UC Merced Campus Expansion Area)~~ on the north, the Orchard Drive alignment (north of Cardella Road) and the Fairfield Canal (south of Cardella Road) on the east, and Yosemite Avenue on the south. As currently proposed, the UCP area would be divided by an extension of Cardella Road; the land north of Cardella Road to UC Merced would be the "UCP North" area and would contain the VST plan area, and the land south of Cardella Road to Yosemite Avenue would remain in the portion of the UCP area referred to as the "UCP South" area.

In response to a comment on the Draft SEIR, the following text in the first paragraph on page ES-2 of the Draft SEIR has been revised as follows to correct an error in the number of residential units that would potentially be developed under the VST Specific Plan:

...expected market conditions, while preserving the basic components of the UCP: commercial uses, the town center concept, and relatively high-density housing. The specific plan revises density and intensity of these uses compared to what was previously proposed. The specific plan includes a description of the overall land

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

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

Impacts	Significance before Mitigation	Adopted Mitigation Measures	New Mitigation Measures	Significance after Mitigation	2001/2004 UCP EIR Significance after Mitigation
NI = No impact LTS = Less than significant PS = Potentially significant S = Significant SU = Significant and unavoidable					
<p>Impact 3.1-2: Long-Term, Operational (Regional) Emissions of Criteria Air Pollutants and Precursors</p> <p>The 2001/2004 UCP EIR evaluated the generation of long-term regional emissions of criteria air pollutants and ozone precursors and determined that emissions of ROG, NO_x, and CO would exceed SJVACPD’s thresholds of significance. Since certification of the 2001/2004 UCP EIR, SJVACPD has issued new guidance and thresholds of significance for determining long-term operational emissions of criteria air pollutants and ozone precursors. The UCP Update and VST Specific Plan would generate emissions of ROG, NO_x, CO, PM₁₀, and PM_{2.5} in exceedance of SJVACPD’s operational thresholds of significance, consistent with the findings of the 2001/2004 UCP EIR. However, the UCP Update would result in fewer total emissions of NO_x, ROG, SO₂, PM₁₀, and PM_{2.5} and greater total CO emissions as compared to the Adopted UCP (Table 4.3.6 of the 2001/2004 UCP EIR). Therefore, this impact would be less severe than the impact identified in the 2001/2004 UCP EIR. This impact would be less than significant with mitigation.</p>	S	<p>Adopted Mitigation Measure 4.3-4</p> <p>(a) Outdoor electrical outlets shall be installed in the front and backyards of all housing units.</p> <p>(b) Use solar or low emission water heaters.</p> <p>(c) Orient buildings to take advantage of solar heating and natural cooling and use passive solar design.</p> <p>(d) Increase wall and attic insulation.</p>	<p>Mitigation Measure 3.1-2a: Implement On-Site Project Design Features to Reduce Emissions of Criteria Air Pollutants (UCP South)</p> <p>Prior to the issuance of any development permits, the project applicant shall implement the following measures to reduce the project’s emissions:</p> <ul style="list-style-type: none"> ▶ Use low-VOC (50–100 grams per liter) paint for external residential applications on all construction drawings for review and approval by staff of the discretionary land use authority (City of Merced or Merced County). ▶ Incorporate traffic calming measures including marked crosswalks, count-down signal timers, curb extensions, speed tables, raised crosswalks, raised intersections, median islands, tight corner radii, roundabouts, and on-street parking throughout the site plan. Specific calming measures and locations shall be identified by a qualified transportation specialist. ▶ Electric water heaters in all residences (no gas storage tank heaters). ▶ Electric heating, ventilation, and air conditioning (HVAC) units in residences (no gas units). ▶ Meet Tier 2 electric vehicle charging standards of the most recent version of Part 11 of the Title 24 California Building Code (CalGreen Code) for all land use types. ▶ <u>Restrict idling times for heavy heavy duty trucks accessing the project site to 3 minutes or less through the signage indicating that idling must be limited to this duration.</u> ▶ <u>Plant vegetation throughout the project site near areas of high pollution generation (e.g., heavily traveled roadways, sites of truck idling) to reduce the dispersion of air pollutants.</u> ▶ <u>Apply for grant funding through SJVACPD’s Bikeway Incentive Program, which offers funding for Class I, Class II, and Class III bicycle paths for projects within the SJVAB.</u> 	LTS	SU

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

Revisions to Chapter 1, “Introduction”

In response to a comment on the Draft SEIR, the following text in the fourth paragraph on page 1-3 has been revised as follows to remove reference to the “UC Merced Expansion Area”:

The UCP area is located in unincorporated Merced County, northeast of the City of Merced, south of UC Merced, and within the City’s sphere of influence (SOI). The proposed UCP Update area encompasses 1,841 acres and includes two properties: the Hunt and VST properties. The Hunt property, referred to as UCP South in the Adopted UCP, includes approximately 1,187 acres of land south of UC Merced. The Hunt property is generally bounded by Lake Road on the west, Cardella Road to the north, Fairfield Canal to the east, and Yosemite Road to the south. The VST property, which is the subject of the VST Specific Plan, encompasses the remaining 654 acres of the proposed UCP area. The VST Specific Plan area is bounded generally by Lake Road on the west, UC Merced property (~~specifically the proposed UC Merced Campus Expansion Area~~) to the north, Cardella Road on the south, and the Orchard Drive alignment on the east.

Revisions to Chapter 2, “Project Description”

In response to a comment on the Draft SEIR, the following text in the third paragraph on page 2-1 has been revised as follows to remove reference to the “UC Merced Expansion Area”:

The UCP area is located in unincorporated Merced County, northeast of the city of Merced and within the City’s sphere of influence (SOI) (Figure 2-1 and Figure 2-2). The UCP area is bounded by Lake Road on the west, UC Merced property (~~specifically the proposed UC Merced Campus Expansion Area~~) on the north, the Orchard Drive alignment (north of Cardella Road) and the Fairfield Canal (south of Cardella Road) on the east, and Yosemite Avenue on the south (Figure 2-2). The UCP area would be divided by an extension of Cardella Road; the land north of Cardella Road to UC Merced (previously referred to as the “UCP North”) would encompass the VST plan area, and the land south of Cardella Road to Yosemite Avenue would remain in the portion of the UCP area referred to as the “UCP South” area.

In response to a comment on the Draft SEIR, the following text in the first paragraph on page 2-5 of the Draft SEIR has been revised as follows to correct an error in the description of the UCP area:

The Adopted UCP covers a 2,133-acre area that includes the ~~UC Merced campus~~, the UCLC property (also referred to as the “UCP North” portion of the Adopted UCP), and the UCP South (see Figure 2-2). As originally conceived, the UCP North was to be physically intertwined and abutting the UC Merced campus center so that there would be a seamless transition between the campus to the supporting community area. The Adopted UCP established goals and policies for development of a community to support the UC Merced campus, and included conceptual land use, circulation, parks, and public facility plans for the area. In total, the Adopted UCP contemplated the development of 11,616 dwelling units and 2,022,900 square feet (sq ft) of commercial area. The UCP North portion of the Adopted UCP, in which the VST plan area is located, is approved for 5,793 dwelling units and 1,632,900 sq ft of commercial and office space. The balance of the planned units was allocated to the UCP South area.

In response to a comment on the Draft SEIR, the following text in the first paragraph on page 2-5 of the Draft SEIR has been revised as follows to correct an error in the adoption date of UC Merced’s first Long Range Development Plan (LRDP) and subsequent LRDP amendments:

The Adopted UCP was a cooperative effort of the City, County, state, and numerous local stakeholders. It was intended to be an area plan or community plan to address a specific geographic area of the county and to be a strategic plan for development of the UCP area. The Adopted UCP ~~pre-dated~~ followed the adoption of the UC’s first LRDP in 2002 and set the stage for the modification of City and County planning documents, as well as the development of the UC’s ~~first and~~ subsequent LRDPs amendments between 2009 and 2020. When the UCP was formulated, the UCP properties were somewhat remote from the City of Merced, and it was not considered possible that the properties could immediately annex to the City or be effectively served by City infrastructure and services. Although the City’s 2015 General Plan (1997), which was in effect at the time of UCP adoption, recommended that the UCP and university annex to the City for development, the

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

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

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

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

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

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

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

The text in the third paragraph on page 2-7 has been revised to make a correction to the UC Merced enrollment projection:

In March 2020, the UC Regents approved the 2020 LRDP (and certified the EIR), which superseded the 2009 LRDP. This new LRDP for UC Merced substantially modified enrollment projections (reducing the enrollment projection for the next phase of campus development through 2030 ~~buildout enrollment~~ from 25,000 to 15,000~~17,500~~ students) and modified (and in some cases eliminated) the land uses and development planned for much of the former UCP North area. As a result, the 2020 LRDP plans for the development of 179 acres of the UCP North portion of UCP area, which is now owned by UC Merced, but does not include the VST plan area. The 2020 LRDP also includes additional land south of the original campus to Meyers Gate Road as part of the instructional area of the campus, revises the 2009 LRDP land use diagram to cover the revised campus site, allows for a more compact and sustainable development within the revised campus area, and provides for more flexibility in the siting of future development.

The text in the fourth paragraph on page 2-7 has been revised to make a correction to a referenced document:

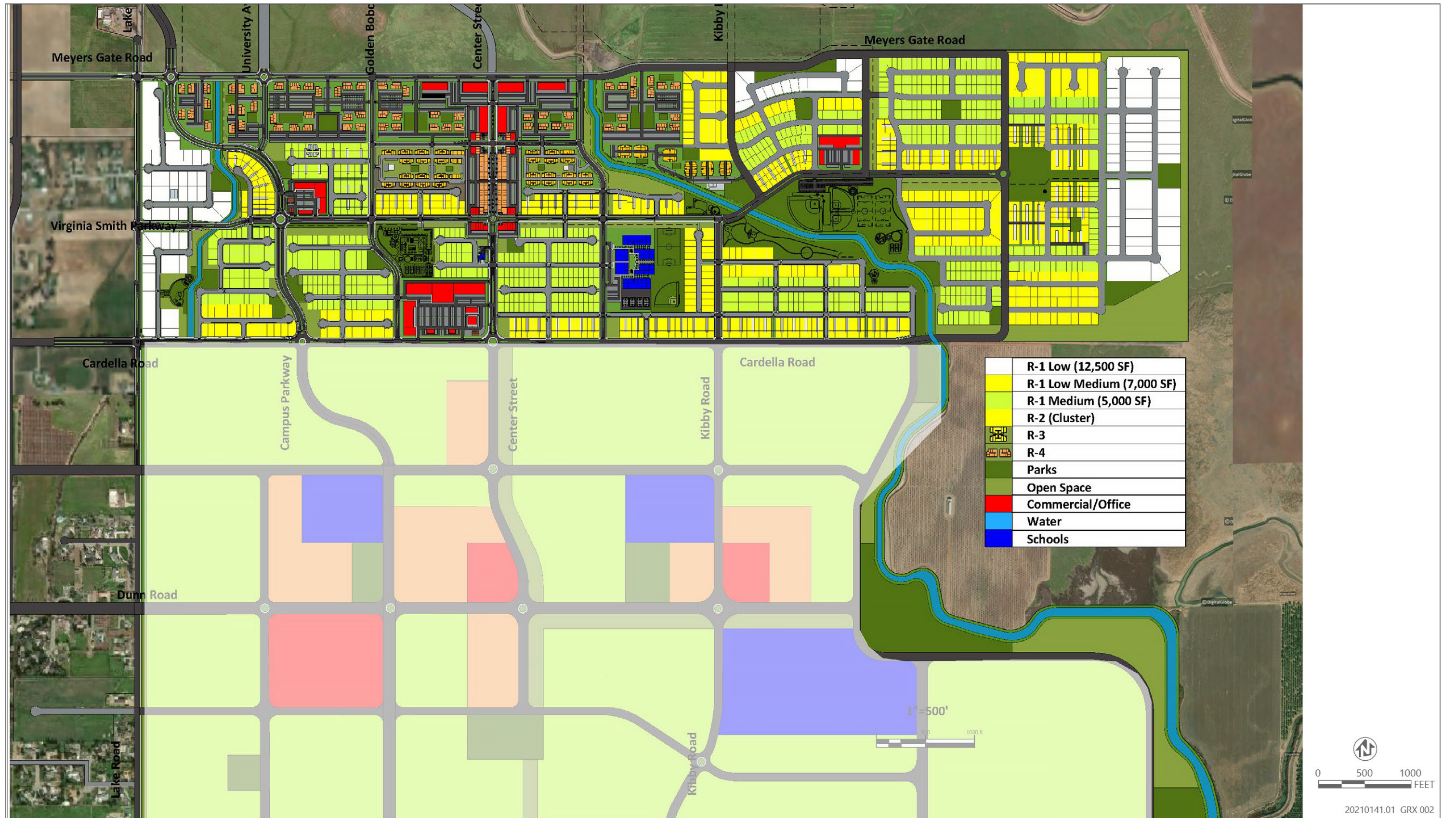
The 2020 LRDP will guide development of the campus through 2030 and provides an updated land use diagram that delineates campus land uses and identifies new development goals and implementation strategies. It also plans for the addition of up to 1.8 million sq ft of building space to serve the projected enrollment level of 15,000 students by 2030. In addition, the 2020 LRDP EIR presents updated information on the projected impacts on water and wastewater treatment, the extent of development, and the anticipated numbers of on-campus students and staff based on the 15-year operating history of the university.

The description of high-density residential units on page 2-20 of the Draft SEIR has been revised as follows to update the number of deed-restricted units:

High Density Residential (R-4) residential land uses would include stacked flat apartments arranged around or associated with a central amenity or open space. The R-4 portion of the VST Specific Plan is planned to have a density of up to 36 units per net acre and is expected to yield approximately 1,488 dwelling units on 53 acres. The units are expected to be split 60 percent (894 units) for student rentals averaging 850 sq ft per four student beds, and 40 percent (594) for nonstudent units for university families, staff, and instructors. Unit sizes would range from 750 sq ft to 1,250 sq ft. These units would be located along Meyers Gate Road to place them as close to the university as possible and to reserve the area south of Virginia Smith Parkway principally for owner-occupied units. Sites for ~~200-325~~ of these units would be contributed to a local nonprofit housing provider to provide deed-restricted housing for low-, very low-, and extremely low-income families.

In response to a comment on the Draft SEIR, Figure 2-7 on page 2-21 of the Draft SEIR has been revised to clarify the area that is included within the VST Specific Plan. The revised figure follows.

This page intentionally left blank.



Source: Image provided by Peck Planning and Development, Virginia Smith Trust Land Plan in 2022.

Figure 2-7 VST Specific Plan Land Use Diagram

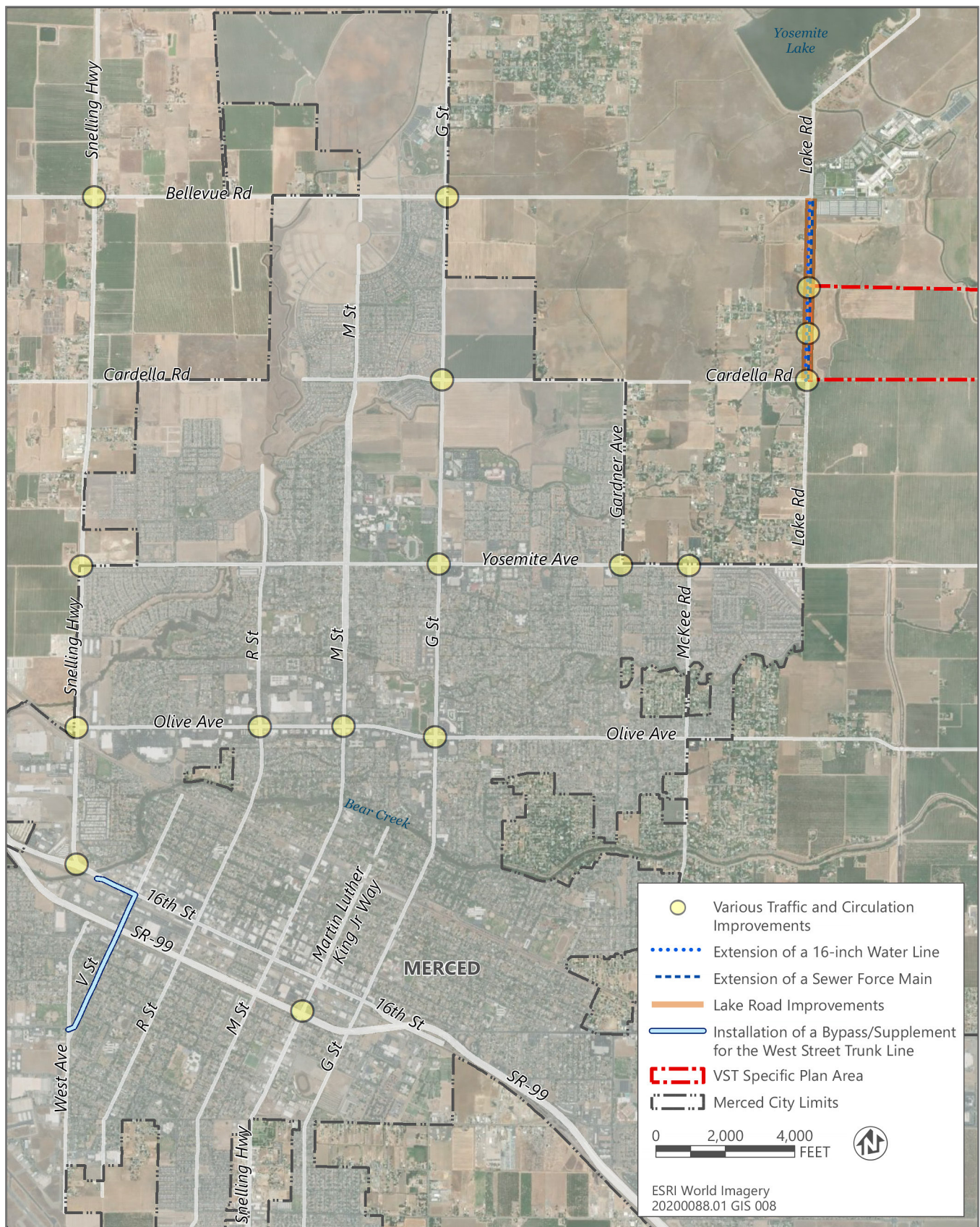
Page 2-29 of the Draft SEIR has been revised as follows to correct the list of offsite intersection improvements required to support the VST Specific Plan:

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

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

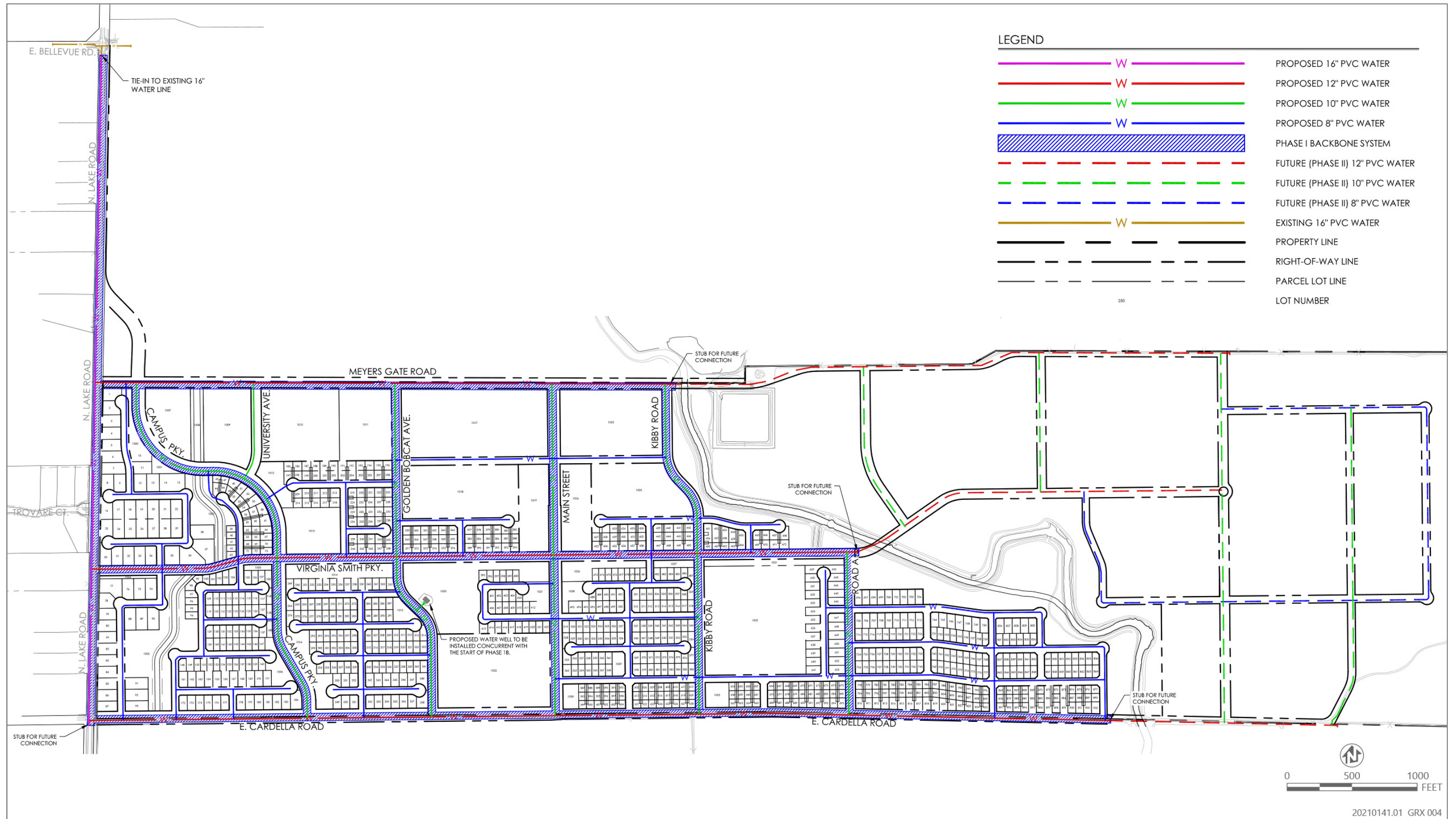
In addition, Figure 2-9 on page 2-30 has been updated to identify the McKee Avenue/Yosemite Avenue intersection as a location for offsite improvements. The revised figure is provided on the following page.

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



Sources: Data downloaded from the Federal Emergency Management Agency in 2021 and the US Geological Survey in 2019; adapted by Ascent Environmental in 2022.

Figure 2-9 Off-Site Infrastructure



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

Figure 2-10 Water Master Plan

Page 2-35 of the Draft SEIR has been revised as follows to correct the list of offsite intersection improvements required to support the VST Specific Plan.

5. Various traffic and circulation improvements, as described above:
 - Snelling Highway/Bellevue Road
 - G Street/Bellevue Road
 - G Street/Cardella Road
 - Snelling Highway/Yosemite Avenue
 - G Street/Yosemite Avenue
 - Gardner Avenue/Yosemite Avenue
 - Snelling Highway/Olive Avenue
 - R Street/Olive Avenue
 - M Street/Olive Avenue
 - G Street/Olive Avenue
 - Snelling Highway/16th Street
 - Martin Luther King Jr/SR 99 NB Ramps
 - McKee Road/Yosemite Avenue

In response to a comment on the Draft SEIR, page 2-41 of the Draft SEIR has been revised as follows to correct an error related to project-related discretionary actions:

2.6 REQUIRED DISCRETIONARY ACTIONS

The project includes a number of other entitlements related to adoption of the VST Specific Plan, including several General Plan elements, amendments to the UCP, rezoning, a vesting tentative subdivision map, a parcel map, a development agreement, and a pre-annexation agreement, annexation to the City of Merced, ~~(potential) annexation to MID~~, and detachment of the VST Specific Plan portion of the UCP from the Merced Subbasin GSA area and attachment to the Merced Irrigation-Urban GSA. While the VST Specific Plan would be entitled by the County, the VST plan area would be annexed to the City after completion of the VST Specific Plan. The development regulations contained in the VST Specific Plan would pass through to and be implemented by the City after annexation.

In response to comments on the Draft SEIR, page 2-43 of the Draft SEIR has been revised as follows to identify additional responsible agencies with authority to issue project-related permits and approvals:

The proposed project would require the following discretionary approvals from other agencies for modifications to the Fairfield Canal:

- Clean Water Act Section 404 Permit (US Army Corps of Engineers),
- Section 7 Biological Opinion (US Fish and Wildlife Service),
- Clean Water Act Section 401 Water Quality Certification/Waiver or Issuance of Waste Discharge Requirements (Central Valley Regional Water Quality Control Board), and
- MID authorization.

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

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

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

Revisions to Section 3.1, “Air Quality”

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

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

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

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

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

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

The language of Mitigation Measure 3.1-2b has been amended on page 3.1-35 as follows:

Mitigation Measure 3.1-2b: Engage in Regional Programs to Offset Project Emissions of ROG, NO_x, CO, and PM₁₀ (UCP South and VST Specific Plan)

UCP South

Once the on-site reduction measures listed above under Mitigation Measure 3.1-2a have been incorporated, an air quality assessment shall be prepared to determine whether any SJVAPCD annual mass emissions thresholds are exceeded. If no thresholds are exceeded, no further action is necessary. If one or more thresholds are exceeded, prior to the issuance of ~~Certificates of Occupancy~~ grading permits for the first phase of development, the project applicant shall enter into a VERA through coordination with SJVAPCD to reduce emissions to meet SJVAPCD's annual mass emissions thresholds for any pollutant that exceeds their respective threshold. The project applicant shall engage in a discussion with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level consistent with the direction given in SJVAPCD's GAMAQI. As allowed by SJVAPCD, the project applicant shall be provided the opportunity to perform an additional quantification of the project's operational emissions following the implementation of the proposed measures listed above under Mitigation Measure 3.1-2a to estimate the TPY needed to reduce emissions to meet SJVAPCD's annual thresholds of significance.

VST Specific Plan

A project-level evaluation of potential emissions has been performed for the VST Specific Plan. Based on SJVAPCD's guidance, various project design features have been incorporated into the design of the VST Specific Plan to reduce emissions, such as transportation management strategies and the elimination of onsite natural gas infrastructure for residential land uses. Based on this data (see Table 3.1-13), the applicant shall enter into a VERA with SJVAPCD to fully compensate for ROG, NO_x, and CO emissions that exceed SJVAPCD's CEQA annual mass emissions thresholds of significance.

Revisions to Section 3.7, "Transportation and Circulation"

The analysis of cumulative transportation impacts on pages 3.4-24 and 3.7-25 is amended as follows to provide greater consistency with Chapter 2.

UCP Update and VST Specific Plan

Buildout of the UCP would result in increased development of roadways and roadway improvements that would contribute to the cumulative transportation and circulation system in the region in the same manner described in the 2001/2004 UCP EIR. However, as explained above, pursuant to SB 743, PRC Section 21099, and CCR Section 15064.3(a), a project's effect on automobile delay no longer constitutes a significant impact under CEQA. Therefore, this transportation analysis does not consider the potential for the UCP to contribute to a cumulative increase in congestion on local and regional roads as a significant and impact of the project. Note, however, that the Financing, Services and Governance chapter of the VST Specific Plan includes a fair share analysis for impacted intersections and road segments. Tables 9 through 11 of the VST Specific Plan identify the VST share of improvements necessary to support the development of the VST Specific Plan. Several of these offsite improvements are considered components of the project and their physical environmental effects have been evaluated throughout this SEIR. The contribution to these facilities is to comply with General Plan and UCP conformity. Those facilities are as follows:

Roadway Intersections

- Snelling Highway / Bellevue Road
- G Street / Bellevue Road
- ~~Lake Road / Bellevue Road~~

- G Street / Cardella Road
 - ~~Lake Road / Cardella Road~~
 - Snelling Highway / Yosemite Avenue
 - G Street / Yosemite Avenue
 - Gardner Avenue / Yosemite Avenue
 - McKee Road / Yosemite Avenue
 - ~~Lake Road / Yosemite Avenue~~
 - Snelling Highway / Olive Avenue
 - R Street / Olive Avenue
 - M Street / Olive Avenue
 - G Street / Olive Avenue
 - Snelling Highway / 16th Street
 - Martin Luther King Jr / SR 99 NB Ramps
 - ~~G Street / SR 99 NB Off Ramp~~
 - ~~Campus Pkwy / Yosemite Avenue~~
 - ~~Campus Parkway / Olive Avenue~~
 - ~~Campus Parkway / Connector Road~~
 - ~~SR 140 / Connector Road~~
 - ~~Campus Parkway / Childs Avenue~~
 - ~~Campus Parkway / Gerard Avenue~~
 - ~~Campus Parkway / Coffee Street~~
 - ~~Sr 99 NB Ramps / Campus Parkway~~
 - ~~Meyers Gate Road / Lake Street~~
 - ~~Meyers Gate Road / Campus Parkway~~
 - ~~Virginia Smith Parkway / Lake Road~~
 - ~~Virginia Smith Parkway / Campus Parkway~~
 - ~~Virginia Smith Parkway / Golden Bobcat~~
 - ~~Virginia Smith Parkway / Center Street~~
 - ~~Virginia Smith Parkway / Kibby Road~~
- Roadway Segments**
- ~~Bellevue Road – Snelling Hwy to G~~
 - ~~Bellevue Road – G to Lake~~
 - ~~Lake Road – Bellevue to Meyers Gate Road²~~
 - ~~Lake Road – Meyers Gate Road to Cardella~~
 - ~~Lake Road – Cardella to Yosemite~~

- ~~Yosemite Campus Parkway to Lake~~
- ~~Yosemite Avenue Lake to Parsons~~
- ~~Yosemite Avenue Parsons to G Street~~
- ~~G Street Bellevue to Cardella~~
- ~~G Street Cardella to Mercy~~
- ~~Campus Parkway Yosemite to Cardella⁴~~
- ~~Campus Parkway Cardella to Meyers Gate^{1,5}~~
- ~~Campus Parkway Meyers Gate to Bellevue³~~

This page intentionally left blank.

4 REFERENCES

- California Governor's Office of Planning and Research. 2018 (April). *Technical Advisory on Evaluating Transportation Impacts In CEQA*. Available: https://opr.ca.gov/docs/20180416-743_Technical_Advisory_4.16.18.pdf.
- City of Merced. 2017a (January). *Mitigated Negative Declaration and Initial Study for City of Merced 2016 Water Master Plan Update*. Prepared by AECOM. Available: <https://www.cityofmerced.org/home/showpublisheddocument/7548/637701617245330000>. Accessed January 2023.
- . 2017b (December). *City of Merced Wastewater Collection System Master Plan*. Available: <https://www.cityofmerced.org/home/showpublisheddocument/8632/637354170547800000>. Accessed December 21, 2021.
- Live Oak Associates, Inc. 2022. *Biological Constraints Analysis, Virginia Smith Trust Intersections Project, Merced, CA*. MCAG. See Merced County Association of Governments.
- Merced County. 2004. *University Community Plan*. Adopted December 21, 2004. Resolution 2004 2004-239.
- Merced County Association of Governments. 2008 (October). *Merced County Regional Bicycle Transportation Plan*. Available: <https://www.ca-ilg.org/sites/main/files/file-attachments/finalregbp.pdf?1383107255>.
- MKN. 2021 (November). *Virginia Smith Trust Development: Senate Bill 610 Water Supply Assessment* (Administrative Draft). Fresno, CA.
- OPR. See California Governor's Office of Planning and Research.

This page intentionally left blank.

5 REPORT PREPARERS

Merced County (Lead Agency)

Steve Maxey..... Planning Director
Tiffany Ho Deputy Director of Planning

City of Merced (Responsible Agency)

Scott McBride.....Development Services Director

Ascent Environmental, Inc. (CEQA Compliance)

Michael J. Parker, AICP..... Principal
Jessica Babcock..... Project Manager
Nicole Greenfield Assistant Project Manager
Brian Perry Graphics Specialist
Michele MatteiPublishing Specialist

Virginia Smith Trust (Applicant)

Stephen J, Peck, AICPPeck Planning and Development, LLC

This page intentionally left blank.