

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

State Clearinghouse Number 2015101048

Prepared for:
City of Merced

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

Mitigation Measures	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
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Section 3.3—Air Quality/Greenhouse Gas Emissions					
<p>MM AIR-2a: Prior to issuance of the certificate of occupancy for any proposed non-residential commercial use that consists of 30,000 square feet or more building space, the operator shall demonstrate to the satisfaction of the City of Merced that a Transportation Demand Management (TDM) Program will be implemented during operations. The TDM program shall have the following elements:</p> <ul style="list-style-type: none"> a) Secure bicycle parking for employees. b) Employee lockers and breakroom. c) Rideshare information bulletin board. d) Incentives for employee rideshare, transit use, or bicycling/walking to work. e) Include TDM program information in employee orientation documents and periodic company newsletters. 					
<p>MM AIR-2b: Prior to issuance of the certificate of occupancy of any proposed non-residential commercial use that consists of 20,000 square feet or more building space, the City of Merced shall verify that at least one electrical vehicle charging station is provided on the project site for each proposed commercial use that meet the above criteria in order to encourage the use of zero emission vehicles in accordance with California Green Building Code standards. Based on the proposed site plan, this would result in the installation of a minimum of nine (9) electrical vehicle charging stations on the project site.</p>					
<p>MM AIR-2c: Prior to City approval of the final site plan for the project or issuance of the first grading permit for the project, whichever comes first, the project proponent shall provide the City of Merced with proof that all feasible measures detailed in Mitigation Measure 3.3-2 from the Merced Vision 2030 General Plan (provided in Appendix J) have been incorporated into the project design.</p>					

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

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

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

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

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

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

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

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<p>the find under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction activities are allowed to resume at the location of the find. If the Applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of construction activities on the discovery. The plan shall be submitted to the City of Merced for review and approval prior to implementation, and the Applicant shall adhere to the recommendations in the plan.</p>					
<p>MM CUL-4: In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code (PRC) Sections 5097.94 and 5097.98 must be followed. If during the course of project development there is accidental discovery or recognition of any human remains, the following steps shall be taken:</p> <ol style="list-style-type: none"> 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the County Coroner is contacted and determines if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the most likely descendant (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98. 					

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<p>2. Where the following conditions occur, the landowner or his or her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the most likely descendant or on the project site in a location not subject to further subsurface disturbance:</p> <ul style="list-style-type: none"> • The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission. • The descendant identified fails to make a recommendation. • The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner. <p>Additionally, California Public Resources Code Section 15064.5 requires the following with regards to Native American Remains:</p> <p>When an initial study identifies the existence of, or the probable likelihood of, Native American Remains within a project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code Section 5097.98. The applicant may develop a plan for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American Burials with the appropriate Native Americans as identified by the NAHC.</p>					

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Section 3.6—Hazards and Hazardous Materials					
<p>MM HYD-1a: Prior to the issuance of grading permits, the project applicant shall file a Notice of Intent with and obtain a facility identification number from the State Water Resources Control Board. The project applicant shall also submit a Stormwater Pollution Prevention Plan (SWPPP) to the City of Merced that identifies specific actions and Best Management Practices (BMPs) to prevent stormwater pollution during construction activities. The SWPPP shall identify a practical sequence for BMP implementation, site restoration, contingency measures, responsible parties, and agency contacts. The SWPPP shall include but not be limited to the following elements:</p> <ul style="list-style-type: none"> • Comply with the requirements of the State of California’s most current Construction Stormwater Permit. • Temporary erosion control measures shall be implemented on all disturbed areas. • Disturbed surfaces shall be treated with erosion control measures during the October 15 to April 15 rainy season. • Sediment shall be retained on-site by a system of sediment basins, traps, or other BMPs. • The construction contractor shall prepare Standard Operating Procedures for the handling of hazardous materials on the construction site to eliminate discharge of materials to storm drains. • BMP performance and effectiveness shall be determined either by visual means where applicable (e.g., observation of above-normal sediment release), or by actual water sampling in cases where verification of contaminant reduction or elimination (such as inadvertent petroleum release) is required by the Central Valley Regional Water Quality Control Board to determine adequacy of the measure. • In the event of significant construction delays or delays in 					

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

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Section 3.9—Noise					
<p>MM NOI-1: To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the project:</p> <ul style="list-style-type: none"> • The construction contractor shall ensure that all internal combustion engine-driven equipment is equipped with mufflers that are in good condition and appropriate for the equipment. • The construction contractor shall locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction disturbance area. In addition, the project contractor shall place such stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site. • The construction contractor shall prohibit unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes is prohibited). • The construction contractor shall locate, to the maximum extent practical, on-site equipment staging areas so as to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction. • The construction contractor shall limit all noise producing construction activities, including deliveries and warming up of equipment, to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No such work shall be permitted on Sundays or federal holidays without prior approval from the City. 					

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<p>MM NOI-2: To reduce potential traffic noise impacts, the following multi-part mitigation measure shall be implemented for the project:</p> <ul style="list-style-type: none"> • The project shall incorporate a minimum 8-foot-high soundwall along the Gerard Avenue bordering the proposed residential land use portion of the project. The soundwall shall wrap around the west end of the residential portion of the project, along Coffee Street, for a minimum of 50 feet. In addition, the soundwall should wrap around the eastern end of the residential portion of the project, along the project entrance south of Daffodil Street, for a minimum distance of 50 feet. The building plans approved by the City shall reflect this requirement. • All proposed residential units with a direct line of sight to Gerard Avenue would require an alternative ventilation system, such as air conditioning, to ensure that windows can remain closed for a prolonged period of time. The building plans approved by the City shall reflect this requirement. • The proposed hotel land use located on the southern parcel of the project site shall include an alternate form of ventilation, such as an air conditioning system, in order to ensure that windows can remain closed for a prolonged period of time. The building plans approved by the City shall reflect this requirement. 					
Section 3.11—Transportation					
<p>MM TRANS-1a: In accordance with the transportation improvement phasing plan identified in MM TRANS-1g, the project applicant shall improve the intersection of Gerard Avenue/Coffee Street (3) with an enhanced pedestrian crossing.</p>					

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

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

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

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