FINAL ENVIRONMENTAL IMPACT REPORT

MERCED UNION HIGH SCHOOL DISTRICT
BELLEVUE ROAD AREA HIGH SCHOOL

November 2007

Quad Knopf

FINAL ENVIRONMENTAL IMPACT REPORT

MERCED UNION HIGH SCHOOL DISTRICT
BELLEVUE ROAD HIGH SCHOOL

November 2007

Lead Agency: Merced Union High School District
P.O. Box 2147
Merced, CA 95344-0147

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INTRODUCTION

SECTION ONE – INTRODUCTION

A Notice of Preparation for the subject project was circulated on January 3, 2006. The Notice of Preparation (NOP) informed agencies and individuals of the Merced Union High School District's intent to prepare an environmental impact report (EIR). The 30-day review period for the NOP started on January 3, 2006 and ended on February 3, 2006.

A Draft EIR was delivered to the State Clearinghouse and mailed to agencies, organizations and interested individuals on July 3, 2006 for a 30-day review period. A notice was published in the Merced Sun-Star newspaper notifying the public of the availability of the Draft EIR and soliciting comments thereon. The Draft EIR was revised and recirculated on August 27, 2007 with the 45-day public review period ending on October 10, 2007. The draft was revised and recirculated in order to provide to the public, to lead agency decision makers, and to responsible and trustee agencies supplemental and clarifying information regarding the project and its potential environmental effects.

The Final EIR consists of (1) Introduction; (2) Summary of Draft EIR; (3) Comments and Responses; (4) Clarifications to the Draft EIR; and (5) Mitigation and Monitoring Program. A complete copy of the Draft EIR is included as Appendix A.

Responses to comments are directed to the disposition of significant environmental issues that are raised in the comments, as set forth in Section 15088(b) of the State Guidelines. When reviewing the comments and in developing responses thereto, every effort is made to compare the comment to the information contained in the Draft EIR. In most instances, responses are not provided to comments on non-environmental aspects of the proposed project. For comments not directed to significant environmental issues or in which the commentor simply notes agreement with the EIR, the responses indicate that the comment has been "noted".

Upon due consideration, the District determined that clarifications, changes and modifications contained in Section Four of the Final EIR did not make any conclusions contrary to the findings made in the DEIR regarding the significance of impacts. Thus, Section Four provides factual corrections to the DEIR and the revisions are recorded on errata sheets that underline the additions of factual information and strike out information that is clarified by the additional information.

CEQA requires that a Final EIR be prepared, certified and independently considered by the decision-making body of the District prior to taking action on the project. The Final EIR provides the District with an opportunity to respond to comments on the Draft EIR and to incorporate any changes necessary to clarify and/or amplify information contained in the Draft EIR. This Final EIR will be available to any commentors for at least ten (10) days prior to its certification.

SECTION TWO

SUMMARY OF DRAFT ENVIRONMENTAL REPORT

SECTION TWO – SUMMARY OF DRAFT ENVIRONMENTAL IMPACT REPORT

Introduction

Under the California Environmental Quality Act (CEQA), when discretionary projects are undertaken by public agencies, an Environmental Impact Report (EIR) is required if the Lead Agency determines that the project may cause a significant environmental impact. The purposes of an EIR are to provide full disclosure of the potentially significant environmental effects of the project to the public and their decision-makers and explore means to mitigate (i.e., reduce, avoid, or eliminate) these impacts through alternatives to the project or special mitigation measures. CEQA intends that preparation of an EIR will be a public process that provides meaningful opportunities for public input with regard to environmental effects.

The project evaluated in this EIR involves construction and operation of Bellevue High School. The District proposes to construct the new 58-acre high school, with classroom space for up to 2,000 students (with the ability to expand, if necessary, to 2,400 students) and a school staff of approximately 160, to serve the northeast section of the City of Merced

Section 15123 of the *CEQA Guidelines* requires that an EIR contain a brief summary of the proposed action and its consequences. This Executive Summary is required to identify the following: 1) each significant environmental effect with proposed mitigation measures and alternatives that would reduce or avoid the effect; 2) areas of concern known to the Lead Agency, including issues raised by regulatory agencies and the public; and 3) issues to be resolved, including the choice among alternatives and whether or how to mitigate the significant effects.

The proposed construction and operational activities directly supportive of and corollary to such construction and operation are evaluated in this document as a project EIR; no further environmental consideration or documentation will be required for this project once this EIR has been certified. The complete Draft EIR is attached as Appendix A.

Project Description

The proposed project will provide classroom space for up to 2,000 students (with the ability to expand, if necessary, to 2,400 students) in grades 9 through 12, and school staff of approximately 160 on a 58-acre site. Buildings will total approximately 190,000 square feet, with a gymnasium building, cafeteria, administration building, and a total of 83 classrooms in 2-story classroom wings. These buildings and related improvements will be constructed in one phase.

As additional funding becomes available in the future, a 4,000 seat athletic stadium (used primarily for football, soccer and track) is planned as phase two. The environmental impacts of this proposed stadium are included in this EIR.

Buildings will occupy approximately ten percent of the site; parking and roadways, twenty percent; workways, twenty percent; and athletic facilities, fifty percent. Approximately 562 parking spaces

will be provided on site and will include new roadways (Barclay Avenue and Farmland Avenue). In accordance with the Bellevue Ranch Master Development Plan, an open space buffer zone is provided along Fahrens Creek. Figure 2-1 provides an updated project site plan that includes building layout and road improvements.

Potential Areas of Concern and Issues to be Resolved

Based on the Initial Study and input received during the scoping process from agencies, the following were identified as potential areas of concern:

- Increase in light and glare
- Loss of prime farmland
- Impacts associated with air quality
- Effects on biological resources
- Possible impacts on cultural resources
- Seismic hazards
- Population growth inducement
- Increase in traffic volumes

Summary of Impacts and Mitigation Measures

Section 15123(b)(1) of the *CEQA Guidelines* provides that this summary shall identify each significant effect with proposed mitigation measures that would reduce or avoid that effect. This information is summarized in Section Five – Mitigation Monitoring and Reporting Program of this report.

The reader should be aware that Section Five contains only a summary of identified impacts and mitigation measures for quick reference. Chapter Three of the Draft EIR should be consulted for the full text of impacts and mitigation measures.

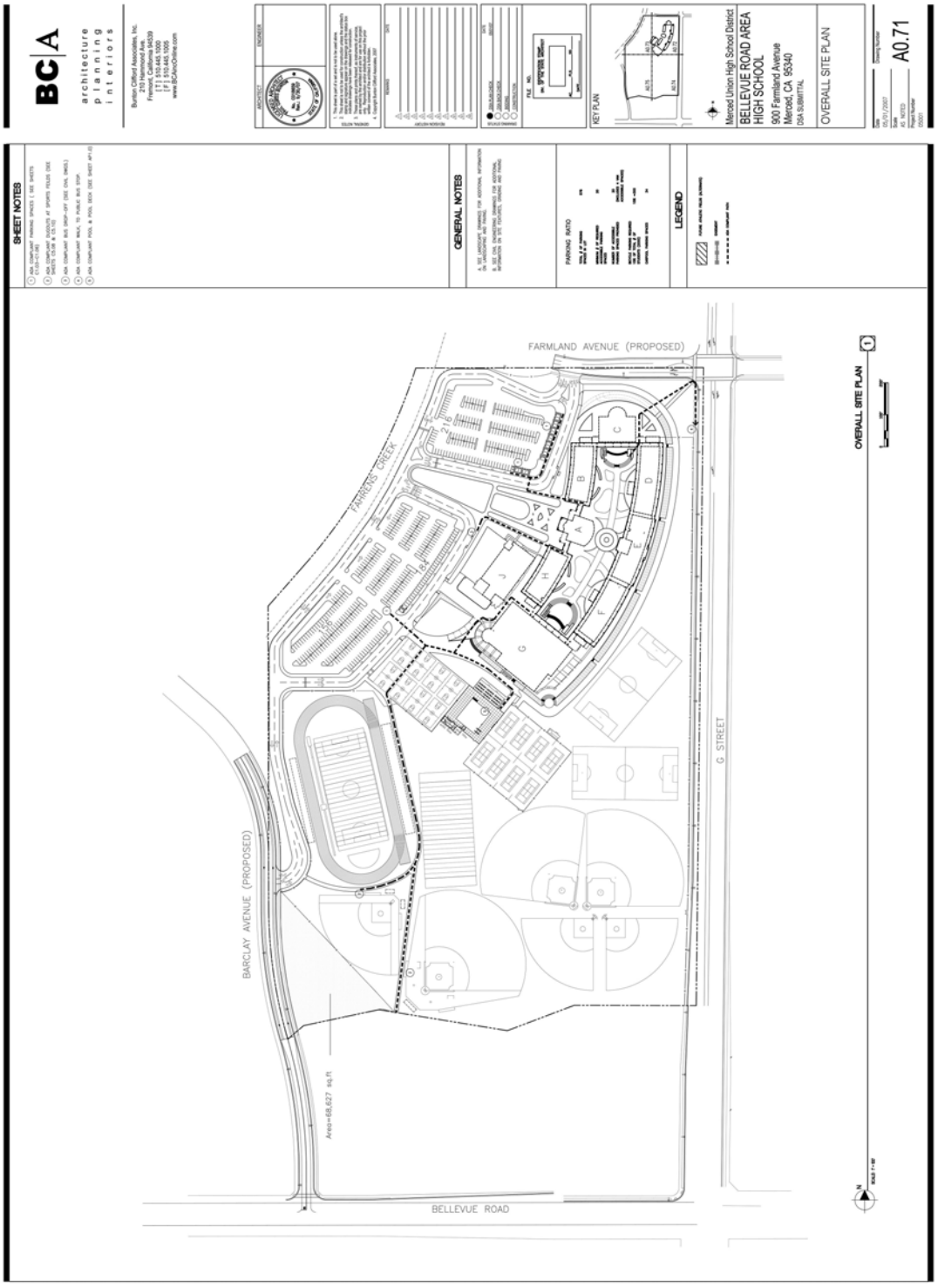
Alternatives

Chapter Four of the Draft EIR evaluated the project against the no-project alternative, and against viable alternatives which would achieve, or partially achieve, project objectives. The conclusion reached in Chapter Four is that the mitigated project is the environmentally superior project compared to the following alternatives:

- No project
- Reduced project size
- Alternate project site

Significant Environmental Effects That Cannot Be Avoided

Significant environmental effects at the project level and cumulatively that cannot be avoided include loss of prime farmland, increase in air pollution, and increase in traffic noise.



Quad Knopf	SITE PLAN	Figure 2 - 1

Effects Found Not To Be Significant

The Draft EIR and initial Environmental Checklist found the following effects not to be significant:

AESTHETICS

Project will not:

- Have a substantial adverse effect on a scenic vista.
- Substantially damage scenic resources.
- Substantially degrade the existing visual character of the site and its surroundings.

BIOLOGICAL RESOURCES

Project will not:

- Have substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans and policies.
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act.
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species.
- Conflict with any local policies or ordinances protecting biological resources.
- Conflict with the provisions of an adopted Habitat Conservation Plan.

CULTURAL RESOURCES

Project will not:

- Cause a substantial adverse change in the significance of a historical resource.
- Directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

GEOLOGY/SOILS

Project will not:

- Result in substantial soil erosion or the loss of topsoil.
- Be located on a geologic unit or soil that is unstable.
- Be located on expansive soil.
- Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems.

HAZARDS/HAZARDOUS MATERIALS

Project will not:

- Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials.
- Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.
- Be located on a site which is included on a list of hazardous materials sites.
- Result in a safety hazard, for a project located within an airport land use plan for people residing or working in the project area.
- Result in a safety hazard, for a project within the vicinity of a private airstrip, for people residing or working in the project area.
- Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.
- Expose people or structures to a significant risk of loss, injury or death involving wildland fires.

HYDROLOGY/WATER QUALITY

Project will not:

- Violate any water quality standards or waste discharge requirements.
- Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.
- Substantially alter the existing drainage pattern of the site or area.
- Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems.
- Otherwise substantially degrade water quality.
- Place housing within a 100-year flood hazard area.
- Place within a 100-year flood hazard area structures which would impede or redirect flood flows.
- Expose people or structures to a significant risk of loss, injury or death involving flooding.
- Result in inundation by seiche, tsunami, or mudflow.

LAND USE AND PLANNING

Project will not:

- Physically divide an established community.
- Conflict with any applicable land use plan, policy, or regulation of an agency.
- Conflict with any applicable habitat conservation plan or natural community conservation plan.

MINERAL RESOURCES

Project will not:

- Result in the loss of availability of a known mineral resource.
- Result in the loss of availability of a locally-important mineral resource recovery site.

POPULATION AND HOUSING

Project will not:

- Induce substantial population growth.
- Displace substantial numbers of existing housing.
- Displace substantial numbers of people.

PUBLIC SERVICES

Project will not:

- Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities.

RECREATION

Project will not:

- Increase the use of existing neighborhood and regional parks or other recreational facilities.
- Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

TRAFFIC/CIRCULATION

Project will not:

- Result in a change in air traffic patterns.
- Substantially increase hazards due to a design feature.
- Result in inadequate emergency access or inadequate parking capacity.
- Conflict with adopted policies, plans, or programs supporting alternative transportation.

UTILITIES AND SERVICE SYSTEMS

Project will not:

- Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board.
- Require or result in the construction of new water or wastewater treatment facilities, the construction of which could cause significant environmental effects.
- Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.
- Have insufficient water supplies available to serve the project.
- Result in a determination by the wastewater treatment provider that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.

- Be served by a landfill with limited capacity to accommodate the project's solid waste disposal needs.
- Disregard federal, state, and local statutes and regulations related to solid waste.

SECTION THREE

COMMENTS AND RESPONSES

SECTION THREE – COMMENTS AND RESPONSES

The Draft EIR was mailed to agencies, organizations and interested individuals on August 27, 2007 to begin a 45-day review period. Seven comment letters were received during the 45-day public review period which ended on October 10, 2007.

Copies of the comment letters are reproduced on the following pages and were received from:

- Katy Sanchez, Program Analyst
  State of California, Native American Heritage Commission

- Tom Dumas, Chief
  State of California, Department of Transportation

- W.E. Loudermilk, Regional Manager
  State of California, Department of Fish and Game

- Arnaud Marjollet, Permit Services Manager
  San Joaquin Valley Air Pollution Control District

- James G. Marshall, City Manager
  City of Merced

- Mark Niskanen, Senior Planner
  J.B. Anderson Land Use Planning

- Andrew Smith, Senior Land Planner
  Pacific Gas and Electric Company

Responses to Written Comments

This section restates each of the written comments received on the Draft EIR during the 45-day review period. Following the comment letters are responses intended to either supplement, clarify, or amend information provided in the Draft EIR, or refer the commentor to the appropriate place in the draft EIR or Final EIR where the requested information is found. Each letter and corresponding response is numbered for reference. Comments not directed to significant environmental issues are included in this section; responses thereto indicate that the comment has been noted and that no detailed response is necessary.

OCT-04-2007 12:23 P.01/02

STATE OF CALIFORNIA Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
(916) 657-5390 - Fax

FAXED 10/5

August 30, 2007

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M.U.H.S.D.
FACILITIES PLANNING

Michael Belluomini
Merced union High School District
P. O. Box 2147
Merced, CA 95344

RE: SCH# 2006011001 Merced Union High School, Bellevue High School; Merced County.

Dear Mr. Belluomini:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Completion (NOC) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate regional archaeological Information Center for a record search. The record search will determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for pubic disclosure. 1
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. **USGS 7.5-minute quadrangle name, township, range, and section required.**
  - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. **Native American Contacts List attached.**
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,
Katy Sanchez
Katy Sanchez
Program Analyst

CC: State Clearinghouse

Native American Contacts
Merced County
August 30, 2007

North Valley Yokuts Tribe
Katherine Erolinda Perez
PO Box 717
Linden , CA 95236
(209) 474-2602

Ohlone/Costanoan
Northern Valley Yokuts
Bay Miwok

Amah MutsunTribal Band
Edward Ketchum
35867 Yosemite Ave
Davis , CA 95616
aerieways@aol.com

Ohlone/Costanoan
Northern Valley Yokuts

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2006011001 Merced Union High School District, Bellevue High School; Merced County.

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
P.O. BOX 2048 STOCKTON, CA 95201
(1976 E. CHARTER WAY/1976 E. DR. MARTIN LUTHER KING JR. BLVD. 95205)
TTY: California Relay Service (800) 735-2929
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September 20, 2007

10-Mer 59 - PM 19 &
10-Mer 99 – PM 14.41
Bellevue Road Area High School
Draft EIR – SCH No. 200601001

Merced Union High School District
Attn: Mr. Michael Belluomini
P.O. Box 2147
Merced, CA 95344

Dear Mr. Belluomini:

The California Department of Transportation (Department) appreciates the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the proposed Bellevue Road Area High School to be located north of the City of Merced in Merced County. The following Department comments refer to the DEIR dated August 2007, Appendix E, Traffic Impact Study (TIS):

TIS STUDY AREA

The TIS is too limited in the boundary area it analyzes. It should be re-evaluated to verify that it includes all the intersections and road segments that will be potentially significantly affected by expected levels of traffic arising from development of the proposed project. A project of this size with an AM peak hour traffic generation of approximately 1000 peak hour trips (AM) will have significant impacts on a larger area beyond the limited number of intersections and roadways analyzed. At the perimeter of the current TIS study area, the TIS describes intersections that show potentially significant impacts, under both 2009 opening day as well as 2030 cumulative conditions.

To fully identify and disclose all significant impacts from this project, the perimeter of the study area should be expanded to view these radiated impacts. Ideally, the boundary area of the TIS (Figure 6 & 7) should be consistent with the geographical limits of the attendance boundaries for this new high school (Figure 5 – School Attendance Area Boundary).

Further support for this need to expand the study boundaries is apparent in the lack of an evaluation of roadway segments or intersections to the south of the SR 59/Bellevue Road intersection despite the comment found on page 22 of the TIS:

"Development of the new High School will add traffic to SR 59. Motorists waiting to turn onto SR 59 at the SR 59/Bellevue Road intersection will experience very long delays that are indicative of LOS F."

At this location, the project is expected to generate 335 peak hour turning movements south of the SR 59/Bellevue intersection, yet no intersections or roadways south of this intersection are included in the TIS analysis.

Most importantly, the TIS boundary area does not follow the CalTrans "Guide for the Preparation of Traffic Impact Studies" December 2002 edition since the TIS peak hour project trip assignment (Figure 6) shows the project trips at the perimeter study intersection significantly exceeding the guideline values. The TIS should verify that its boundary area encompasses the potentially impacted roadway systems to adequately analyze impacts and address mitigation measures for the proposed high school.

ANALYSIS METHODOLOGY

The AM peak hour traffic generation of a school may not be indicative of the actual effect on the study intersections since the traffic generation from a school is usually not uniformly spread over an entire hourly period. Due to the starting time of a school, the traffic generation is compressed over a shorter time interval. The aforementioned would result in a significantly lower Peak Hour Factor (PHF) than typically used in a traffic analysis. Therefore adding the project traffic generation over an hour analysis period, while using a typical PHF, will not represent the true traffic flow demand on the intersections.

On page 10 of the TIS, the report states: "Thus this analysis assumes that Caltrans and City minimum Level of Service Standards (LOS) are applicable measures of significance for traffic flow measured over the duration of the peak hour, but that maintaining minimum LOS during the peak minutes before the beginning of the school day is not an applicable goal."

However, on pages 1 and 9 of the TIS, the report states that the techniques contained in the 2000 Highway Capacity Manual (HCM) were used to analyze the operational characteristics of the intersections and to identify the current LOS at each location during each time period. Accordingly, please refer to pages 8-9 of the HCM 2000 methodology regarding "Subhourly Variations in Flow". This HCM section explains that most of its procedures are based on peak 15-minute flow rates. The relationship between the peak 15-minute flow rate and the peak hour volume is determined by the PHF.

If the TIS proposes to use an estimated peak hour volume, an appropriate PHF accounting for the peak 15-minute flow rates should be applied to determine the appropriate design-hour flow rate and the subsequent analysis. By not analyzing the actual traffic flow or demand on the intersections, the end result will be underestimated traffic impacts during those times of peak 15-minute demands.

If you have any questions, please contact John Gedney at (209) 942-6092 (email: john_gedney@dot.ca.gov) or me at (209) 941-1921. We look forward to continuing to work with you in a cooperative manner.

Sincerely,

TOM DUMAS, CHIEF
OFFICE OF METROPOLITAN PLANNING

C: Scott Morgan, State Clearinghouse

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TO: Mr. Michael Belluomini Director of Facilities Planning		FROM: John Gedney, Caltrans – D10, Office of Metropolitan Planning DEPARTMENT OF TRANSPORTATION 1976 EAST CHARTER WAY STOCKTON, CA 95205	
UNIT/COMPANY: Merced Union High School District		DATE: 09-20-07	TOTAL PAGES (Including Cover Page): 3
		FAX # (209) 942-7164	ATSS FAX N/A
DISTRICT/CITY: Merced		PHONE # (209) 942-6092	ATSS N/A
PHONE # (209) 385-6400	FAX # (209) 385-6442	ORIGINAL DISPOSITION:	

RE: DEIR Bellevue Area High School
SCH # 2006011001

Thank you,

- John -

TABLE 9
YEAR 2009 PEAK HOUR INTERSECTION
LEVELS OF SERVICE WITH 2,400 STUDENT HIGH SCHOOL

Intersection	Control	Opening Day No Project		Opening Day Plus Project	
		Average Delay (Seconds)	LOS	Average Delay (seconds)	LOS
G Street / Farmland Avenue	EB/WB Stop				
Northbound left turn		7.5 sec	A	8.7 sec	A
Southbound left turn		7.6 sec	A	7.6 sec	A
Eastbound left+through+right turn		9.9 sec	A	18.1 sec	C
Westbound left+through+right turn		11.5 sec	B	260.7 sec	F
Golf Road / Farmland Avenue	EB Stop				
Northbound left turn		7.3 sec	A	7.3 sec	A
Eastbound left+right turn		8.6 sec	A	8.7 sec	A
SR 59 / Bellevue Road	EB / WB Stop				
NB left turn		7.5 sec	A	7.5 sec	A
SB left turn		7.9 sec	A	8.5 sec	A
EB left+thru+right turn		22.8 sec	C	44.2 sec	E
WB left+thru+right turn		34.7 sec	D	577.1 sec	F
Bellevue Road / Barclay Road	Signal	12.6 sec	B	19.8 sec	B
Bellevue Road / G Street	Signal	23.2 sec	C	44.9 sec	D
G Street / Cardella Road	Signal	21.0 sec	C	16.6 sec	B
G Street / Yosemite Blvd	Signal	49.9 sec	D	60.2 sec	E

As indicated in Table 9, satisfactory traffic conditions are projected at most of the study intersections if the assumed improvements are made, but there are three locations where Levels of Service in excess of the City of Merced's LOS D minimum are projected.

1. At the School's access opposite the **G Street / Farmland Avenue intersection**, motorists waiting to turn left onto G Street will experience very long delays that are indicative of LOS F conditions. This Level of Service exceeds the City's minimum standard and is a significant impact. However, because most of the traffic exiting the school will be turning right, the overall Level of Service on the eastbound approach is within the LOS D standard.

The intersection will need to be signalized. At a minimum the signal should provide the following geometry:

NB Separate left turn lane and a combined through+right turn lane
SB Separate left, through and right turn lanes
EB Combined left+through lane and separate right turn lane
EB Combined left+through+right turn lane

This level of improvement would provide LOS B over the breadth of the peak hour.

Improvements to intersection would be funded through several sources. The District shall widen the west side of G Street as part of the proposed project and will be constructing the eastbound Farmland Avenue approach. Creation of left turn lanes on G Street would accompany this work. While the District should install the traffic signal as part of the proposed project, the City of Merced typically shares the cost of signalization to the property owners on each corner (50% of total). Thus, the District would be responsible for 12.5% of the cost of the traffic signal itself.

Development of the new High School will add traffic to SR 59. Motorists waiting to turn onto SR 59 at the **SR 59 / Bellevue Road intersection** will experience very long delays that are indicative of LOS F. This exceeds the City's minimum LOS D standard. While widening the intersection to provide a separate northbound right turn lane would reduce the length of delays somewhat, installation of a traffic signal would be required to meet the City's LOS D minimum.

However, at other times during the day this intersection is unlikely to carry the traffic volumes needed to satisfy Caltrans 8-hr warrant requirements. Thus, the District shall contribute its fair share to the cost of this traffic signal. On opening day High School traffic represents 31% of the traffic through this intersection, with the percentage dropping to 6% under a.m. peak hour year 2025 conditions.

Development of the High School will add traffic to the two lane portions of SR 59 that are planned for widening but currently lack funds to do so. Caltrans comments on the DEIR NOP suggest that the High School may have incremental impacts on SR 59 and the intersections north of he SR 59 widening project(i.e., at the SR 59 / Buena Vista Avenue, SR 59 / Yosemite Blvd, and SR 59 / Bellevue Road intersections). While it is not possible to identify an exact "fair share" percentage at locations outside of the study area, the high school should contribute to the cost of improvements at these locations.

Finally, the **G Street / Yosemite Avenue intersection** is projected to operate at LOS E with development of the proposed high school. This exceeds the City's LOS D minimum. Development of additional lanes on G Street, as is eventually expected under the City's long range plan would be needed to deliver LOS D conditions.

Peak Period Conditions Before School Day Begins

Because much of the traffic associated with high schools is concentrated into a few minutes at the beginning and ending of the school day, short periods of congestion and delays are typical at most schools. While not necessarily an impact under the City's minimum hourly Level of Service standards, these periods of delay are often noticeable to the public and can represent a safety problem if the duration of "at capacity" operation is excessive.

While it is not necessary to evaluate peak period conditions at study intersections that are not proximate to the site, it is appropriate to ensure that the site's access intersections have the capacity to accommodate peak flows. Traffic conditions that fall within a range between LOS E and LOS F are an applicable goal for peak period operations.

Bellevue Road / Barclay Avenue intersection. To provide "near capacity" conditions during the peak minutes before school, the following improvements are recommended at the Bellevue Road / Barclay Avenue intersection:

1. Create a "overlap" westbound right turn lane phase onto northbound Barclay Avenue from westbound Bellevue Road, and

2. Provide a three lane southbound approach on Barclay Avenue, and configure this approach with a separate left turn, a combination left + through lane and a separate right turn lane;

Because these improvements are relatively minor, they could be incorporated into the traffic signal plans being prepared for the adjacent property owner or, the City of Merced could monitor traffic conditions and make these minor changes as the need arises.

G Street / Farmland Avenue. To provide "below capacity" conditions at the G Street / Farmland Avenue intersection the following improvements would be needed:

1. Add an eastbound to southbound "overlap phase" on the EB Farmland Avenue approach. This feature should be incorporated into the design of the traffic signal

G Street / Bellevue Road. Because of the proximity of the G Street / Bellevue Road intersection, it is also important to consider the peak period operations at this location. With the assumed improvements the intersection would operate "over capacity" during the peak minutes before the school day begins. To provide better operations it would be necessary to implement many of the ultimate intersection improvements that are planned by the City under the Bellevue ranch Master Plan but are not expected to be implemented by the time the school opens. These include:

1. Complete the second northbound and second southbound lanes on G Street;
2. Complete the second northbound left turn lane on G Street

These regional improvements are being installed as Bellevue Ranch area development proceeds. The District should make a fair share contribution to regional improvements by paying a fee to the City of Merced equivalent to the funds provided by site development under prior residential uses.

Impacts to Alternative Transportation Modes

Development of a school at this site will result in the need to bus students in a manner that is consistent with District policies. The district anticipates that 25% to 35% of the students will be bussed when the school opens. An on-site bus loading area has been incorporated into the site design.

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

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October 18, 2007

10-Mer 59 - PM 19 &
10-Mer 99 – PM 14.41
Bellevue Road Area High School
Draft EIR – SCH No. 200601001

KDAnderson & Associates, Inc.
Attn: Kenneth D. Anderson, P.E., President
3853 Taylor Road, Suite G
Loomis, CA 95650

Dear Mr. Anderson:

Thank you for your follow-up letter dated October 4, 2007, regarding the traffic impact analysis for the proposed Bellevue Road High School to be located north of the City of Merced in Merced County. As stated in your letter, the School District traffic study assessed traffic impacts on the SR 59 corridor and quantified a mitigation cost estimate totaling $143,750 for improvement projects on the State Highway System (SHS).

Pursuant to our telephone conversation of October 17, 2007, this letter is intended to memorialize the revision to the mitigation proposal that we discussed. That revision regards the SR 59 / Bellevue Road intersection where it is the Department's position that the School District impacts should be viewed in the context of its contribution under cumulative conditions toward the ultimate, future improvement necessary at that location. Based on the traffic study results, the cumulative School District impact under future conditions is 6% of the total traffic at that location. Given a cost estimate of $1.5 million to re-configure the intersection and provide traffic signals, the revised mitigation estimate is $90,000.

The Department accepts the traffic impact analysis as presented in the traffic study and refined by the October 4 letter; and, pursuant to the revision noted above, requests that the School District agree to contribute the amount of $200,000 to address mitigation costs upon the SHS arising as a direct result of the development of the Bellevue Road High School.

If you have any questions, please contact John Gedney at (209) 942-6092 (email: john_gedney@dot.ca.gov) or me at (209) 941-1921. We look forward to continuing to work with you in a cooperative manner.

Sincerely,

TOM DUMAS, CHIEF
OFFICE OF METROPOLITAN PLANNING

"Caltrans improves mobility across California"

C: Scott Morgan, State Clearinghouse

State of California – The Resources Agency
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005

October 3, 2007

Michael Belluomini
Director of Facilities Planning
Merced Union High School District
Post Office Box 2147
Merced, California 95344

Subject: Draft Environmental Impact Report (DEIR)
SCH No. 2006011001
Bellevue High School

Dear Mr. Belluomini:

The Department of Fish and Game has reviewed the DEIR submitted by Merced Union High School District for the above Project. Project approval would allow for construction and operation of a new high school on a 58-acre site. The high school will provide classroom space for 2,000 students, with the ability to expand to 2,400 students, and will have buildings totaling 190,000 square feet plus a 562 space parking area and new roadways built in the first phase. The second phase of development will include a 4,000 seat athletic stadium and is included in the scope of this Project. The Project site is located in the northeast Merced city area, on the southwest corner of G Street and Farmland Avenue.

The Department has concerns with potential Project-related impacts to sensitive species and their habitats. The DEIR includes four mitigation measures to reduce impacts to raptors and other nesting birds, but additional measures should be adopted to address impacts to other species that could use habitat found on the Project site. Although the land has been in agricultural production for many years, while it sits fallow there is an increased likelihood that special status species will make use of the site. Surveys that have been conducted in the Project area vicinity for different projects are not sufficient to determine future use of the Project site by special status species when Project-related ground-disturbing activities commence.

Several special status species could use the adjacent Fahrens Creek area as habitat or a movement corridor. The Department is concerned that the proposed 20-foot no-development buffer placed from the levee of the creek will not provide adequate protection to terrestrial and amphibious animals. In addition, such a narrow buffer is likely to result in direct human/wildlife conflicts, such as encounters with skunks, raccoons, etc. The placement of the parking lot and stadium nearest to the creek also adds additional disturbance issues that could negatively affect all wildlife species.

Conserving California's Wildlife Since 1870

The potential biological impacts of the Project are enhanced by and added to the cumulative impacts of the neighboring Bellevue Ranch development, planned future build out of the nearby University of California, Merced campus and adjacent campus community, and other residential developments nearby. The Project-related impacts to wildlife should be assessed within the context of the surrounding area, which faces the loss of several thousand acres of habitat. Specific comments follow.

Department Jurisdiction

Trustee Agency Authority: The Department is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA.

Responsible Agency Authority: The Department has regulatory authority over projects that could result in the "take" of any species listed by the State as threatened or endangered, pursuant to Fish and Game Code Section 2081. If the Project could result in the "take" of any species listed as threatened or endangered under the California Endangered Species Act (CESA), the Department may need to issue an Incidental Take Permit for the Project. CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Sections 21001{c}, 21083, Guidelines Sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code Section 2080. The Project has the potential to reduce the number or restrict the range of endangered, rare, or threatened species (as defined in Section 15380 of CEQA), including the State threatened Swainson's hawk (*Buteo swainsoni*) and State threatened and Federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*).

The following special status species may also be present: The Federally threatened California tiger salamander (*Ambystoma californiense*) and the State Species of Special Concern burrowing owl (*Athene cunicularia*), Western pond turtle (*Clemmys marmorata*), and Western spadefoot (*Spea hammondii*). Although burrowing owls are not listed under CESA, impacts to burrowing owls and their nest burrows must be avoided in order to comply with the Federal Migratory Bird Treaty Act (MBTA) and Fish

and Game Code sections 3503, 3503.5, and 3513, which are explained in more detail below.

Fully Protected Species: The Department has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited, and the Department cannot authorize their "take" for development. The white-tailed kite is a fully protected species that is known to nest and forage in the Project area vicinity and could use the Project site for foraging, nesting, and roosting purposes. The CEQA document prepared for this Project should evaluate and address potential Project-related impacts to this species and should include appropriate species-specific avoidance and minimization measures.

Bird Protection: The Department has jurisdiction over actions which may result in the disturbance or destruction of active nest sites or the unauthorized "take" of birds. Sections of the Fish and Game Code that protect birds, their eggs and nests include sections 3503 (regarding unlawful "take," possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the "take," possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful "take" of any migratory nongame bird).

Project Recommendations

Swainson's Hawk: The Department generally agrees with Mitigation Measure #3.4-1b regarding Swainson's hawks. In addition to those measures, mitigation for the loss of foraging habitat should also occur, regardless of whether foraging habitat currently remains in the immediate vicinity of the Project site. Swainson's hawk nesting is documented within 5 miles of the Project site and could occur closer to the Project site. Swainson's hawks usually forage within 10 miles of their nest tree and more commonly within 5 miles of their nest tree. Consistent with the Department's Staff Report regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California (DFG, 1994), impacts to foraging habitat should be mitigated by the purchase of conservation easements and/or fee title acquisition of suitable foraging habitat; for projects that occur within 5 miles of an active nest tree, 0.75 acres of habitat should be protected in perpetuity for every acre of foraging habitat impacted.

In addition to providing foraging habitat for Swainson's hawks, set aside land will also benefit other raptors in the area that use the same habitat, such as burrowing owls. Funding of a sufficient long-term endowment for the management of the protected properties should be paid by the Project sponsors. In addition to fee title acquisition of grassland habitat, mitigation could occur by the purchase of conservation or suitable

agricultural easements. Suitable agricultural easements would include areas limited to production of crops such as alfalfa, dryland and irrigated pasture, and cereal grain crops. Vineyards, orchards, cotton fields, and other dense vegetation do not provide adequate foraging habitat.

San Joaquin Kit Fox: The Biological Survey (Appendix C) states that a 2006 survey of the Project area for an unrelated project found no evidence of kit fox. San Joaquin kit fox populations are known to fluctuate over years and absence during any one survey does not necessarily exclude the potential for kit fox to occur on a site at a future time. The Department recommends that the United States Fish and Wildlife Service's (USFWS) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (1999) be followed prior to any ground-disturbing activities occurring within the Project area. These surveys should also be conducted a maximum of 30 days prior to ground-disturbing activities. In the event that this species is detected during protocol-level surveys, consultation with the Department is warranted to discuss how to implement the Project and avoid "take." If "take" cannot be avoided, acquisition of a State Incidental Take Permit would be required prior to Project implementation. The Department recommends that the CEQA document include the above avoidance, minimization, and mitigation measures for this species.

"Take" under the Federal Endangered Species Act (FESA) is more stringently defined than CESA; "take" under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of Project implementation.

California Tiger Salamander (CTS): CTS is known to breed in the Project area vicinity. Prior to Project-specific approvals in areas with appropriate habitat for this species (e.g., grasslands with natural or man-made seasonal wetland resources), protocol-level biological surveys should be conducted by qualified and permitted biologists at the appropriate time of year to determine the existence and extent of wildlife resources and special status species on site, such as the CTS. It is important to note that protocol surveys for the CTS includes both wetland and upland habitat surveys and may require more than one survey season (USFWS, 2003). The results of these surveys should be submitted to the Department and the USFWS.

Riparian Habitat: The Project site is bordered to the northwest by Fahrens Creek and to the south by the Tower Lateral Canal. The DEIR states that the Project will implement a 20-foot setback from the levee that runs along Fahrens Creek, and Impact #3.4-2 states that the Project will not have significant impacts to Fahrens Creek.

The Department disagrees that the described setback will adequately reduce impacts to the creek, riparian vegetation, and species that utilize the habitat. Instead, the Department recommends that riparian vegetation along waterways be protected with a 200-foot no-disturbance buffer delineated from the high water mark of each surface water body and that a 100-foot no-disturbance buffer be set around the high water mark of each surface water channel that has no riparian vegetation. Depending upon what Project-related activities are proposed in these areas, larger buffers may be warranted to avoid impacts to habitat and surface water quality. Additional protection to waterways and their associated habitats and species could result from the construction of a fence or other suitable barrier to prevent entry to waterway buffer areas from the high school grounds and prevent litter from escaping the parking lot and stadium areas that are planned to be built closest to Fahrens Creek.

Burrowing Owl: Burrowing owls have the potential to occur near or within the Project site. Mitigation Measure #3.4-1c thoroughly details survey, avoidance, and mitigation actions that will be undertaken to reduce impacts to burrowing owls. In the event that resident individuals are found on the Project site, the Department recommends that a passive relocation effort conducted during the non-breeding season also include the use of artificial burrows, at a minimum of a 1:1 replacement, to facilitate the establishment of owls at the relocation site.

Nocturnal Issues: Mitigation Measure #3.1-1 describes actions to limit lighting and glare, in order to obscure direct viewing of light sources from neighboring properties and streets. The Department is concerned with impacts of the illumination of habitats associated with Fahrens Creek. The disturbance caused by nocturnal lighting can alter behavior patterns, increase predation risk, and render habitats less usable by animals. In addition, nighttime noise and activity in the stadium also have the potential to affect wildlife activity patterns. Within the Biological Survey (Appendix C), it is stated that raptors nesting near the site after construction is complete are to be considered "habituated to any existing disturbance from the school site, and consequently, no mitigation would be warranted," but nest sites that are established during late winter could be compromised by disturbance from springtime events at the stadium or athletic fields. The potential disruption to nocturnal wildlife species and to raptors nesting along Fahrens Creek should be evaluated and disclosed in the final Environmental Impact Report prepared for this Project. These impacts are in addition to and separate from the direct impacts to species that will likely occur as a result of Project implementation.

Nesting Birds: The Department agrees with Mitigation Measures #3.4-1a and #3.4-1d, addressing survey methods and avoidance of non-special status nesting raptors and other birds during construction of the Project site. As stated above, the Department is also concerned with disturbance to nesting raptors that could occur after completion of the Project.

Depending upon the results of the previously mentioned biological surveys, we may have additional comments and recommendations regarding avoidance, minimization, and mitigation of Project impacts to habitat and special status species. If you have any questions regarding these comments, please contact Linda Connolly, Environmental Scientist, at the address provided on this letterhead or by telephone at (559) 243-4014, extension 242.

Sincerely,

W. E. Loudermilk

W. E. Loudermilk
Regional Manager

cc: Maryann Owens
United States Fish and
Wildlife Service
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Sacramento, California 95825

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Office of Planning and Research
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OCT-15-2007 09:34 P.01/01

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

October 8, 2007

Michael Belluomini
Merced Union High School District
3430 "A" Street
Atwater, CA 95301

Project: Bellevue Road Area High School

Subject: CEQA comments regarding the revised DEIR for the Bellevue Road Area High School in Merced County

District Reference No: 200701410

Dear Mr. Belluomini:

The San Joaquin Valley Air Pollution Control District (District) has previously commented on this project (District Reference Number C200601538, dated August 3, 2006). These previous comments are still applicable for the revised DEIR at hand. 1

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call Jon Klassen at (559) 230-5843 and provide the reference number at the top of this letter.

Sincerely,

David Warner
Director of Permits Services

for Arnaud Marjollet
Permit Services Manager

DW: jk

cc: File

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October 9, 2007

Mr. Michael Belluomini
Director of Facilities Planning
Merced Union High School District
P.O. Box 2147
Merced, CA 95344-0147

RE: Bellevue High School Project DEIR (August 2007) Comment Letter

Dear Mr. Belluomini:

Thank you for inviting the City of Merced to comment on the Draft Environmental Impact Report ("DEIR") prepared under the guidance of the California Environmental Quality Act ("CEQA") for the Merced Union High School District's ("District") future Bellevue High School Project ("Project"). This letter reflects the combined comments of all City departments and the technical, professional, and expert staff therein.

As stated in the DEIR, the District is proposing to construct and operate the Project on a fifty-eight acre site located at the southwest corner of East Farmland Avenue and "G" Street in the City of Merced. The Project will have capacity for up to 2,400 students (with future expansion) and approximately 100 school staff. The Project will have 83 classrooms, cafeteria, gymnasium, and an administration building. A 4,000 seat athletic stadium is proposed as Phase 2 of the project, pending additional funding. The Project will also have approximately 562 parking spaces, roadways, walkways, and other athletic facilities. Buildings will total approximately 190,000 square feet.

A draft Environmental Impact Report was prepared for this Project ("DEIR). The DEIR should be revised to address the issues in this letter to ensure that the DEIR provides a full and complete disclosure of the Project's own potential impact to various aspects of the environment. This letter will be divided into three sections:

Issues Discussed, but Needing Revision;

Impacts Determined to be Less Than Significant; and

General Comments.

ISSUES DISCUSSED, BUT NEEDING REVISION

The DEIR proposes certain mitigation measures to be considered and discussed pursuant to Section 15126.4 of the CEQA Guidelines. We note that the following issues and mitigation measures in the DEIR are inadequate and deficient under CEQA:

1. 3.15 Traffic and Circulation: This discussion in the DEIR sets forth the traffic impacts of this Project and the traffic impacts cumulatively as a result of other development in the area. The City is very concerned that a repeat of the Golden Valley High School situation not occur—where the campus was built without off-site impacts being addressed and without full public improvements being installed. The City has consistently drawn this matter to the District's attention, as it has been one of the top concerns of the City Council and of residents in Southeast Merced. In order to avoid that mistake and potential need for litigation, the City offers the following comments:

   City Comment A:

   Traffic Mitigation Measures Table 3.15-4: Traffic mitigation measures are outlined in Table 3.15-4. However, the Project traffic report and/or DEIR identifies impacts and recommends mitigation measures for impacts that are different or are not included in this table. Listed below are these impacted 1

facilities. The City requests that Table 3.15-4 be updated to include these items:

1. Intersection of State Highway 59 and Bellevue: Pages 21 & 22 (traffic study); page 3-83 (DEIR); see comment B1;
2. Intersection of "G" Street and Bellevue / Right turn lanes on all approaches. Page 6-14 (DEIR); and
3. State Highway 59 (Yosemite Avenue to Bellevue Road): Page 37 (traffic study); see comment B2.

City Comment B:

Mitigation Fee Mechanism for State Road Facilities: It is stated on page 3-83 of the DEIR that there is no adopted mitigation fee mechanism developed by the City for Merced for SR59 improvement participation. While there is no "unique" program, various fees may be collected by the City for future improvement of this highway depending upon location and level of impact, including *PFFP Fees*; *Regional Transportation Fees*; and project specific *Traffic Mitigation Fees.*

Project specific "*Traffic Mitigation Fees*" are collected through CEQA if the Project traffic report identifies: (1) a need for an improvement that is greater than those described in the PFFP; or (2) a need for an improvement to a facility not listed in the PFFP; or (3) a need for an improvement in addition to the City standard for said facility. 2

These fees are in addition to PFFP fees and Regional Transportation fees.

Therefore, the language under "State Highway Improvements" on page 3-83 of the DEIR needs to be amended, as well as the statement on page ES-24, to be consistent with the above-described *Mitigation Fee Mechanism*.

City Comment B1:

State Highway 59 and Bellevue Road: Based on the above described Mitigation Fee Mechanism, payment of PFFP fees is appropriate mitigation for this intersection given that this intersection is an improvement described 3

in the PFFP, and the recommended improvement does not exceed the City improvement standard for this facility. No additional "Traffic Mitigation Fee" is necessary; the proposal for payment of such fee as described on page 37 of the Project Traffic Study Appendix E, is not applicable.

Since the traffic study concludes that a signal warrant would not likely be required due to the Project, the City would not require the improvement (signalization and northbound right-turn lane) to be constructed with development of the high school. In this case, payment of PFFP fees is considered adequate mitigation.

City Comment B2:

State Highway 59 (Yosemite Avenue to Bellevue Road)
Based on the above described "Mitigation Fee Mechanism," payment of PFFP fees is appropriate mitigation for the Section of SH 59 from 16th Street to Yosemite Avenue, because this roadway segment falls within the projects described in the PFFP, and the recommended improvement does not exceed the City improvement standard for this facility. However, the segment north of Yosemite Avenue is not included in the PFFP. Therefore, an additional "Traffic Mitigation Fee" is necessary for the segment of SH59 from Yosemite Avenue to Bellevue Road, and needs to be included in Table 3.15-4 (Traffic Mitigation Measures) of the DEIR and Mitigation Monitoring Plan (MMP). Additionally, the statement on page ES-24 needs to be revised consistent with the above-described *Mitigation Fee Mechanism*. 4

City Comment C:

Development and Infrastructure Forecasts: Development forecasts (displayed in Table 3.15-3, page 3-82), made several years ago for preparation of the initial traffic study dated April 18, 2006 for this Project, are much higher than what is being developed under current market conditions. Similarly, the statement on page 3-82, which reads: "Currently the north Merced area is seeing significant growth." should be put in context of the recent downturn in the housing market. Assumptions made concerning infrastructure are 5

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likewise in error given the change in market conditions. Please refer to Comment E3 for further discussion.

City Comment D

Legal Obligation to Mitigate On-site and Off-site Impacts: There are several factual and legal inaccuracies that should be corrected before the DEIR is considered by the District. Initially, it should be pointed out that the DEIR states that the mitigation program is "fully" funded by levies on private development. In fact, the Program is not "fully" funded, based on the failure of all development—including other public agencies like the District -- failing to pay their fair share of the costs. This results in a deficit in the Program's funding.

Associated with this concern, the DEIR states on page 6-14 that the City's PFFP impact fee program, the BRMDP Mitigation Fee Program (see Comment E2), and the construction of the related improvements of these programs are outside of the legal ability of the district to perform. To this end, the DEIR cites (page 3-79 and 3-80) both Government Code Section 54999 and *City of Marina v. Board of Trustees*. The California Supreme Court in a virtually unanimous decision[1] has held that the California State University and College system can be required through the CEQA process to mitigate their off-site impacts, and that the District is not barred from voluntarily contributing, as a way of meeting its CEQA obligations, its fair share of the cost of improvements to roads and fire protection necessary for the project. The District has an independent obligation under CEQA to protect the physical environment from the effects of this project. 6

School districts lack the special Constitutional status of the University of California and California State University and College system which helped frame the lower court's opinion; whereas, the District is much more closely aligned with the State's community colleges. In a recent California Court of Appeals case, it was held that a community college is authorized to spend

[1] *City of Marina et al. v. Board of Trustees of the California State University*, (2006) 39 Cal. 4th 341; 138 p3d692; 46 Cal. Rptr.3d 355, , Filed July 31, 2006, Six Justices voted in favor of the decision, and one concurred in the result.

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public funds to mitigate off-campus traffic impacts of development.[2] As such, it is clear that the District has not only the legal authority to mitigate off-site impacts, but the legal obligation to do so under CEQA.

The City contends that the statement on page 3-79 and 3-80 relating to the feasibility of mitigation measures that "These programs and the construction of the related improvements are outside of the legal ability of the District to perform" is simply an incorrect and inaccurate statement of the law.

City Comment E:

Bellevue Ranch Master Development Plan: The District purchased the site, which is subject to the existing Development Agreement of the Bellevue Ranch Master Development Plan (BRMDP). Within the Development Agreement, property owners have certain obligations as a matter of contract. Having purchased subject to that contract, the City expects the District to fulfill its contractual obligations. Having received the benefits of and have purchased subject to, the District also must share the burdens of the Development Agreement -- a contractual obligation owned to the citizens of Merced. As such, the District is a "developer" for purposes of the Development Agreement. 7

City Comment E1:

The Barclay Avenue Bridge & Farmland Bridge over Fahrens Creek: Although requested to be addressed in our August 3, 2006 DEIR comment letter, the DEIR again fails to discuss how the District in purchasing the project site addressed Section 5.5.2 of the Bellevue Ranch Master Development Plan without the agreement and having purchased the property subject to the existing Development Agreement, the District has placed itself in the role of a "developer" as used therein. 8

Besides the other infrastructure needs raised in this letter, what concerns the City are the two bridges over Fahrens Creek on Farmland Avenue and Barclay Road. It is the City's position that the bridges are a part of the

[2] *County of San Diego v. Grossmont-Cuyamaca Community College District*, (2006) 141 Cal. App. 4th 86; 45 Cal. Rptr.3d 674.

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development of Bellevue Ranch, including the project site, and that the City is entitled to have the bridges completed as a part of development. The DEIR fails to address how this is to be accomplished in a mutually agreeable manner between the affected property owners of the Bellevue Ranch project. In order to avoid protracted and expensive litigation between the parties in the future or a delay to anyone's project, the City strongly encourages the District, Gragnani's as the seller, and Crosswinds to meet and seek resolution of this issue. Without agreement of the other affected owners, the proposed 10% share (page 3-83) may not be adequate and that Mitigation Measure 3.15-1 (page ES-23) respective of this issue is not feasible. Without assurance that these bridges will be completed in a timely and concurrent fashion with the proposed high school, the City believes revision to the DEIR is required to address not only traffic circulation impacts but also the delivery of public safety services, namely the Fire Department.

City Comment E2:

BRMDP Mitigation Fee Program: There is no BRMDP Mitigation Fee Program. The statement on page 6-14 of the DEIR should be corrected to reflect this fact. Projects within the BRMDP pay PFFP fees and have infrastructure CFD's to help cover infrastructure costs. Additionally, developers of Bellevue Ranch post security bonds as part of subdivisions. As a "developer" of the BRMDP, the "DISTRICT" may also use these methods to cover infrastructure costs. 9

City Comment E3:

Assessment of Lacking Intervening Infrastructure: In proposing to construct the high school "out-of-phase" with the minor-phasing plan of the BRMDP, the "DISTRICT" will need to as a matter of contractual obligation, request the City to review its proposal to skip the improvement of infrastructure required of previous development phases not already in place. The high school is located in Phase 20 of the BRMDP, but the actual development of the BRMDP and associated infrastructure, has only progressed to Phase 10. At the City's discretion, per Section 6 (Phasing) of the Development Agreement 10

of the BRMDP, the intervening infrastructure required of minor-phases 13 to 19 could be: (1) deferred conditioned upon provision of security and agreement of a performance schedule; (2) required to be constructed; or (3) neither. Please review Table 6.1 to see a listing of the intervening infrastructure. Unless otherwise granted by the City, the responsibility for these intervening infrastructure is assumed to fall to the developer proposing to go out-of-phase, which in this case would be the "DISTRICT."

Consistent with the BRMDP Development Agreement, the City would expect the "DISTRICT" to be responsible for constructing or securing, unless waived by the City, the intervening infrastructure assumptions made in the Project traffic study, in case these facilities are not installed by other property owners of the BRMDP. The intervening infrastructure includes signalization of the Cardella Road & "G" Street intersection, and portions of Cardella Road and "R" Street.

Additionally, the DEIR assumes that other infrastructure is in place prior to opening of the school. This infrastructure includes signalization of the intersection of "G" Street and Bellevue Road and Barclay and Bellevue Road; and portions of "G" Street. Under CEQA, the DEIR should address the "if" question - what if said infrastructure is not in place when the school opens. This is particularly valid in light of the existing "market" setting. The City offers the following approach to resolve the above noted "infrastructure deficient" scenario.

The environmental review process could move forward if mitigation measures that address the provision of infrastructure noted above are included in the DEIR. Alternatively, update the traffic report and mitigation measures to be reflective of the current environmental setting as it pertains to assumed infrastructure and development of the surrounding area.

City Comment F:

Need for Consistent Listing of Mitigation Measures : Many of the listed mitigation measures on page 6-14 and 6-15 of the DEIR are new or different than those listed in Table 3.15-4 (Traffic Mitigation Measures). It appears 11

that the table is the correct list, but the data on these two pages confuses what is actually proposed as mitigation. The inconsistencies should be clarified.

City Comment G:

EB Farmland Approach at "G" Street: Clarify the recommended Farmland EB approach geometry at "G" Street. Items #7 and #9 appear to conflict. The City also requested an analysis of the cumulative analysis of the suggested design of the EB approach. The updated traffic report did not reveal that such assessment had taken place. City Staff is concerned that the proposed mitigation measure calling for a short combined through-left turn lane would operate at sub-standard level under the cumulative scenario. 12

City Comment H:

EB Barclay Approach at Bellevue Road: The proposed length of the extended EB left-turn lane from Bellevue Road onto Barclay Road has a measurable impact on the corresponding future WB dual left-turn lanes from Bellevue Road at "M" Street, which will serve a large regional commercial development. The total distance between these intersections is 1,152 feet, and the WB dual left turn lanes at "M" Street will occupy a minimum approximate length of 850 feet, leaving only 302-feet for the EB left turn lane at Barclay. The importance of the WB dual lefts is higher than the EB single left at Barclay Avenue. Therefore, the proposed mitigation for a 925 EB left-turn lane at Barclay is too long, and the DEIR should present and include an assessment of these facts to determine the actual affect of a shorter EB turn lane on the identified impact at Barclay Avenue. 13

Additionally, in regards to this item, Table 3.15-4 should be modified to state the improvement will be constructed by the DISTRICT.

2. Cumulative Impacts. In some cases, the DEIR contains an inadequate discussion of the Project's cumulative impacts resulting from the combination of the Project's impacts with related impacts created by other projects identified in the nearby areas. An EIR must discuss the cumulative impacts of a project when the project's incremental effect is cumulatively

considerable.[3] Accordingly, cumulative impacts on traffic and public services created by the Project and other projects in nearby areas should be presented, disclosed, and discussed in order for the public and the CEQA decision-makers to fully understand and formulate appropriate mitigation measures for the Project.

Comment I: Fire Coverage: The identification of all public services and facilities necessary for the Project, including their actual availability and projected limitations, if any, as well as sufficient revenue sources to pay for, operate, and maintain those facilities and services. The City re-emphasizes its discussion here regarding the project site's current location beyond the six minute established fire response time (see comment "J"). 14

[3] See CEQA Guidelines Section 15130.

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IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT

1. 3.13 Public Services: "The Initial Study concluded that the proposed project would have less than significant impacts to fire and police protection, school capacity, parkland, and other public facilities. Therefore, these issues are not discussed any further in this Draft EIR."

   City Comment J:

   The location of the proposed high school is currently outside the City's established response time for the Fire Department. The City's adopted Fire Master Plan establishes a six-minute response time. This location is currently outside of that response time. The City has acquired property for future construction of a fire station next to "M" Street just south of Cottonwood Creek. A future fire station site and facility will be sought north of Bellevue Road, but the location and timing of development of that station will depend on the outcome of the update to the General Plan, now in process. Even with the construction of a fire station at the "M" Street / Cottonwood Creek site, the high school may still be outside the six-minute primary response time. As such, discussion should take place within the DEIR of the impact on public services and ability to be served, particularly the Fire Department. Such analysis may find that this may be a significant unavoidable impact unless appropriate fire-related mitigation is applied to the Project. 15

2. 3.16 Utilities and Service Systems. "The Initial Study concluded that the proposed project would have no impact to the following: exceed wastewater treatment requirements of the applicable RWQCB; require or result in the construction of new water or wastewater treatment facilities, the construction of which could cause significant environmental effects; require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements

needed; result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs; and comply with federal, state, and local statutes and regulations related to solid waste. Therefore, these issues are not discussed any further in this Draft EIR."

City Comment K:

Although requested in the City's August 3, 2006 DEIR comment letter, the current version of the DEIR does not provide any disclosure or substantive analysis of how the Project itself might impact the various subject matters of environmental concern relating to utilities and service systems. In fact, the discussion titled "Wastewater" is actually a discussion of "storm-water." Overall, this discussion fails to consider the "if" question – if the City does not provide the services. Under the City Council's adopted policy, public agencies constructing new facilities must execute a Water Service Agreement and a Sewer Service Agreement. These agreements were adopted by the City Council as a precondition to the provision of water and sewer service to other public agencies to ensure that such agencies comply with the regulatory standards. As such, a full and complete analysis by the District on how it intends to meet these regulatory obligations needs to be disclosed to the decision-maker through the final EIR. Additionally, there is also an open and fundamental question that has not been answered in the DEIR – capacity to serve the Project. To ensure capacity, the District needs to pay its fair share of the capital costs for the water and sewer utilities. As such, without an agreement pursuant to Government Code Sections 54999 *et seq*., the District cannot conclude that capacity to serve this Project is available. 16

City Comment L:

Sewer-Trunk Lines: Project design, construction and operation needs to be consistent with the North Merced Sewer Master Plan. Sewage flow from the Project site is planned to use the "R" Street trunk-line. The northern 17

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extension of this line is located at the intersection of Barclay Road and Bellevue Road. The sewer lines from the high school need to connect to this line, not the "G" Street line, which serves properties to the south and west of "G" Street and Bellevue Road.

The DEIR and Project improvement plans need to be modified to reflect this requirement.

GENERAL COMMENTS

Alternative Sites

A clarification of the number of alternative sites and location of the alternative sites is needed. In the Executive Summary, under "Alternate Site," it refers to four (4) other sites, but Chapter 4 (Evaluation of Alternatives), page 4-7 limits the EIR analysis to only two (2) sites. Finally, Figures ES-2 and 2-2 shows one (1) alternative site, but this site is not discussed in Chapter 4 and appears to be a mapping error. 18

For reasons stated in our June 2nd, 2005 letter to the District (Attachment A), City Staff respectfully disagrees with the EIR's assessment of Alternative Site A.

Building Permits

On page 5-1, in Section 5.1, the City points out that the DEIR states the City will be issuing a "building" permit. The City does not issue building permits for public school districts educational facilities. The City will be issuing the underlying land use entitlements for the project as discussed above.

Please note that the District is required by law to comply with City ordinances that: (1) regulate drainage improvements and conditions; (2) regulate road improvements and conditions; and (3) require the review and approval of grading plans relating to the design and construction of onsite improvements which affect drainage, road conditions, or grading, as well as the design and construction of offsite improvements.[4] 19

[4] Government Code §53097.

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Project Description (Chapter 2)

1. *Zone Change:* On page 2-5, the line item "Rezoning" should be struck. The change in land use is properly handled through the General Plan Amendment (GPA) and Site Utilization Plan (SUP) review processes. For the same reasons, the last phrase in Section 2.4 concerning rezoning should be struck from the DEIR. Similarly, references to "rezone" in the following locations should be removed: 20

   Page 3-70, under "Setting"

   Page 3-71, under Impact #3.9-1

   Page 7-73, under Mitigation Measure 3.9-1

2. *Fire Stations* (Section 2.4): The BRMDP included 2 fire stations.

Other

1. PG ES-11: The City suggests a reevaluation of who would be the proper entity in charge of monitoring/reporting for Mitigation Measure #3.4-1a. Also see corresponding language on page 3-66;
2. PG ES-21: The City suggests that a determination be made as to whether or not the transmission lines and poles are placed in the City's right-of-way versus a separate utility easement; 21
3. PG 3-76: The City recommends that a discussion concerning the level of growth inducing effects of the school be disclosed in the DEIR;

Comprehensive / Full Disclosure EIR

The District is aware of its legal responsibility and obligation to disclose all potentially adverse environmental effects posed by the Project through the decision-making process and the review of environmental documentation. The City respectfully requests that a comprehensive final EIR be prepared in such detail as to permit a full and complete disclosure and analysis of all project-specific and cumulative impacts of the Project on the environment, the neighboring community, and the City of Merced. 22

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Request for Written Response

The City would appreciate a written response to the issues and concerns raised in this letter, as well as receiving a copy of the Notice of Determination once filed. 23

Thank you for your attention to this important matter.

Sincerely,

JAMES G. MARSHALL
acting for City Manager

Attachments:

A. June 2nd, 2005 from the City of Merced to the District

JGM/nr

cc: Honorable Mayor and Members of the City Council
Gregory G. Diaz, City Attorney
Jack D. Lesch, Director of Development Services
Robert Fore, Ph.D., Superintendent, Merced Union High School District
Travis L. Crawford, Quad Kopf
P.O. Box 3699
Visalia, CA 93278

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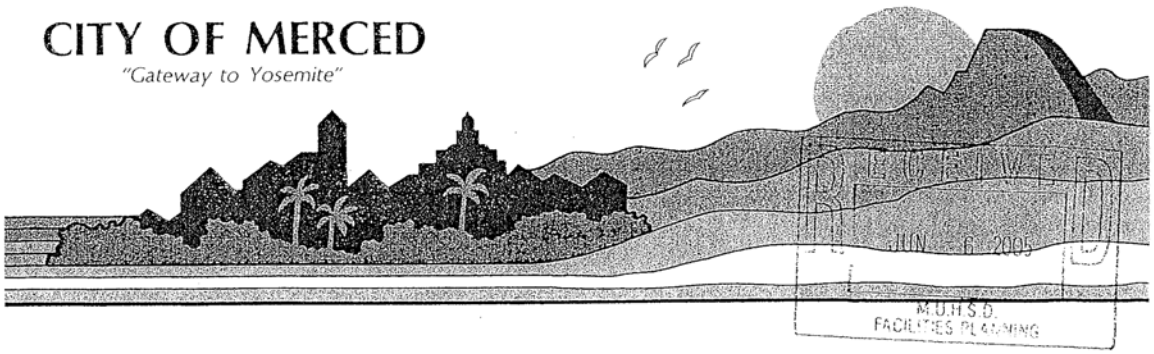
CITY OF MERCED
"Gateway to Yosemite"



RECEIVED
JUN 6 2005
M.U.H.S.D.
FACILITIES PLANNING

June 2, 2005

Michael Belluomini
MUHSD
Castle Airport, 3430 A Street
Atwater CA 95301

Re: High School Site Suitability Study - North Merced

Dear Michael,

Thank you for providing our office with a copy of the *North Merced Area High School Site Suitability Study, March 2005*. The study, prepared by EIP Associates, analyzed a 12-square mile area in North Merced to determine where to place new high schools. Four sites were selected from a group of ten potential sites; the district is currently engaged in the design phase of the first site located at Farmland and "G" Street (Site H). While EIP Associates did acquire land use data from our department, it is unfortunate that they did not ask for professional input as to the consistency of the subject sites with the *Merced Vision 2015 General Plan*. Our staff will now take this opportunity to provide this input on the four selected sites.

Site H: Farmland and "G" Street: The site is designated "Low Density Residential" (LD). A school use is therefore inconsistent with the *Merced Vision 2015 General Plan* including Bellevue Ranch Master Development Plan. However, an application to change this designation can be supported, provided that certain site design issues are addressed, notably circulation and compatibility with adjacent uses.

Site A: Cardella and Highway 59: The site is designated "Business Park" (BP) and "Low Density Residential" (LD). A school use is therefore inconsistent with the *Merced Vision 2015 General Plan.* Unlike Site "H", however, staff would not support changing the land use designation in this area for the following reasons:

Limited Access: The site does not have as good accessibility as presented in the study. The study assumed the parcel has direct access from State Highway 59 and Cardella Road. The *Merced Vision 2015 General Plan* contains policies that do not provide for either. All future access is planned to come from two collector roads: Pettinotti and San Augustine (note: San Augustine aligns with Utah Street, which is located on the north side of Cardella Road).

Parcel Not Large Enough for a Typical School Site: Utah Street will extend through the site, separating the eastern 1/3 of the parcel from the western side. Utah Street will be the primary

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access for lots that front State Highway 59. Hence, relocating, shifting or not allowing Utah Street to be extended in its planned location is not an option. Per the City's circulation element.

Incompatible Land Uses: Properties to the north, northwest and west are designated "Business Park" in the *Merced Vision 2105 General Plan.* Business Parks primarily allow industrial uses with supportive office and commercial uses. As noted in the EIP study, proposed school sites would be considered incompatible with industrial uses due to the possible noise levels, emissions, and the potential for exposure to hazardous materials associated with industrial operations. As the use of State Highway 59 increases and is converted to an expressway, noise levels have the potential to negatively impact the site. Placement of a school next to industrial lands and a major road should be avoided.

Recommendation: Select a different site. This can be accomplished in concert with or prior to the update to the *Merced Vision 2015 General Plan,* which includes an additional five-square miles of land in Northwest Merced that was not included in the March 2005 Suitability Study.

Site E: NE Corner of Gardner and Cardella: The City is engaged in an update the *Merced Vision 2015 General Plan* to bring this area within the City's Specific Urban Development Plan (SUDP). At this time, no land use designations have been selected. Most of the existing land uses surrounding the site are residential. The district should consider the current and future residential density of this area. Whereas the density on the west side of Gardner Road will be in the range of 5 to 6 units per acre, the land use density in the area bounded by Bellevue Road, Gardner, Yosemite Avenue and Lake Road is low. Approximately one-eighth of the area is now subdivided into one-acre minimum sized lots. The remaining land area is comprised of much larger lots. Until the General Plan update is completed, it is not possible to predict the actual land uses and residential densities of this area.

From a circulation point of view, any development of this site, including a high school, would not be permitted direct access to either Gardner Road or Cardella Road. Similar to the proposed conceptual plan of the Farmland and "G" high school site, direct access to adjacent arterial streets is not allowed. Access would be via collector roads that intersect the arterial streets at ¼ mile intervals. Hence, as plotted, the primary access to this site would be on the eastern edge via a north-south oriented collector that connects with Cardella Road.

Site F: University Community Site: The City is engaged in an update the *Merced Vision 2015 General Plan* to bring this area within the City's Specific Urban Development Plan (SUDP). The City supports the location of a high school site located within the University Community.

As noted in the summary statements above, the City is engaged in an update to the *Merced Vision 2015 General Plan.* Attached is a map showing the areas under consideration for inclusion in the City's SUDP. Although the planning process has not yet begun, you are more than welcome to contact our office to discuss the update and how we can coordinate planning efforts to achieve mutually beneficial outcomes.

Sincerely,

Bill King

Bill King
Principal Planner

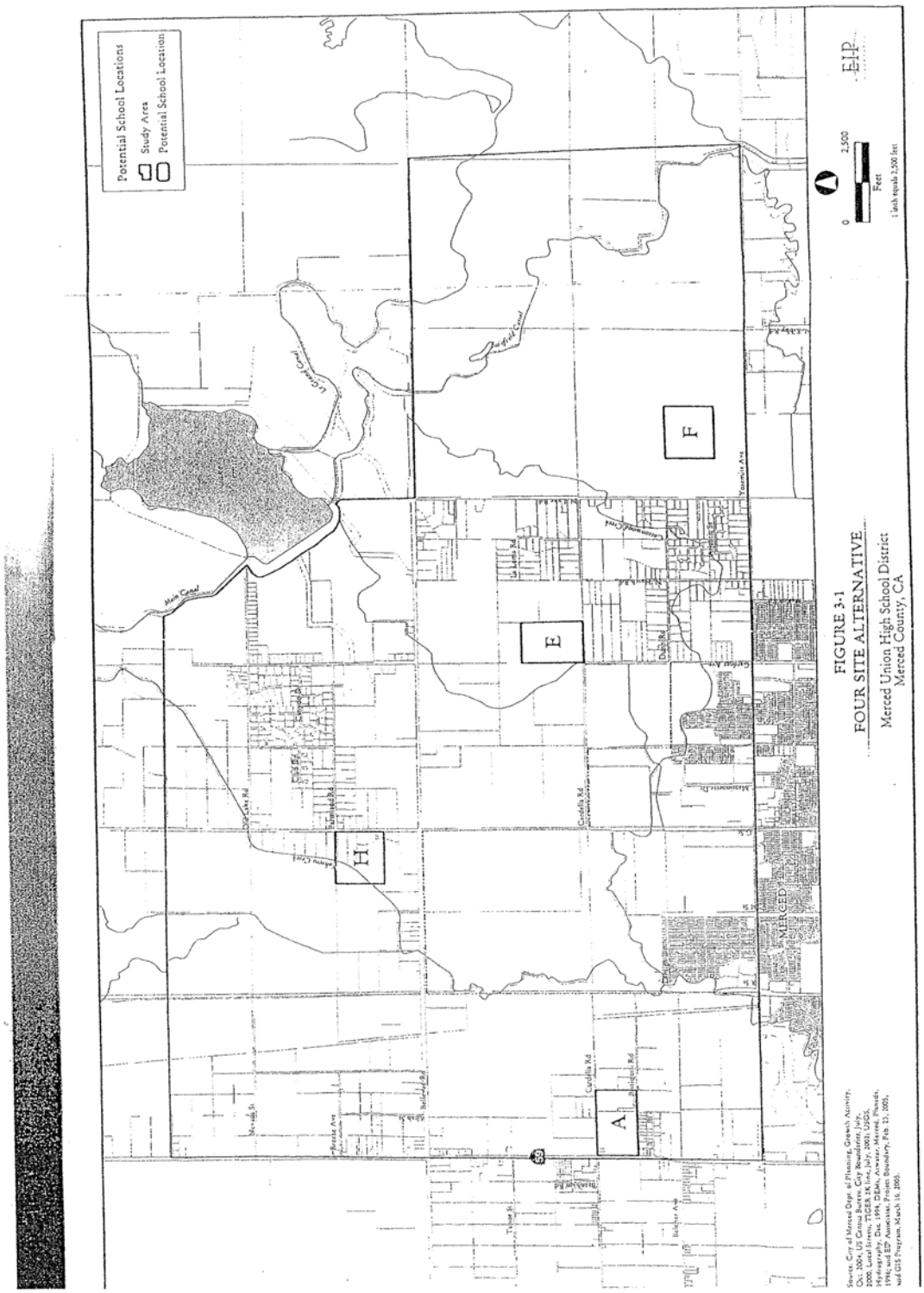


FIGURE 3-1
FOUR SITE ALTERNATIVE
Merced Union High School District
Merced County, CA

J.B. ANDERSON
LAND USE PLANNING

139 S. Stockton Avenue, Ripon, CA 95366 Phone: (209) 599-8377 Fax (209) 599-8399

October 9, 2007

Mr. Michael Belluomini
Director of Facilities and Planning
Merced Union High School District
P.O. Box 2147
Merced, California 95344

Subject: Bellevue Road Area High School Draft Environmental Impact Report (DEIR)

Dear Mr. Belluomini,

On behalf of Crosswinds at Bellevue Ranch North, LLC ("Crosswinds"), thank you for the opportunity to review and provide the Merced Union High School District (MUHSD) with our comments and concerns on the Bellevue Road Area High School DEIR, dated August 2007. It is our understanding the DEIR's Public Review Period closes on October 10, 2007. Crosswinds is of the understanding that based on comments and/or new information received by the MUHSD with respect to the previous DEIR, dated June 2006, the MUHSD chose to revise the DEIR, and in accordance with Section 15088.5 of the CEQA Guidelines, has re-circulated the DEIR for public review and comment. Based on the previous DEIR, dated June 2006, comments were submitted to the MUHSD on behalf of Crosswinds. Said comments are included in this correspondence as an attachment. Crosswinds requests those comments be included as part of the formal response to the August 2007 DEIR, as well as part Administrative Record of the Bellevue Road Area High School DEIR.

As you may be aware, Crosswinds is the Project Proponent on a Project commonly known as Bellevue Ranch North – Phase 3. Bellevue Ranch North – Phase 3 (hereinafter referred to as the "Project") is approximately 260 acres in size, and is bounded by Old Lake Road to the north, Bellevue Road to the south, G Street to the east, and the Old Yosemite Valley Railroad Grade to the west. The Project consists of Villages 21, 23, 24, 29, 30, 31, 32, 33, and 34 of the *Bellevue Ranch Master Development Plan (BRMDP)*, dated May 1995, and as such, is subject to the Ordinances and Policies set forth under the BRMDP. As you may be aware, the Merced Planning Commission adopted the Large Lot Vesting Tentative Subdivision Map (VTSM) for the Project on February 8, 2006, which essentially mapped the individual "villages" within the Project. According to the BRMDP, the proposed Bellevue Road Area High School is described as Village 20 of the BRMDP.

Based on our review of the above-mentioned DEIR, Crosswinds is pleased to provide the MUHSD with the following comments and/or concerns. Please note that each comment follows each respective topic as it is discussed in the DEIR.

Chapter 2, Section 2.2

As noted in subsequent sections of the DEIR, the proposed Bellevue Road Area High School is part of the BRMDP, and as such, is subject to the Ordinances and Policies set forth under the BRMDP. However, it appears that this section of the DEIR entitled, "Project Description," fails to mention the improvements required as part of the proposed project in accordance with the BRMDP, and specifically, Table 6.1, which depicts the backbone improvements required for each "Village." Because the proposed Bellevue Road Area High School is located within the BRMDP, it is expected that the MUHSD will install and/or pay a proportionate share towards the major backbone infrastructure improvements identified in Table 6.1, of which those improvements that benefit the MUHSD's ability to develop the proposed High School. Such improvements include, but are not limited to, Farmland Avenue and Barclay Way Fahrens Creek Bridge Crossings, G Street Improvements along Village 20 frontage, intersection improvements (i.e. widening and signalization) at G Street/Bellevue Road Intersection, G Street/Farmland Avenue Intersection, Bellevue Road/Barclay Way Intersection, and Barclay Way/Bellevue Road Intersection. 1

It is the position of Crosswinds that such improvements should be included in the "Project Description" of the Bellevue Road Area High School DEIR in accordance with Section 15124(c) of the CEQA Guidelines.

Figure 2-3 – Site Plan

Please refer to the comments provided to the MUHSD in the attached letter, dated August 2, 2006. In accordance with 15088 of the CEQA Guidelines, Crosswinds requests the MUHSD provide a response to these comments. 2

Chapter 2, Section 2.4

As stated in this section of the DEIR, "The Project Area is located in the Bellevue Ranch Master Development Plan and is subject to the guidelines contained in the Development Plan, including design standards, project description, conditions of approval, mitigation measures, and development agreements." Crosswinds agrees with this statement, and as briefly noted above, would like to again emphasize that the MUHSD, by purchasing the Village 20 site, is a "Developer" of the BRMDP as defined by the approved and recorded BRMDP Development Agreement, and thus, is subject to the Ordinances and Policies set forth in the documents adopted by the City of Merced as part of the BRMDP.

In addition, it should be noted that as part of the recent SUP Revision Application submitted to the City of Merced on behalf of Crosswinds for the Project, City Staff has requested that Crosswinds post security or construct all or most of the required infrastructure in Bellevue Ranch East and West in accordance with Table 6.1 and the BRMDP Development Agreement as a condition to moving forward with Project development. At this time, Crosswinds and the City of Merced have not finalized their discussions with regards to this matter. However, because the MUHSD property is subject to the Ordinances and Policies set forth under the BRMDP, it would be expected that City Staff will conduct similar discussions with the MUHSD as the development of the proposed Bellevue Road Area High School may be considered an "out of sequence" development, and as such, require the MUHSD to provide "substantial evidence" that prior intervening infrastructure is not needed to accommodate the proposed High School and/or provide the necessary security for such intervening infrastructure. 3

Chapter 3, Section 3.7 – Mitigation Measure No. 3.7-2

This Section of the DEIR states, "Due to the proximity of the Project Site to high voltage transmission lines, the impacts are *potentially significant*." As such, the DEIR proposes the following mitigation measure; "The 70kv transmission lines and poles located on the west side of G Street adjacent to the proposed project site will be located to the east side of G Street in the City of Merced's right of way." It is our understanding that prior to the issuance of building permits for the proposed project, this mitigation measure shall be completed. Crosswinds requests this timing language be inserted into the language of Mitigation Measure No. 3.7-2. 4

Chapter 3, Section 3.8 – Mitigation Measure No. 3.8-1

Because of the proposed High School's proximity to Yosemite Lake, flooding of the project site is identified as a ***significant impact***, as noted under Impact No. 3.8-1 – Flooding of the Project Site. As such, the District is proposing Mitigation Measure No. 3.8-1 to raise the Project Site above flood inundation levels. According to this mitigation measure, the District is proposing the raise the site approximately 3.5 feet.

Both the impact and mitigation measure suggested in this Section does not identify the potential impacts to the adjacent properties as a result of raising the site 3.5 feet. Therefore, Crosswinds requests the DEIR and Final EIR address the impacts to the adjacent residential development and street improvements. It may be helpful for the District's Engineer, and Crosswinds' Project Engineer, as well as the City of Merced Public Works Department, meet and resolve any potential issues associated with the proposed grading of the Project Site. In order to fully address any potential impacts to adjacent properties as a result of the proposed mitigation measure, such meeting should occur prior to the MUHSD certification of the Final EIR. 5

Chapter 3, Section 3.11 – Noise

(This comment is previously stated in our letter to the MUHSD, dated August 2, 2006, which is attached). 6

Chapter 3, Section 3.15 – Traffic/Circulation

Unless otherwise noted, the following comments are in regards to the Traffic/Circulation Section of the DEIR:

As noted previously, and based on our review of the BRMDP Development Agreement, with the purchase of the Project Site land from the Gragnani Family, the MUHSD assumed the title of, "Developer" of the BRMDP, and specifically, Village 20, and as such, is required to be a participant in the installation of, or proportionate share funding of the costs associated with improvements related to traffic and circulation. Of such improvements, most notable are the G Street Widening and Frontage Improvement, traffic signals, improvements to Farmland Avenue and Barclay Way, and a proportionate share towards the costs of installing the Barclay Way and Farmland Avenue Fahrens Creek Bridge Crossing. 7

Additionally, as noted on Page 3-77 of the DEIR, "…it was determined that the traffic analysis should investigate the operational characteristics of the following existing intersections on the streets serving the proposed project; 1) G Street/Farmland Avenue, 2) Farmland Avenue/Golf Road, 3) Bellevue Road/SR 59, 4) Bellevue Road/Barclay Avenue, 5) Bellevue Road/G Street, 6) G Street/Cardella Road, and 7) G Street/Yosemite Avenue. Based on the proposed High School's

location to M and R Streets, why were the intersections of M Street/Bellevue Road, and R Street/Bellevue Road not included in the traffic analysis? We think it is fair to assume that residents within the Bellevue Ranch East and West Subdivisions may utilize both M Street and R Street to travel to and from the proposed High School. As such, those intersections should be included in the analysis.

Development Assumptions:

On Page 3-82 of the DEIR, the preparer states, "The most noteworthy ongoing development in the area of the School site is Bellevue Ranch. The approved Master Plan addresses the area west of G Street between Cardella Road and Bellevue Road. Other development is also occurring east of G Street." The preparer further notes in Table 3.15-3 that approximately 5,400 residences (single and multi-family) are expected in the School site area by the year 2010. According to our records, there are a total of **480 single-family units** currently constructed within the BRMDP (south of Bellevue Road), which consists of the Bellevue Ranch East and West Subdivisions. Additionally, as you may know, Crosswinds is currently working with City Staff in the re-phasing of backbone infrastructure necessary to support development in the BRMDP (north of Bellevue Road) in what is now considered Phase 3. By year 2010, Crosswinds anticipates developing approximately **478 single-family units**. Even with the current build-out scenario and current market conditions, it is most likely infeasible to assume that within the School site area, 5,400 residences will be developed by the year 2010. As such, Crosswinds requests that the preparer of the DEIR re-discuss a realistic build-out scenario with both City Staff and the Crosswinds Project Team. 8

Furthermore, based on the projection of 5,400 residences by the year 2010, the preparer also assumes that the associated infrastructure (i.e. traffic/circulation improvements) will be installed prior to the development of the proposed High School. Once again, it appears that the preparer may need to re-discuss the unit build-out and infrastructure assumptions utilized in this Section of the DEIR, as well as the suggested mitigation measures presented in Table 3.15-4.

Therefore, Crosswinds is of the position the Traffic/Circulation Section of the DEIR needs to be revised to include realistic development assumptions, which will result in revised impacts and/or mitigation measures than what is suggested in the DEIR. As such, the impacts and proposed mitigation measures

Appendix E – Traffic Impact Analysis

Additionally, the following comments have been provided based on a review of the *Traffic Impact Analysis for Merced Union High School District's Bellevue Road Campus*, prepared by KD Anderson & Associates, Inc., August 8, 2007 (Appendix E of the DEIR).

Page 13, Table 4 – Assumed Roadway Improvements:

This table does not address current and proposed improvements to "G" Street from Yosemite Avenue to Cardella Avenue. It suggests four (4) lanes for G Street, but does not present a configuration of those lanes proposed, which according to Table 6.1 of the BRMDP, is identified as three (3) lanes south, one (1) lane north. It also states that "R" Street will be constructed from Yosemite Blvd to Cardella. Currently, the City of Merced has retained a Consultant to review the biological issues and required process necessary to obtain applicable Federal and State Permits for the installation of R Street in this section. Crosswinds suggests the preparer of the above Traffic Study, as well as the DEIR, consult with City of Merced Staff, Woodside Homes, and the 9

City's Biological Consultant to confirm the timing of this improvement. Based on our review of the timing of this improvement, it is unlikely R Street, between Yosemite Avenue and Cardella Road, will be completed prior to the development of the proposed High School. Similarly, Cardella Avenue, from "G" Street to "R" Street cannot be constructed at this time based on the above-mentioned biological constraints. Barclay Way, North of Bellevue Road, is currently constructed to the South Property line of the High School Site. Farmland Avenue is not constructed, East of "G" Street, but both the frontages of Barclay Way and Farmland Avenue would need to be constructed along the School District's frontage of their property. This includes the participation in the twenty-five (25) percent of each of the Bridge constructions over Fahrens Creek, for both Barclay Way and Farmland Avenue, as the Developer of that Project Site. Based on the above, Crosswinds suggests the preparers of the Traffic Study and DEIR re-analyze the development assumptions, both in the way of unit development by the year 2010, and the improvements assumed to be constructed prior to the proposed high school being developed.

Page 32, Table 11 – Bellevue High School Contribution to Barclay Avenue and Farmland Avenue Traffic:

Page 32 of the Traffic Study addresses the percentages of traffic contributed by the school with that of the estimated total traffic volumes. The assumption of restricting left turns from the School Site onto westbound Farmland Avenue, might be viable but a signal at the location may function as a better proposal for traffic turns. Right hand turns at the westerly exit onto Barclay way, may be more efficient for students and drivers to the school on exiting to the eventual developed area on the west side of Fahrens Creek. May I remind the Traffic Report preparer, that the School District as a "Developer" would participate with improvements to their frontage for each of the two bridges over Fahrens Creek at Barclay Way and Farmland Avenue. That participation based on the frontage amounts is 25% of each bridge. Thought might be taken to coordinate the driveway on the north side of the High School Project to be located with the street intersection of the Village to the North on the Bellevue Ranch Project. 10

Page 37, Summary of Design / Mitigation Requirements - Participation in Local Off-site Improvements:

The MUHSD is proposing to participate in the two (2) bridges crossing Fahrens Creek at the twenty-four (24) hour contribution of traffic flows utilizing the bridges at full build-out of the BRMDP area. This percentage is estimated at 10%. May we continue to remind the Districts Representatives, that MUHSD Staff is forgetting that since the purchase of the High School Site, they have taken on a new designation as "Developer" in accordance with the BRMDP Development Agreement. With that designation, the MUHSD also assumes the responsibility to install frontage improvements along their project frontage, no matter what the percentage of participation in traffic flows are determined to be. Based on this assumption, twenty-four (25) percent of each of the Bridge Structures will be the cost borne as part of the High School's improvements. 11

On behalf of Crosswinds, we look forward to receiving and reviewing the MUHSD response to the above comments, as well as the Bellevue Road Area High School Final EIR, in the near future. Additionally, we respectfully request to be officially notified and provided copies of any documents and/or public notices relating to the proposed Bellevue Road Area High School. 12

Should you have any questions, please do not hesitate to contact me at the phone number listed above.

Sincerely,

Mark Niskanen
Senior Planner

cc: Mark Singerman, Crosswinds
Seth Irish, Stantec Consulting
Rick Mummert, Benchmark Engineering
Robert Haden, Esq.
Tom Terpstra, Esq.
Jim Marshall, City of Merced
Greg Diaz, City of Merced
Jack Lesch, City of Merced
Bill King, City of Merced
Dave Tucker, City of Merced
Christopher Orr, Woodside Homes
Dan Holmes, O'Dell Engineering
Ranjit Rai, Bellevue Partners

Pacific Gas and Electric Company®

LAND SERVICES
650 "O" Street, Bag #23
Fresno, CA 93760-0001

October 10, 2007

Michael Belluomini
Director of Facilities Planning
Merced Union High School District
3430 "A" Street
Atwater, CA 95301

RE: Draft EIR for the Proposed Merced Union High School District Bellevue Road Area High School, City Merced, County of Merced

Dear Mr. Belluomini:

Pacific Gas and Electric Company (PG&E) appreciates the opportunity to submit comments on the Draft Environmental Impact Report (DEIR) for the proposed Bellevue Road Area High School (Project). While PG&E is committed to working with the District and the City of Merced to continue to provide safe, reliable electricity to the Merced area, we have concerns about the potential impacts of the proposal to relocate PG&E's transmission line to the opposite side of the street.

As a mitigation measure for locating the school at this site, the DEIR proposes that the District relocate PG&E's existing Merced-Merced Falls 70 kV Power Line to the east side of "G" Street, within the City of Merced's right-of-way. "G" Street is also being widened to accommodate the school project.

Normally as part of a road-widening project, PG&E would move its poles out to the edge of the new roadway – on the same side of the street. Here, however, the DEIR is requiring the District to relocate the power line to the opposite side of the street. PG&E has briefly viewed the site, and is concerned about two issues. 1

First, relocating the power line to the east side of the street will likely require the removal of mature trees and other vegetation. Second, relocation to the opposite side of the street may be difficult due to an existing drainage ditch along the east side of the street. These issues have not been addressed in the DEIR.

PG&E requests that the DEIR include the relocation of this power line as part of the project description and address the relocation from all aspects of CEQA review, so that local property owners affected by this relocation have adequate notice and can participate fully in the process. This review would include, for example, the potential visual impacts of removing mature trees, as well as the potential utility and health and safety impacts of conflicts between the utility line and the drainage ditch. The DEIR should be re-circulated to allow public notice and participation in the decision to relocate the line.

Moreover, if PG&E's power line must be relocated to the east side of the street, the DEIR should require the District to take responsibility for clearing the new power line route of trees, vegetation and any other obstacles so that PG&E can proceed with the relocation. The District should also be responsible for any mitigation measures imposed as a result of the impacts analysis for the relocation. For example, the District should be responsible for installing new landscaping to mitigate for the removal of mature trees.

As a final matter, because the siting and design of transmission line facilities are under the sole jurisdiction of the California Public Utilities Commission (CPUC), the CPUC should be listed as a responsible agency. (*See* Chapter Two – Project Location and Description, page 2-5, listing of responsible agencies.) 2

Thank you again for the opportunity to submit these comments. If you have any questions regarding this information, you may contact me at (559) 263-5237 or my email address AJS4@pge.com.

Sincerely,

Andrew Smith
Senior Land Planner

c: David Tucker, City of Merced
Damon Polk, Mid Valley Engineering

- **COMMENT LETTER 1**
  STATE OF CALIFORNIA, NATIVE AMERICAN HERITAGE COMMISSION
  Katy Sanchez, Program Analyst

Comment 1: *The Native American Heritage Commission (NAHC) has reviewed the Notice of Completion (NOC) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:*

√ *Contact the appropriate regional archaeological information Center for a record search. The record search will determine:*
- *If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.*
- *If any known cultural resources have already been recorded on or adjacent to the APE.*
- *If the probability is low, moderate, or high that cultural resources are located to the APE.*
- *If a survey is required to determine whether previously unrecorded cultural resources are present.*

√ *If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.*
- *The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.*
- *The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.*

√ *Contact the Native American Heritage Commission for:*
- *A Sacred Lands File Check. <u>USGS 7.5-minute quadrangle name, township, range, and section required.</u>*
- *A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. <u>Native American Contacts List attached.</u>*

√ *Lack of surface evidence of archaeological resources does not preclude their subsurface existence.*
- *Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archaeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.*

- *Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.*
- *Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.*

Response: A Cultural Resources records search for the proposed project site was performed by the Central California Information Center – California State University, Stanislaus on June 20, 2006. No historic or prehistoric archaeological resources were identified on or within 1 mile of the project site. Additionally, mitigation measures are included in the EIR (Mitigation Measure #3.5-1) to cease project construction and contact a qualified archaeologist and the City of Merced in the event of accidental discovery of human remains or items of historical or archaeological significance.

- **COMMENT LETTER 2**
  STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION
  Tom Dumas, Chief

Comment: Limits of analysis.

Response: One comment suggests that the study area should be expanded to address additional intersections at locations that are further from the proposed site. Fundamentally, we disagree with that assertion, primarily due to the nature of school traffic. Schools, attract trips that originate at homes within its service area and ultimately those trips return home or continue to other destinations. Thus, on a regional basis, the traffic attracted to schools is being generated by the homes. The analysis addressed the SR 59 / Bellevue Road intersection which is 1½ miles from the high school, but additional analysis of intersections further south on SR 59 does not seem reasonable.

Comment: Analysis Methodology.

Response: The comment suggests that the peak period analysis performed for locations near the school be carried to locations that are more distant in order to address the peaking characteristics of school traffic. The decision to limit this peak period analysis to the locations addressed in the traffic study was based on our understanding of peak hour traffic conditions at intersections near schools. Because school traffic is typically concentrated into short time periods before and after the end of the school day, the *Peak Hour Factor (PHF)*, at school access intersections can be as extreme as 0.50. However, as we move away from the school site, the share of total traffic that is oriented to the school decreases and the PHF rises to the levels that are typically seen during the overall a.m. peak hour (i.e., 0.85 to 0.90). The SR 59 / Bellevue Road intersection is 1½ miles from the high school site, and the peak hour factor would be expected to be normalized at that distance.

In this case, the DEIR analysis assumed a PHF of 0.90 at the SR 99 / Bellevue Road intersection, with the results shown in Table 1 below. If the same peak hour assumptions made for the school access were carried to the SR 59 / Bellevue Road intersection, the delays forecast for motorists on Bellevue Road would be longer.

TABLE 1
YEAR 2009 PEAK HOUR INTERSECTION
LEVELS OF SERVICE WITH 2,400 STUDENT HIGH SCHOOL

Intersection	Control	Opening Day Plus Project			
		Unadjusted PHF		Peak Period	
		Average Delay (Seconds)	LOS	Average Delay (seconds)	LOS
SR 59 / Bellevue Road	EB / WB Stop				
NB left turn		7.5 sec	A	7.5 sec	A
SB left turn		8.5 sec	A	10.3 sec	B
EB left+thru+right turn		44.2 sec	C	458.7 sec	F
WB left+thru+right turn		577.1 sec	D	>999 sec	F
	Signal	26.0 sec	C	74.2 sec	E

The traffic study indicated that development of the new High School will add traffic to SR 59. Motorists waiting to turn onto SR 59 at the SR 59 / Bellevue Road intersection will experience very long delays that are indicative of LOS F assuming conventional PHF. This exceeds the City's minimum LOS D standard. While widening the intersection to provide a separate northbound right turn lane would reduce the length of delays somewhat, installation of a traffic signal would be required to meet the City's LOS D minimum.

Comment: SR 59 Mitigations.

Response: The traffic study indicated that the SR 59 / Bellevue Road is unlikely to carry the traffic volumes needed to satisfy Caltrans 8-hr warrant requirements under Opening Day Scenario at times during the day other than the period before school. Thus, it is likely that District 10 would not approve a traffic signal at this intersection under these conditions. It was suggested that the Merced Union High School District contribute its proportionate fair share to the cost of this traffic signal.

Development of the High School will add traffic to the two lane portions of SR 59 that are planned for widening but currently lack funds to do so. Caltrans comments on the DEIR NOP suggest that the High School may have incremental impacts on SR 59 and the intersections north of the SR 59 widening project (i.e., at the SR 59 / Buena Vista Avenue, SR 59 / Yosemite Blvd, and SR 59 / Bellevue Road intersections). While it is not possible to identify an exact "fair share" percentage at locations outside of the study area, the high school could contribute to the cost of improvements at these locations.

The District is willing to participate in the cost of both short term and long term improvements to SR 59 which the District estimates to be $143,750, as outlined below.

Comment: SR 59 / Bellevue Road Traffic Signal.

Response: Because the traffic signal is unlikely to be warranted when the school opens, the District shall contribute its fair share to the cost of a traffic signal. As noted earlier, the signal is needed for a.m. peak hour traffic, and during that time period high school traffic represents 31% of the total traffic under

"Opening Day Plus Project" and 6% of the total traffic under "Year 2025 Plus Project" conditions. Because the signal will be needed before the year 2025, the share contributed by the District shall be the average between these two values, or 13.5%. Assuming a traffic signal costs $250,000, this contribution is $33,750.

Comment: SR 59 Widening to 4 lanes from Yosemite Avenue to Bellevue Road.

Response: Over the long term, SR 59 will need to be widened to accommodate future growth. As noted earlier, there is a programmed project to improve the highway from 16th Street through the Olive Avenue-Sante Fe Avenue intersection to correct existing deficiencies. This project has an estimated cost of $30 million. In the area north of Olive Avenue widening of SR 59 is occurring as adjacent development occurs. However, development of the west side of SR 59 is not likely, and the schedule for east side development is uncertain. The cost of improving SR 59 to 4 lanes from Yosemite Avenue north through the Bellevue Road intersection is unknown, but a reasonable estimate for this 2½ mile long project could be $10 million.

The DEIR traffic study noted that the relative share of total traffic on each road that is generated by the high school will vary throughout the day. It is reasonable to expect that high school traffic as a percentage of the total would be highest during the morning and early afternoon periods when students are traveling to and from school. The share would be much lower during the traditional p.m. peak hour. Cost allocation based on daily traffic would be a reasonable compromise between these two extremes.

The high school's share of long term traffic on SR 59 is eventually minimized by the development of alternative north-south roads in Merced. As shown in Table 2, by the time the north Merced area is built out in 2025 and local residents comprise most of the student population, less than 5% of the daily traffic associated with the High School is expected on SR 59. At that time, High School traffic would represent approximately 1.1% to 1.6% of the total daily traffic on this road and would not represent a significant contribution to the total volume. Assuming that high school traffic represents 1.1% of the long term traffic on the highway, the district's responsibility towards both projects would be $110,000.

TABLE 2
YEAR 2025 TRAFFIC VOLUMES ON SR 59

Road	*From*	*Long Term Daily Traffic Volume*		
		Background	*High School Only*	*Percent of Total*
SR 59	*Bellevue Rd to Cardella Rd*	*14,450*	*230*	*1.6%*
	Cardella Rd to Yosemite Ave	*21,600*	*230*	*1.1%*
	Yosemite Ave to Buena Vista Rod	*20,100*	*230*	*1.1%*

The Merced Union High School District is willing to contribute $143,750 to the cost of improvements to be made to SR 59 with the agreement that this contribution fully mitigates the proposed high school's impacts to state facilities.

COMMENT LETTER 3
STATE OF CALIFORNIA, DEPARTMENT OF FISH AND GAME
W.E. Loudermilk, Regional Manager

In a letter dated October 3, 2007, the California Department of Fish and Game (CDFG) provided several comments. As appropriate, each comment is addressed below:

Comment 1-1: Special-Status Species Use of the Site
"Although the land has been in agricultural production for many years, while it sits fallow there is an increased likelihood that special status species will make use of the site."

Response: Mitigation Measure for Potential Impacts to Special-Status Species
The applicant will continue to disk the agricultural field portion of the project site at least three times a year, thereby continually disturbing the soil to ensure that this portion of the site does not support native plant species or other special-status species. Regardless, prior to any ground-disturbing activities on the site, a biologist will conduct a preconstruction survey of the entire site, including the agricultural field, to ensure that grading and other ground-disturbing activities do not result in impacts to special-status species known from the region.

Comment 1-2: Potential Impacts to Fahrens Creek and Riparian Habitat
"The Department is concerned that the proposed 20-foot no-development buffer placed from the levee of the creek will not provide adequate protection to terrestrial and amphibious animals. In addition, such a narrow buffer is likely to result in direct human/wildlife conflicts, such as encounters with skunks, raccoons, etc. The placement of the parking lot and stadium nearest to the creek also adds additional disturbance issues that could negatively affect all wildlife species."

"The Department disagrees that the described setback will adequately reduce impacts to the creek, riparian vegetation, and species that utilize the habitat. Instead, the Department recommends that riparian vegetation along the waterways be protected with a 200-foot no-disturbance buffer delineated from the high water mark of each surface waterbody and that a 100-foot no disturbance buffer be set around the high water mark of each surface water channel that has no riparian vegetation."

Response: The DEIR stated that the proposed project would not impact the Fahrens Creek or the levee along the bank, rather that the proposed project would preserve this levee in a 20-foot open space easement from the outboard toe of the levee. In addition to this 20-foot open space easement, there is a 50-foot easement from the centerline of the creek that is part of an existing Merced Irrigation District easement that would remain preserved, for a total setback of approximately 70 feet from the centerline of the creek.

The applicant disagrees that the total preserved area along the creek should be increased beyond a 70-foot wide protection buffer that extends from the centerline of Fahrens Creek to 20 feet beyond the base of the levee. It should be noted that 20 feet outside of the levee extends into what is now under intensive agricultural clean-farmed crop land, and as a consequence, this area has little or no value to amphibians and other animal species that could be expected to use the Fahrens Creek corridor. In addition, only sparse riparian vegetation occurs along the bank of Fahrens Creek, including sporadic occurrences of arroyo willow (*Salix lasiolepis*), sandbar willow (*Salix sessilifolia*), and cottonwood (*Populus fremontii*). This vegetation does not occur on the levee. Therefore, the proposed 70-foot buffer along the creek that includes the levee and approximately 20 feet outboard of the levee will provide adequate protection for terrestrial and amphibious animals that occur in Fahrens Creek.

Mitigation Measure for Fahrens Creek and Riparian Habitat Protection

The applicant will preserve a 70-foot wide protection buffer area (hereinafter Biological Protection Area) that will extend from the centerline of Fahrens Creek to approximately 20 feet from the outboard toe of levee (see Figure 1). The applicant will be required to permanently preserve the designated buffer area as a Biological Protection Area that is managed as open space to enhance and otherwise protect the biological resource values of the Fahrens Creek corridor. In response to CDFG comment, the applicant will construct a 6-foot chain link fence between the school and the 70 ft. buffer.

Comment 1-3: Cumulative Impacts

"The potential biological impacts of the Project are enhanced by and added to the cumulative impacts of the neighboring Bellevue Ranch development, planned future build out of the nearby University of California, Merced campus and adjacent campus community, and other residential developments nearby. The Project-related impacts to wildlife should be assessed within the context of the surrounding area, which faces the loss of several thousand acres of habitat."

Response: Implementation of the proposed project would contribute to a cumulative regional loss of agricultural land in the area. The loss of 55.7 acres of agricultural land would represent a cumulative loss of wildlife foraging habitat for mostly common species. In addition, the loss of some agricultural land is regarded as an impact to foraging habitat of the State listed Swainson's hawk. Other development projects are also proposed in this region that would impact similar resources to those that would be impacted by the project. Project-related impacts would be considered cumulative with other projects in the region.

Mitigation Measure for Cumulative Impacts to Agricultural Land

The loss of agricultural land is an unavoidable significant impact as analyzed in the Bellevue Road Master Plan EIR, which designated the site for residential development in 1995. In addition, the

mitigation measures identified in the DEIR for each special status species and biological resource that may be affected by the proposed project serve to mitigate for cumulative impacts to those species and resources in the area. Mitigation prescribed herein and in the DEIR would offset cumulative impacts to biological resources to a level regarded as less than significant pursuant to the CEQA.

Comment 1-4a. Potential Impacts to Swainson's hawk
"The Project has the potential to reduce the number or restrict the range of endangered, rare, or threatened species (as defined in Section 15380 of CEQA), including the State threatened Swainson's hawk (Buteo swainsoni)…"

"The Department generally agrees with Mitigation Measure #3.4-1b regarding Swainson's hawks. In addition to those measures, mitigation for the loss of foraging habitat should also occur, regardless of whether foraging habitat currently remains in the immediate vicinity of the Project site. Swainson's hawk nesting is documented within 5 miles of the Project site and could occur closer to the Project site. Swainson's hawks usually forage within 10 miles of their nest tree and more commonly within 5 miles of their nest tree. Consistent with the CDFG Staff Report regarding Mitigation for Impacts to Swainson's hawks in the Central Valley of California (CDFG 1994), impacts to foraging habitat should be mitigated by the purchase of conservation easements and/or fee title acquisition of suitable foraging habitat; for projects that occur within 5 miles of an active nest tree, 0.75 acre of habitat should be protected in perpetuity for every acre of foraging habitat impacted."

Response: Based on the California Department of Fish and Game's (CDFG) Natural Diversity Database, RareFind 3.1 application (CNDDB), there is a new (July 2007) record for nesting Swainson's hawk that is located 4.8 miles from the project site (CNDDB Occurrence No. 1690). When Monk & Associates originally researched the CNDDB in March of 2007 for the background information for the DEIR, the closest known record for nesting Swainson's hawk was 8.2 miles north of the project site (CNDDB Occurrence No. 1106).

Please note that the DEIR stated that "this species is known to occur locally and could nest in a tree on or near the project site in the future. If Swainson's hawks are found to be nesting on or near the proposed project site, implementation of the proposed project site would be viewed by CDFG as an impact to Swainson's hawk foraging habitat. Loss or alteration of foraging habitat or nest site disturbance which results in: (1) nest abandonment; (2) loss of young; (3) reduced health and vigor of eggs and/or nestlings (resulting in reduced survival rates), may ultimately result in the take (killing) of nestling or fledgling Swainson's hawks incidental to otherwise lawful activities. The taking of Swainson's hawks in this manner can be viewed by the CDFG as a violation of the Section 2080 of the Fish and Game Code. This interpretation of take has been judicially affirmed by the landmark appellate court decision pertaining to CESA (CDFG v. ACID, 8 CA App.4, 41554) (CDFG 1994).

Any disturbance around a Swainson's hawk nest that is not characteristic of the normal activities around the nest site that caused disruption of the nesting attempt would likely be regarded by CDFG as a violation of CESA. Typically, CDFG requires that any impact to a Swainson's hawk nest be permitted through a Fish and Game Section 2081 management authorization. If an active nest is found

on or adjacent to the project site within the area of influence of the project site (which is generally considered to be within 1,000 feet of the project site) "to avoid potential violation of Fish and Game Code 2080 (i.e., killing of listed species), project-related disturbance at active Swainson's hawk nesting sites should be reduced or eliminated during critical phases of the nesting cycle (March 1-September 15 annually)" (CDFG 1994). If disturbance would occur, a Fish and Game Section 2081 management authorization would be required. Impacts to nesting Swainson's hawks would be considered a significant impact."

Revised Mitigation Measure for Swainson's Hawk

CDFG has prepared guidelines for conducting surveys for Swainson's hawk entitled: *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (CDFG 2000). These survey recommendations were developed by the Swainson's Hawk Technical Advisory Committee (TAC) to maximize the potential for locating nesting Swainson's hawks, and thus reduce the potential for nest failures as a result of project activities and/or disturbances. To meet the CDFG's recommendations for mitigation and protection of Swainson's hawks, surveys should be conducted for a half-mile radius around all project activities and should be completed for at least the two survey periods immediately prior to a project's initiation. The guidelines provide specific recommendations regarding the number of surveys based on the project is scheduled to begin and the time of year the surveys are conducted.

If Swainson's hawks are found to be nesting on or in the immediate vicinity of the project site immediately prior to a project's initiation, consultation with CDFG and mitigation compensation would be required. At that time, the necessity of acquiring a Fish and Game Section 2081 management authorization should be determined. CDFG has prepared a *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California* (CDFG 1994) (hereinafter the Mitigation Guidelines) that prescribes avoidance and mitigation guidelines for impacts to Swainson's hawk nesting and foraging habitats. The Mitigation Guidelines require applicants to replace any impacted Swainson's hawk nesting and/or foraging habitat with other suitable Swainson's hawk nesting/foraging habitat.

If Swainson's hawks are found to be nesting on or within the area of influence of the project site (within 1,000 feet of the project site) immediately prior to a project's initiation, impacts to nesting Swainson's hawks would be regarded as significant and adverse, and mitigation compensation would be required. Mitigation required would include a 1:1 impact to replacement ratio for all project disturbed habitat. (The proposed project will result in impacts to 55.7 acres of potential Swainson's hawk foraging habitat.)

Comment 1-4b. Potential Impacts to San Joaquin kit fox

"The Project has the potential to reduce the number or restrict the range of endangered, rare, or threatened species (as defined in Section 15380 of CEQA), including the … State threatened and Federally endangered San Joaquin kit fox (Vulpes macrotis mutica)."

"San Joaquin kit fox populations are known to fluctuate over years and absence during one survey does not necessarily exclude the potential for kit fox to occur on a site at a future time. The Department recommends that the United States Fish and Wildlife Service's (USFWS) "Standardized

recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (1999) be followed prior to any ground-disturbing activities occurring within the project area.

Response: Mitigation Measure for San Joaquin Kit Fox
Protection and avoidance measures detailed below will be implemented to minimize these potential impacts to this species.

An employee training program will be conducted before groundbreaking to explain the Federal and State Endangered Species Acts and any endangered species concerns to contractors working in the area. Qualified biologists would then conduct preconstruction den surveys no more than 14 days prior to groundbreaking to ensure that potential kit fox dens are not disrupted by the proposed project. If "potential dens" are located, infrared camera stations will be set up and maintained for 3 consecutive nights at den openings prior to initiation of site grading activities to determine the status of the potential dens. If no kit fox is found to be using the den, site grading activities can proceed unhindered. In the event that San Joaquin kit fox is detected on site, consultation with USFWS and CDFG will be initiated. If "take" cannot be avoided, acquisition of federal and State "Incidental Take" permits would be required prior to project implementation.

During project site grading activities, all project-related vehicle traffic will be restricted to established roads or access routes, and will observe a 20-mile an hour speed limit within the work areas, except on County roads and highways. A biological monitor will be present during all activities that could result in injury to San Joaquin kit fox. The biologist will have the authority to halt repair work, if necessary, to protect the kit fox.

To prevent harm to San Joaquin kit fox, any steep-walled holes and/or trenches excavated on the project site will be completely covered at the end of each workday, or escape ramps will be provided to allow any entrapped animals to escape unharmed. Any pipes stored on the project site overnight that are four inches in diameter or greater will be inspected for San Joaquin kit fox before the pipes are moved or buried. If San Joaquin kit fox are identified in the work area at any time, the USFWS and/or CDFG will be notified and consulted before work activities resume. All trash items will be removed from the project site to reduce the potential for attracting predators of San Joaquin kit fox. Contractors will be prohibited from bringing firearms and pets to the job site.

When implemented these mitigation measures would reduce potential impacts to San Joaquin kit fox to a level considered *less than significant*.

Comment 1-5. Potential Impacts to White-tailed kite
"The white-tailed kite is a fully protected species that is known to nest and forage in the Project area vicinity and could use the Project site for foraging, nesting, and roosting purposes. The CEQA document prepared for this Project should evaluate and address potential Project-related impacts to this species and should include appropriate species-specific avoidance and minimization measures."

Response: Please note that the DEIR stated that "Suitable nesting habitat for the white-tailed kite, red-tailed hawk, Swainson's hawk, western burrowing owl, and northern harrier occurs on or adjacent to the project site. Only the red-tailed hawk is known to nest in the vicinity of the project site."… "The white-tailed kite is fully protected under the California Fish and Game Code (3511)." … "Red-tailed

hawks have been identified nesting in a willow along Fahrens Creek approximately 300 feet southwest of the project site. No other nesting raptors were identified on or adjacent to the proposed project site during M&A's survey or during the nesting raptor surveys conducted by Mr. Silva in April and May of 2007. However, all of these species are known to occur locally and could move onto the project site or within an "area of influence" adjacent to the project site. The area of influence varies from species to species known from the region, but in all cases would not be greater than 1,000 feet of the project site. If these raptors were nesting near the proposed project site, construction-related disturbance could result in nest abandonment and/or other impacts to nesting raptors which would be a violation of the Migratory Bird Treaty Act (§50 CFR 10.13) and the California Fish and Game Codes §§ 3503, 3503.5. As such, impacts to these raptors are regarded as potentially significant. These impacts could be mitigated to a level considered less than significant."

Mitigation Measure for Nesting Raptors (including white-tailed kite) (provided in the DEIR)
If construction would commence between March 1 and September 1, surveys should be conducted 30 days prior to construction of the project. The raptor nesting surveys shall include examination of all trees and shrubs within the area of influence of the proposed project. For the purposes of this document, the "area of influence" is within 1,000 feet of the project site.

If nesting raptors are identified during the surveys on the project site, the dripline of the nest tree or shrub must be fenced with orange construction fencing and a 300-foot radius buffer around the nest tree or shrub must be fenced with bright orange construction fencing. This 300-foot buffer may be reduced in size if a qualified raptor biologist determines through monitoring that the nesting raptors are acclimated to people and disturbance, and otherwise would not be adversely affected by construction activities. At a minimum, however, the non-disturbance buffer shall be a radius of 100 feet around the nest tree or shrub. If the nest site is on an adjacent property, the portion of the buffer that occurs on the project site shall be fenced with orange construction fencing. When construction buffers are reduced in size, the raptor biologist shall monitor distress levels of the nesting birds while the birds nest and construction persists. If at any time the nesting raptors show levels of distress that could cause nest failure or abandonment, the raptor biologist shall have the right to re-implement the full 300-foot buffer. Instances when the buffer could be reduced in size would be if the raptors were well acclimated to disturbance and/or if there were physical barriers between the nest site and the construction project that would reduce disturbance to the nesting raptors.

No construction or earth-moving activity should occur within the non-disturbance buffer until it is determined by a qualified raptor biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones. This typically occurs by July 1st. Regardless, the resource agencies consider September 1st the end of the nesting period unless otherwise determined by a qualified raptor biologist. Once the raptors have completed the nesting cycle, that is the young have reached independence of the nest, no further regard for the nest site shall be required. No other compensatory mitigation is required.

When implemented these mitigation measures would reduce impacts to nesting raptors (including white-tailed kites) to a level considered *less than significant*.

Comment 1-6. Potential Impacts to California Tiger Salamander (CTS)
"CTS is known to breed in the Project area vicinity. Prior to Project-specific approvals in areas with appropriate habitat for this species (e.g. grasslands with natural or man-made seasonal wetland resources), protocol-level biological surveys should be conducted by qualified and permitted biologists at the appropriate time of year to determine the existence and extent of wildlife resources and special status species on site, such as CTS. It is important to note that protocol surveys for the CTS includes both wetland and upland habitat surveys and may require more than one survey season (USFWS 2003). The results of these surveys should be submitted to the Department and the USFWS."

Reseponse: Monk & Associates has multiple staff members including its principal biologist Mr. Geoff Monk that are both USFWS and CDFG permitted CTS biologists. We routinely conduct CTS surveys for all distinct populations of the CTS. Mr. Monk has personally located many previously unidentified CTS breeding sites and has an extensive reporting history for CTS work both with the CDFG and the USFWS. It is Monk & Associates' professional opinion that the intensively farmed agricultural field that will be developed for the proposed high school project does not provide suitable upland estivation/over-summering habitat for CTS. The project site has been under cultivation since the 1950's, and this long history of land manipulation, disking and row crop irrigation on the project site has eliminated any potential breeding habitat from the project site. The project site does not provide upland estivation/over-summering habitat for CTS since this animal cannot survive in a flood irrigated or row crop environments. Thus, it is unlikely that the field could maintain a viable population of CTS. As noted above, the applicant will continue to disk the agricultural field portion of the project site at least three times a year, thereby continually disturbing and deep-ripping the soil to ensure that this portion of the site does not provide suitable upland estivation/over-summering habitat for CTS.

The berm (levee) along Fahrens Creek is isolated from CTS movements by the agricultural fields and high flow environment of Fahrens Creek and thus would be unlikely to provide upland estivation/ over summering habitat. Regardless, the proposed project will not impact this levee and will preserve a 70-foot easement along Fahrens Creek. Fahrens Creek on the north side of the project site had predatory fish and supports crayfish which are CTS predators. In addition, in the winter months high flows in this creek would prevent CTS from attaching eggs to substrates in this creek. CTS reproduction is typically not found using high flow environments. Consequently, impacts to potential breeding habitat or potentially occupied CTS habitat are not expected to occur from implementation of the proposed project.

Monk & Associates biologists examined the project site and have determined that CTS would not use the project site. Thus, implementation of the proposed project would not be expected to impact the CTS. Monk & Associates believes that consultation with the United States Fish and Wildlife Service (USFWS) regarding potential impacts to CTS (a federally threatened species) should not be required for the project pursuant to the Federal Endangered Species Act (FESA) since this salamander would not be affected by the proposed project.

Comment 1-7. Potential Impacts to Burrowing Owl
"Burrowing owls have the potential to occur near or within the Project site. Mitigation Measure #3.4-1c thoroughly details survey, avoidance, and mitigation actions that will be undertaken to

reduce impacts to burrowing owls. In the event that resident individuals are found on the Project site, the Department recommends that a passive relocation effort conducted during the non-breeding season also include the use of artificial burrows, at a minimum of a 1:1 replacement, to facilitate the establishment of owls at the relocation site."

Response: Additional Mitigation Measure for Western Burrowing Owls
If an upland mitigation site is designated for burrowing owls, artificial burrows will be provided at a 1:1 replacement ratio for active burrows impacted by the proposed project. Elevated mounds shall be graded where artificial burrows/nest sites can be constructed. Borrow soils will be from the upland mitigation site. Each mound shall be elevated above the surrounding landscape approximately 10 feet. Each mound shall be approximately 75-feet long and 30 to 40 feet wide at the toe of slopes. Mounds shall have side slopes that are graded at a 3:1 ratio. All mounded soils shall be compacted to approximately 80 percent relative compaction. Such specifications shall be subject to modification of an engineer in consultation with a qualified wildlife biologist.

Artificial nesting boxes and burrows shall be constructed within each mound using standard irrigation boxes fitted with 4"-diameter ABS drainage pipe. Three artificial burrows/nest boxes shall be constructed on the same mound to mimic the spatial characteristics of naturally occurring burrows. The presence of several burrows at a site allows fledgling owls an additional cover area, which reduces nest crowding, but still keeps fledglings near enough to receive protection from parent owls.

To construct each burrow/nest box system, nest boxes will be buried at the top of the mound system. Upon assembly of each mound/pipe system, they will be subsequently covered and compacted with dirt to provide the burrow with insulation from heat/cold and to protect the sites from predators (e.g. coyotes). To accomplish this, each irrigation box will be placed beneath the top elevation of mounds by at least 18 inches. To interconnect the nesting box with a burrow system, and outside habitats, a hole will be cut in the box and a section of pipe will be inserted at an angle ranging from approximately 10 to 45 degrees. The angle and length of the drainage pipe fitted to the nest box will be chosen such that sunlight does not enter the nest box. Typically, each artificial burrow will be at least 6 feet long or longer.

Each pipe shall daylight on the side of the mound at some sort of a small staging area. Typically, such staging areas are created from California ground squirrel diggings, but since there may not be any squirrels for some time on the mounds, these areas will be created using shovels. They will be stabilized using an erosion control material such as pyramat® or its equivalent. In addition, a perch consisting of a large boulder (2 to 3 foot diameter) shall be placed near burrow openings. These boulders should have flatter tops so that owls can use them for perching, and for scanning predators and prey.

Burrowing owls typically only use areas where there is low or no vegetation growth. Accordingly, where burrow pipes daylight on the sides of mounds, a minimum of 10-square feet of weed mat or other material shall be installed that will repress/inhibit vegetation growth around burrow openings. It is important that the weed mat be installed both below and above each burrow opening. The weed mat creates a similar effect to overgrazed habitats or similar areas where vegetation growth is limited. The weed mat should be buried with approximately 1-inch of soil so that vegetation growth

is stunted, but not altogether prohibited. This allows the owls the necessary vistas required to avoid predators and to hunt while otherwise maintaining a more natural look.

In lieu of the above prescribed mitigation measures, the applicant may purchase burrowing owl credits from a CDFG approved burrowing owl mitigation bank should this option be available. When implemented the mitigation measures in the DEIR and proposed herein would reduce impacts to western burrowing owl to a level considered *less than significant*

Comment 1-8. Potential Nocturnal Lighting and Noise Impacts
"Mitigation Measure #3.1-1 describes actions to limit lighting and glare, in order to obscure direct viewing of light sources from neighboring properties and streets. The Department is concerned with impacts of the illumination of habitats associated with Fahrens Creek. The disturbance caused by nocturnal lighting can alter behavior patterns, increase predation risk, and render habitats less usable by animals. In addition, nighttime noise and activity in the stadium also have the potential to affect wildlife activity patterns. Within the Biology Survey (Appendix C), it is stated that raptors nesting near the site after construction is complete are to be considered "habituated to any existing disturbance from the school site, and consequently, no mitigation would be warranted," but nest sites that are established during the late winter could be compromised by disturbance from springtime events at the stadium or athletic fields. The potential disruption to nocturnal wildlife species and to raptors nesting along Fahrens Creek should be evaluated and disclosed in the final Environmental Impact Report prepared for this Project."

Response: Mitigation Measure for Potential Nocturnal Lighting and Noise Impacts
Based on the Site Plan (Figure ES-3) provided in the DEIR, it appears that only a parking lot is proposed along the portion of Fahrens Creek that borders the project site. Lighting in the parking lot will be designed to have specific illumination areas that will ensure that there is no direct lighting of off-site areas, such as Fahrens Creek. Mitigation Measure 3.1-1 in the DEIR states that "all lighting fixtures on the perimeter of the project shall be outfitted with hoods and cut-off lenses so that the light source itself is not visible to the naked eye from neighboring properties." Therefore, nocturnal lighting impacts to off-site areas, such as Fahrens Creek, have been reduced to the greatest extent possible, and are not expected to have a significant impact on wildlife species in the project vicinity.

It should be noted that any raptor that establishes a nesting territory or nest site during the late winter anywhere near the school site would be subjected to an elevated level of disturbance during the establishment period. Any raptor that is establishing its territory or nest site will have been in the area for a considerable period of time. Owing to the elevated levels of disturbance at all times of the year at the school, any such raptor could be expected to be acclimated to disturbances associated with a school site. It should further be noted that the Site Plan (Figure ES-3) provided in the DEIR shows that the proposed stadium will be constructed 300 to 400 feet from Fahrens Creek, since Fahrens Creek angles away from the project site off to the west. Thus, any nesting raptors or other nesting birds along Fahrens Creek would have a 300 to 400-foot buffer between any potential nest sites along the creek and the activity or noise coming from the stadium.

It is important to note that there is an active construction site located immediately south of the proposed project site. Any raptors in the area have either become habituated to noise in this area, or they have found alternative nest sites elsewhere. Finally, Mitigation Measure 3.11.3 states that "the

District shall set 10:00 p.m. as the targeted time to end all football games and all other outdoor stadium events that attract large numbers of spectators." Consequently, there will be periods of time at night when noise from the project site will not disrupt nocturnal wildlife species' activity patterns.

COMMENT LETTER 4
SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT
Arnaud Marjollet, Permit Services Manager

Comment 1: *The San Joaquin Valley Air Pollution Control District (District) has previously commented on this project (District Reference Number C200601538, dated August 3, 2006). These previous comments are still applicable for the revised DEIR at hand.*

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call Jon Klassen at (559) 230-5843 and provide the reference number at the top of this letter.

Response: See below.

(Below is from previous SJVAPCD letter dated August 3, 2006)

Comment 1: *The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above and concurs that this project will contribute to the overall decline in air quality due to construction activities, increased traffic and ongoing operational emissions. Based on the information provided, this project may potentially generate significant air emissions. However, this project appears to be subject to the District's Indirect Source Review (Rule 9510). Mitigation under this rule may lower emissions from the project to a less-than-significant impact.*

Response: Comment noted. See response to comment 2.

Comment 2: *Rule 9510 was adopted to reduce the impacts of growth in emissions from all new development in the San Joaquin Valley. Rule 9510 requires applicants subject to the rule to provide information that enables the District to quantify construction, area and operational PM0 and NOx emissions, and potentially mitigate a portion of those emissions. Mitigation would reduce operational NOx and PM10 emissions by 33.3% and 50%, respectively, of the project's operation baseline over a 10 year period and construction equipment NOx and PM10 emissions by 20% and 45%, respectively. An application must be filed with the District no later than concurrent with application for the final discretionary approval. For more information and instruction, please contact the District's ISR staff by phone at (559) 230-5800 or by email at ISR@valleyair.org.*

Response: Prior to final discretionary approval, the District did file an Indirect Source Review application with the SJVAPCD. As directed by the Air District, Rule 9510 does not apply to the Project.

Comment 3: *The DEIR indicates the MUHSD will comply with the District's Regulation VIII (Fugitive PM10 Prohibitions, Rules 8011-8071), Rule 2201 (New and Modified Stationary Source*

Review Rule) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). Based on the information provided, the proposed project will also be subject to the following District rules. For further information, the MUHSD is strongly encouraged to contact the District's Small Business Assistance Office at (209) 557-6446. Current District rules can be found on our website at http://www.valleyair.org/rules/1ruleslist.htm.

Rule 4102 *(Nuisance) This rule applies to any source operation that emits or may emit air contaminants or other materials. In the event that the project or construction of the project creates a public nuisance, it could be in violation and be subject to District enforcement action.*

Rule 4601 *(Architectural Coatings) limits volatile organic compounds from architectural coatings. This rules specifies architectural coatings storage, clean up and labeling requirements.*

Rule 4103 *(Open Burning) This rule regulates the use of open burning and specifies the types of materials that may be open burned. Agricultural material shall not be burned when the land use is converting from agriculture to non-agricultural purposes. Section 5.1 of this rule prohibits the burning of trees and other vegetative (non-agricultural) material whenever the land is being developed for non-agricultural purposes.*

The District commends the MUHSD for incorporating increased energy efficiency through building design and landscaping and for supporting the use of alternative transportation, specifically:

- *Providing transit shelters at bus stops and coordinating with local transit to extend service area*
- *Bicycle racks for those students and employees who chose to bike to school*
- *Encouraging car and vanpools through various incentive programs*
- *Alternatively-fueled and electrical-driven maintenance vehicles*
- *Building construction with energy efficiency exceeding Title 24 requirements*
- *Design the school site to encourage bicycle and pedestrian access*
- *Student drop-off areas designed to minimize traffic congestion and excessive idling*

The MUHSD should consider incorporating the following mitigation measures into the project to further reduce its impact on air quality. Any measure selected should be implemented to the fullest extent possible:

- *Parking Lot Trees. Large canopy shade trees should be should carefully selected and located to shade 50% of paved areas within 15 years and planted at a ratio of one tree for each five parking spaces. For Urban Forestry see http://www.coolcommunities.org/, http://wcufre.ucdavis.edu/ and http://www.lgc.org/bookstore/energy/downloads/siv_tree_guidelines.pdf.*

- *Cool Paving. "Heat islands" created by this and similar projects contribute to the reduced air quality in the valley by heating ozone precursors. See http://eande.lbl/gov/heatisland/ and http://www.harc.edu/harc/Projects/CoolHouston/*

- *Radiant heat barrier. See http://www.eere.energy.gov/consumerinfo/rebriefs/bc7.html*

- *The District encourages the applicant and fleet operators using the facility to take advantage of the District's Heavy-Duty Engine program to reduce project emissions. The Heavy Duty program provides incentives for the replacement of older diesel engines with new, cleaner, fuel-efficient diesel engines. The program also provides incentives for the re-power of older, heavy-duty trucks with cleaner diesel engines or alternative fuel engines. New alternative fuel heavy-duty trucks also qualify. For more information regarding this program contact the District's Grant Program Staff at (559) 230-5858 or visit our website at http://www.valleyair.org/transportation/heavydutyidx.htm.*

Response: The District will comply, to the extent feasible with the District's Regulation VIII and Rules 4102, 4601 and 4103 as outlined in the comment letter. The District will also comply with further mitigation measures as set forth in the SJVAPCD's comment letter, where applicable.

COMMENT LETTER 5
CITY OF MERCED
James G. Marshall, City Manager

Comment 1: *<u>Traffic Mitigation Measures Table 3.15-4:</u> Traffic mitigation measures are outlined in Table 3.15-4. However, the Project traffic report and/or DEIR identifies impacts and recommends mitigation measures for impacts that are different or are not included in this table. Listed below are these impacted facilities. The City requests that Table 3.15-4 be updated to include these items:*

1. *Intersection of State Highway 59 and Bellevue: Pages 21 & 22 (Traffic stud); page 3-83 (DEIR); see comment B1;*
2. *Intersection of "G" Street and Bellevue / Right turn lanes on all approaches. Page 6-14 (DEIR); and*
3. *State Highway 59 (Yosemite Avenue to Bellevue Road): Page 37 (traffic study); see comment B2.*

Response: The DEIR will be revised to reflect the mitigation measures outlined in Table 3.15-4.

Comment 2: *<u>Mitigation Fee Mechanism for State Road Facilities:</u> It is stated on page 3-83 of the DEIR that there is no adopted mitigation fee mechanism developed by the City of Merced for SR59 improvement participation. While there is no "unique" program, various fees may be collected by the City for future improvement of this highway depending upon location and level of impact, including PFFP Fees; Regional Transportation Fees; and project specific Traffic Mitigation Fees.*

Project specific "Traffic Mitigation Fees" are collected through CEQA if the Project traffic report identifies: (1) a need for an improvement that is greater than those described in the PFFP; or (2) a need for an improvement to a facility not listed in the PFFP; or (3) a need for an improvement in addition to the City standard for said facility.

These fees are in addition to PFFP fees and Regional Transportation fees.

Therefore, the language under "State Highway Improvements" on page 3-83 of the DEIR needs to be amended, as well as the statement on page ES-24, to be consistent with the above-described Mitigation Fee Mechanism.

Response: The DEIR has been modified to be consistent with the above described Mitigation Fee Mechanism.

Comment 3: *State Highway 59 and Bellevue Road: Based on the above described Mitigation Fee Mechanism, payment of PFFP fees is appropriate mitigation for this intersection given that this intersection is an improvement described in the PFFP, and the recommended improvement does not exceed the City improvement standard for this facility. No additional "Traffic Mitigation Fee" is necessary; the proposal for payment of such fee as described on page 37 of the Project Traffic Study Appendix E, is not applicable.*

Since the traffic study concludes that a signal warrant would not likely be required due to the Project, the City would not require the improvement (signalization and northbound right-turn lane) to be constructed with development of the high school. In this case, payment of PFFP fees is considered adequate mitigation.

Response: Comment noted.

Comment 4: *State Highway 59 (Yosemite Avenue to Bellevue Road) Based on the above described "Mitigation Fee Mechanism," payment of PFFP fees is appropriate mitigation for the Section of SH 59 from 16th Street to Yosemite Avenue, because this roadway segment falls within the projects described in the PFFP, and the recommended improvement does not exceed the City improvement standard for this facility. However, the segment north of Yosemite Avenue is not included in the PFFP. Therefore, an additional "Traffic Mitigation Fee" is necessary for the segment of SH59 from Yosemite Avenue to Bellevue Road, and needs to be included in Table 3.15-4 (Traffic Mitigation Measures) of the DEIR and Mitigation Monitoring Plan (MMP). Additionally, the statement of page ES-24 needs to be revised consistent with the above-described Mitigation Fee Mechanism.*

Response: The District shall make a "fair share" payment to Caltrans towards the cost of widening this portion of SR 59.

Comment 5: *Development and Infrastructure Forecasts: Development forecasts (displayed in Table 3.15-3, page 3-82), made several years ago for preparation of the initial traffic study dated April 18, 2006 for this Project, are much higher than what is being developed under current market conditions. Similarly, the statement on page 3-82, which reads: "Currently the north Merced area is seeing significant growth." Should be put in context of the recent downturn in the housing market. Assumptions made concerning infrastructure are likewise in error given the change in market conditions. Please refer to Comment E3 for further discussion.*

Response: The District will fulfill it's contractual and legal obligations associated with the Development Agreement of the Bellevue Ranch Master Development Plan.

Comment 6: *Legal Obligation to Mitigate On-site and Off-site Impacts: There are several factual and legal inaccuracies that should be corrected before the DEIR is considered by the District. Initially, it should be pointed out that the DEIR states that the mitigation program is "fully" funded by levies on private development. In fact, the Program is not "fully" funded, based on the failure of all development – including other public agencies like the District – failing to pay their fair share of the costs. This results in a deficit in the Program's funding.*

Associated with this concern, the DEIR states on page 6-14 that the City's PFFP impact fee program, the BRMDP Mitigation Fee Program (see Comment E2), and the construction of the related improvements of these programs are outside of the legal ability of the district to perform. To this end, the DEIR cites (page 3-79 and 3-80) both Government Code Section 54999 and City of Marina v. Board of Trustees. The California Supreme Court in a virtually unanimous decision has held that the California State University and College system can be required through the CEQA process to mitigate their off-site impacts, and that the District is not barred from voluntarily contributing, as a way of meeting its CEQA obligations, its fairy share of the cost of improvements to roads and fire protection necessary for the project. The District has an independent obligation under CEQA to protect the physical environment from the effects of this project.

School districts lack the special Constitutional status of the University of California and California State University and College system which helped frame the lower court's opinion; whereas, the District is much more closely aligned with the State's community colleges. In a recent California Court of Appeals case, it was held that a community college is authorized to spend public funds to mitigate off-campus traffic impacts of development. As such, it is clear that the District has not only the legal authority to mitigate off-site impacts, but the legal obligation to do so under CEQA.

The City contends that the statement on page 3-79 and 3-80 relating to the feasibility of mitigation measures that "These programs and the Construction of the related improvements are outside of the legal ability of the District to perform" is simply an incorrect and inaccurate statement of the law.

Response: The reference to the *Marina v. Board of Trustees* case was inadvertently left in the DEIR. The reference had been removed from other sections of the EIR prior to circulation and pages 3-79, 3-80, and 6-14 will be revised to remove the reference.

Comment 7: *Bellevue Ranch Master Development Plan: The District purchased the site, which is subject to the existing Development Agreement of the Bellevue Ranch Master Development Plan (BRMDP). Within the Development Agreement, property owners have certain obligations as a matter of contract. Having purchased subject to that contract, the City expects the District to fulfill its contractual obligations. Having received the benefits of and have purchased subject to, the District also must share the burdens of the Development Agreement – a contractual obligation owned to the citizens of Merced. As such, the District is a "developer" for purposes of the Development Agreement.*

Response: Comment noted. The District will fulfill it's contractual and legal obligations associated with the Development Agreement of the Bellevue Ranch Master Development Plan.

Comment 8: *The Barclay Avenue Bridge & Farmland Bridge over Fahrens Creek: Although requested to be addressed in our August 3, 2006 DEIR comment letter, the DEIR again fails to discuss how the District in purchasing the project site addressed Section 5.5.2 of the Bellevue Ranch Master Development Plan without the agreement and having purchased the property subject to the existing Development Agreement, the District has placed itself in the role of a "developer" as used therein.*

Besides the other infrastructure needs raised in this letter, what concerns the City are the two bridges over Fahrens Creek on Farmland Avenue and Barclay Road. It is the City's position that the bridges are a part of the development of Bellevue Ranch, including the project site, and that the City is entitled to have the bridges completed as a part of development. The DEIR fails to address how this is to be accomplished in a mutually agreeable manner between the affected property owners of the Bellevue Ranch project. In order to avoid protracted and expensive litigation between the parties in the future or a delay to anyone's project, the City strongly encourages the District, Gragnani's as the seller, and Crosswinds to meet and seek resolution of this issue. Without agreement of the other affected owners, the proposed 10% share (page 3-83) may not be adequate and that Mitigation Measure 3.15-1 (page ES-23) respective of this issue is not feasible. Without assurance that these bridges will be completed in a timely and concurrent fashion with the proposed high school, the City believes revision to the DEIR is required to address not only traffic circulation impacts but also the delivery of public safety services, namely the Fire Department.

Response: The District will fulfill it's contractual and legal obligations associated with funding the bridges over Fahrens Creek on Farmland Avenue and Barclay Road. The District will pay a proportionate share of bridge construction costs. The District met with Crosswinds representatives in August 2007 to discuss the District's fair share responsibility.

Comment 9: *BRMDP Mitigation Fee Program: There is no BRMDP Mitigation Fee Program. The statement on page 6-14 of the DEIR should be corrected to reflect this fact. Projects within the BRMDP pay PFFP fees and have infrastructure CFD's to help cover infrastructure costs. Additionally, developers of Bellevue Ranch post security bonds as part of subdivisions. As a "developer" of the BRMDP, the "DISTRICT" may also use these methods to cover infrastructure costs.*

Response: The DEIR has been corrected to remove the reference to the BRMDP mitigation fee program.

Comment 10: *Assessment of Lacking Intervening Infrastructure: In proposing to construct the high school "out-of-phase" with the minor-phasing plan of the BRMDP, the "DISTRICT" will need to as a matter of contractual obligation, request the City to review its proposal to skip the improvement of infrastructure required of previous development phases not already in place. The high school is located in Phase 20 of the BRMDP, but the actual development of the BRMDP and associated infrastructure, has only progressed to Phase 10. At the City's discretion, per Section 6 (Phasing) of the Development Agreement of the BRMDP, the intervening infrastructure required of minor-phases 13 to 19 could be: (1) deferred conditioned upon provision of security and agreement of a performance schedule; (2) required to be constructed; or (3) neither. Please review Table 6.1 to see a listing of the intervening infrastructure. Unless otherwise granted by the City, the*

responsibility for these intervening infrastructure is assumed to fall to the developer proposing to go out-of-phase, which in this case would be the "DISTRICT."

Consistent with the BRMDP Development Agreement, the City would expect the "DISTRICT" to be responsible for constructing or securing, unless waived by the City, the intervening infrastructure assumptions made in the Project traffic study, in case these facilities are not installed by other property owners of the BRMDP. The intervening infrastructure includes signalization of the Cardella Road & "G" Street intersection, and portions of Cardella Road and "R" Street.

Additionally, the DEIR assumes that other infrastructure is in place prior to opening of the school. This infrastructure is in place prior to opening of the school. This infrastructure includes signalization of the intersection of "G" Street and Bellevue Road and Barclay and Bellevue Road; and portions of "G" Street. Under CEQA, the DEIR should address the "if" question – what if said infrastructure is not in place when the school opens. This is particularly valid in light of the existing "market" setting. The city offers the following approach to resolve the above noted "infrastructure deficient" scenario.

The environmental review process could move forward if mitigation measures that address the provision of infrastructure noted above are included in the DEIR. Alternatively, update the traffic report and mitigation measures to be reflective of the current environmental setting as it pertains to assumed infrastructure and development of the surrounding area.

Response: The District will fulfill it's contractual and legal obligations associated with intervening infrastructure requirements of the BRMDP.

Comment 11: *<u>Need for Consistent Listing of Mitigation Measures:</u> Many of the listed mitigation measures on page 6-14 and 6-15 of the DEIR are new or different than those listed in Table 3.15-4 (Traffic Mitigation Measures). It appears that the table is the correct list, but the data on these two pages confuses what is actually proposed as mitigation. The inconsistencies should be clarified.*

Response: Comment noted. Traffic mitigation measures in Chapter 6 have been changed to reflect the mitigation measures listed in Table 3.15-4.

Comment 12: *<u>EB Farmland Approach at "G" Street:</u> Clarify the recommended Farmland EB approach geometry at "G" Street. Items #7 and #9 appear to conflict. The City also requested an analysis of the cumulative analysis of the suggested design of the EB approach. The updated traffic report did not reveal that such assessment had taken place. City Staff is concerned that the proposed mitigation measure calling for a short combined through-left turn lane would operate at sub-standard level under the cumulative scenario.*

Response: The text of the DEIR is incorrect. The eastbound approach is to provide two lanes, one a combined left+through lane and the second a separate right turn lane. With these improvements the intersection will operate at LOS C (average delay 24.6 seconds) measures over the peak hour and LOS E during the peak period before school.

Comment 13: *EB Barclay Approach at Bellevue Road: The proposed length of the extended EB left-turn lane from Bellevue Road onto Barclay Road has a measurable impact on the corresponding future WB dual left-turn lanes from Bellevue Road at "M" Street, which will serve a large regional commercial development. The total distance between these intersections is 1,152 feet, and the WB dual left turn lanes at "M" Street will occupy a minimum approximately length of 850 feet, leaving only 302-feet for the EB left turn lane at Barclay. The importance of the WB dual lefts is higher than the EB single left at Barclay Avenue. Therefore, the proposed mitigation for a 925 EB left-turn lane at Barclay is too long, and the DEIR should present and include an assessment of these facts to determine the actual affect of a shorter EB turn lane on the identified impact at Barclay Avenue.*

Additionally, in regards to this item, Table 3.15-4 should be modified to state the improvement will be constructed by the DISTRICT.

Cumulative Impacts. In some cases, the DEIR contains an inadequate discussion of the Project's cumulative impacts resulting from the combination of the Project's impacts with related impacts created by other projects identified in the nearby areas. An EIR must discuss the cumulative impacts of a project when the project's incremental effect is cumulatively considerable. Accordingly, cumulative impacts on traffic and public services created by the Project and other projects in nearby areas should be presented, disclosed, and discussed in order for the public and the CEQA decision-makers to fully understand and formulate appropriate mitigation measures for the Project.

Response: The comment suggests that dual westbound left turn lanes that are each 850 feet long are needed to accommodate anticipated retail development at the Bellevue Road / M Street intersection. While long turn lane queues can accompany land uses with high peaking characteristics, the need for two 850 foot long left turn lanes for the regular operation of a retail shopping center where traffic is spread throughout the day would be extraordinary.

The DEIR traffic study suggests that the queue in the single eastbound left turn lane approaching Barclay Avenue could be 925 feet in the period before the beginning of the school day. It is reasonable to conclude that the westbound queue approaching the M Street / Bellevue Road shopping center would not be 850 in the a.m. as nearly all of the stores would be closed at that time. If the plan offered by the City is in fact installed (i.e., 325' eastbound lane), the effect would be that the eastbound queue approaching Barclay Avenue will extend into the inside through lane and extend for 925 feet, while the neighboring westbound dual left turn lanes sit empty. Creation of a two way left turn lane between the two intersections that accommodates the peak demands of both uses would be applicable.

Full analysis of cumulative traffic impacts was included in the traffic report prepared for the proposed project. This included analysis of known development, projects that are approved as well as development that is currently being considered but are not yet adopted. Cumulative impacts of the project were evaluated in the year 2030 plus project scenario and included analysis of the following intersections:

- G Street / Farmland Avenue
- Farmland Avenue / Golf Road
- Bellevue Road / SR 59

- Bellevue Avenue / Barclay Avenue
- Bellevue Avenue / G Street
- G Street / Cardella Road
- G Street / Yosemite Avenue

With the implications of planned regional improvements, long term traffic conditions in the study area will operate within the City of Merced's LOS D minimum at all study locations with and without the proposed high school.

Concurrently with this analysis, City and MCAG staff reviewed the land use assumptions inherent to the MCAG regional travel demand forecasting model and updated the land use base to reflect known development. New year 2030 travel demand forecasts were provided to the consultant.

Cumulative conditions were also evaluated at the site access intersections and at the G Street / Bellevue Road intersection assuming the peak traffic characteristics associated with high schools.

Additionally, cumulative impacts to public services such as fire, police, schools, parkland and other public services was disclosed in the Initial Study and DEIR.

Comment 14: *Fire Coverage: The identification of all public services and facilities necessary for the Project, including their actual availability and projected limitations, if any, as well as sufficient revenue sources to pay for, operate, and maintain those facilities and services. The City re-emphasizes its discussion here regarding the project site's current location beyond the six minute established fire response time (see comment "J").*

Response: Payment of development impact fees by residential and commercial developers and City property taxes will contribute to expansion of police and fire protection services for the vicinity. A future fire station is planned for the Bellevue Ranch area that will provide fire protection services to the high school, however the proposed high school site is currently located outside the 6 minute response time required by the City of Merced. The site is located within the City of Merced's Fire District 3 and the nearest fire station is located at 800 Loughborough Drive, approximately 3.4 miles from the site. Measures to ensure appropriate fire safety for the campus include accordance with all applicable fire protection standards such as fire alarms and smoke detectors in every classroom, fire hydrants, automatic sprinklers in every room, adequate emergency access to buildings, and a campus wide emergency preparedness plan that includes emergency exits from buildings and the campus. These fire protection measures reduce the impact to a less than significant level.

Comment 15: *The location of the proposed high school is currently outside the City's established response time for the Fire Department. The City's adopted Fire Master Plan establishes a six-minute response time. This location is currently outside of that response time. The City has acquired property for future construction of a fire station next to "M" Street just south of Cottonwood Creek. A future fire station site and facility will be sought north of Bellevue Road, but the location and timing of development of that station will depend on the outcome of the update to the General Plan, now in process. Even with the construction of a fire station at the "M" Street / Cottonwood Creek site, the high school may still be outside the six-minute primary response time.*

As such, discussion should take place within the DEIR of the impact on public services and ability to be served, particularly the Fire Department. Such analysis may find that this may be a significant unavoidable impact unless appropriate fire-related mitigation is applied to the Project.

Response: Payment of development impact fees by residential and commercial developers and City property taxes will contribute to expansion of police and fire protection services for the vicinity. A future fire station is planned for the Bellevue Ranch area that will provide fire protection services to the high school, however the proposed high school site is currently located outside the 6 minute response time required by the City of Merced. The site is located within the City of Merced's Fire District 3 and the nearest fire station is located at 800 Loughborough Drive, approximately 3.4 miles from the site. Measures to ensure appropriate fire safety for the campus include accordance with all applicable fire protection standards such as fire alarms and smoke detectors in every classroom, fire hydrants, automatic sprinklers in every room, adequate emergency access to buildings, and a campus wide emergency preparedness plan that includes emergency exits from buildings and the campus. These fire protection measures reduce the impact to a less than significant level.

Comment 16: *Although requested in the City's August 3, 2006 DEIR comment letter, the current version of the DEIR does not provide any disclosure or substantive analysis of how the Project itself might impact the various subject matters of environmental concern relating to utilities and service systems. In fact, the discussion titled "Wastewater" is actually a discussion of "storm-water." Overall, this discussion fails to consider the "if" question – if The City does not provide the services. Under the City Council's adopted policy, public agencies constructing new facilities must execute a Water Service Agreement and a Sewer Service Agreement. These agreements were adopted by the City Council as a precondition to the provision of water and sewer service to other public agencies to ensure that such agencies comply with the regulatory standards. As such, a full and complete analysis by the District on how it intends to meet these regulatory obligations needs to be disclosed to the decision-maker through the final EIR. Additionally, there is also an open and fundamental question that has not been answered in the DEIR – capacity to serve the Project. To ensure capacity, the District needs to pay its fair share of the capital costs for the water and sewer utilities. As such, without an agreement pursuant to Government Code Sections 54999 et seq., the District cannot conclude that capacity to serve this Project is available.*

Response: Prior to construction, the District will complete an agreement that includes a fair-share contribution to the City of Merced to obtain potable water from the City's water supply as well as connection to the City's sewer system. Irrigation water will be provided by the Merced Irrigation District on a year-round basis. Sewage will be connected to a trunkline located on R Street. All on-site infrastructure improvements relative to the campus will be built by the District.

Comment 17: *<u>Sewer-Trunk Lines:</u> Project design, construction and operation needs to be consistent with the North Merced Sewer Master Plan. Sewage flow from the Project site is planned to use the "R" Street trunk-line. The northern extension of this line is located at the intersection of Barclay Road and Bellevue Road. The sewer lines from the high school need to connect to this line, not the "G" Street line, which serves properties to the south and west of "G" Street and Bellevue Road.*

The DEIR and Project improvement plans need to be modified to reflect this requirement.

Response: The DEIR has been changed to reflect the revision of "G" Street, to "R" Street trunk-line.

Comment 18: *A clarification of the number of alternatives sites and location of the alternative sites is needed. In the Executive Summary, under "Alternate Site," it refers to four (4) other sites, but Chapter 4 (Evaluation of Alternatives), page 4-7 limits the EIR analysis to only two (2) sites. Finally, Figures ES-2 and 2-2 shows one (1) alternative site, but this site is not discussed in Chapter 4 and appears to be a mapping error.*

For reasons state in our June 2nd, 2005 letter to the District (Attachment A), City Staff respectfully disagrees with the EIR's assessment of Alternative Site A.

Response: Although the District considered four alternate sites for the proposed project, only two of the sites were evaluated in the DEIR. Figures ES-2 and 2-2 will be revised to remove the reference to the alternate site.

Comment 19: *On page 5-1, in Section 5.1, the City points out that the DEIR states the City will be issuing a "building" permit. The City does not issue building permits for public school districts educational facilities. The City will be issuing the underlying land use entitlements for the project as discussed above.*

Please note that the District is required by law to comply with City ordinances that: (1) regulate drainage improvements and conditions; (2) regulate road improvements and conditions; and (3) require the review and approval of grading plans relating to the design and construction of onsite improvements which affect drainage, road conditions, or grading, as well as the design and construction of offsite improvements.

Response: Comment noted. Page 5-1 will be revised to remove the reference to the building permit.

Comment 20:

1. *Zone Change: On page 2-5, the line item "Rezoning" should be struck. The change in land use is properly handled through the General Plan Amendment (GPA) and Site Utilization Plan (SUP) review processes. For the same reasons, the last phrase in Section 2.4 concerning rezoning should be struck from the DEIR. Similarly, references to "rezone" in the following locations should be removed:*
   Page 3-70, under "Setting"
   Page 3-71, under Impact #3.9-1
   Page 7-73, under Mitigation Measure 3.9-1

2. *Fire Stations (Section 2.4): The BRMDP included 2 fire stations.*

Response: Comment noted. References to "Rezoning" will be removed from the DEIR.

Comment 21:

1. *PG ES-11: The City suggests a reevaluation of who would be the proper entity in charge of monitoring/reporting for Mitigation Measure #3.4-1a. Also see corresponding language on page 3-66;*
2. *PG ES-21: The City suggests that a determination be made as to whether or not the transmission lines and poles are placed in the City's right-of-way versus a separate utility easement;*
3. *PG 3-76: The City recommends that a discussion concerning the level of growth inducing effects of the school be disclosed in the DEIR;*

Response: Page ES-11 – the DEIR has been revised to include the District as an entity in charge of monitoring/reporting for Mitigation Measure # 3.4-1a. Page ES-21 – The transmission lines and poles will be placed in the City's right-of-way. Page 3-76 – As disclosed in the Initial Study for the project, construction and operation of a new high school in Merced will encourage growth and development in accordance with the City's General Plan and is not considered to represent a potentially significant growth-inducing effect.

Comment 22: *The District is aware of its legal responsibility and obligation to disclose all potentially adverse environmental effects posed by the Project through the decision-making process and the review of environmental documentation. The City respectfully requests that a comprehensive final EIR be prepared in such detail as to permit a full and complete disclosure and analysis of all project-specific and cumulative impacts of the Project on the environment, the neighboring community, and the City of Merced.*

Response: A comprehensive Final EIR analyzing all project and cumulative impacts of the Project on the environment has been prepared in accordance with CEQA Guidelines.

Comment 23: *The City would appreciate a written response to the issues and concerns raised in this letter, as well as receiving a copy of the Notice of Determination once filed.*

Response: The City shall receive written response to these comments in the FEIR and will receive a copy of the Notice of Determination when it is filed.

COMMENT LETTER 6
J.B. ANDERSON
Mark Niskanen, Senior Planner

Comment 1:

Chapter 2, Section 2.2

As noted in subsequent sections of the DEIR, the proposed Bellevue Road Area High School is part of the BRMDP, and as such, is subject to the Ordinances and Policies set forth under the BRMDP. However, it appears that this section of the DEIR entitled, "Project Description," fails to mention the improvements required as part of the proposed project in accordance with the BRMDP, and

specifically, Table 6.1, which depicts the backbone improvements required for each "Village." Because the proposed Bellevue Road Area High School is located within the BRMDP, it is expected that the MUHSD will install and/or pay a proportionate share towards the major backbone infrastructure improvements identified in Table 6.1, of which those improvements that benefit the MUHSD's ability to develop the proposed High School. Such improvements include, but are not limited to, Farmland Avenue and Barclay Way Fahrens Creek Bridge Crossings, G Street Improvements along Village 20 frontage, intersection improvements (i.e. widening and signalization) at G Street/Bellevue Road Intersection, G Street/Farmland Avenue Intersection, Bellevue Road/Barclay Way Intersection, and Barclay Way/Bellevue Road Intersection.

It is the position of Crosswinds that such improvements should be included in the "Project Description" of the Bellevue Road Area High School DEIR in accordance with Section 15124(c) of the CEQA Guidelines.

Response: The District will fulfill it's contractual and legal obligations associated with the Development Agreement of the Bellevue Ranch Master Development Plan and with funding the bridges over Fahrens Creek on Farmland Avenue and Barclay Road. The District will pay a proportionate share of bridge construction costs.

The project's relationship to the BRMDP is described and outlined in section 2.4 of Chapter Two – Project Location and Description and includes the language "The project area is located in the Bellevue Ranch Master Development Plan and is subject to the guidelines contained in the Development Plan, including design standards, project description, conditions of approval, mitigation measures, and development agreements." As such, the project is subject to the provisions outlined in Table 6.1 of the BRMDP.

Comment 2:

Figure 2-3 – Site Plan

Please refer to the comments provided to the MUHSD in the attached letter, dated August 2, 2006. In accordance with 15088 of the CEQA Guidelines, Crosswinds requests the MUHSD provide a response to these comments.

Response: The proposed project does not include construction of the bridges at Farmland and Barclay. Final design and layout of access points will occur when the bridges are built. MUHSD has proposed that the District will pay a proportionate share of bridge construction costs bases on a 24-hour contribution of traffic flows utilizing the bridges at full build-out of the BRMDP area.

Comment 3:

Chapter 2, Section 2.4

As stated in this section of the DEIR, "The Project Area is located in the Bellevue Ranch Master Development Plan and is subject to the guidelines contained in the Development Plan, including design standards, project description, conditions of approval, mitigation measures, and development

agreements." Crosswinds agrees with this statement, and as briefly noted above, would like to again emphasize that the MUHSD, by purchasing the Village 20 site, is a "Developer" of the BRMDP as defined by the approved and recorded BRMDP Development Agreement, and thus, is subject to the Ordinances and Policies set forth in the documents adopted by the City of Merced as part of the BRMDP.

In addition, it should be noted that as part of the recent SUP Revision Application submitted to the City of Merced on behalf of Crosswinds for the Project, City Staff has requested that Crosswinds post security or construct all or most of the required infrastructure in Bellevue Ranch East and West in accordance with Table 6.1 and the BRMDP Development Agreement as a condition to moving forward with Project development. At this time, Crosswinds and the City of Merced have not finalized their discussions with regards to this matter. However, because the MUHSD property is subject to the Ordinances and Policies set forth under the BRMDP, it would be expected that City Staff will conduct similar discussions with the MUHSD as the development of the proposed Bellevue Road Area High School may be considered an "out of sequence" development, and as such, require the MUHSD to provide "substantial evidence" that prior intervening infrastructure is not needed to accommodate the proposed High School and/or provide the necessary security for such intervening infrastructure.

Response: The District will fulfill it's contractual and legal obligations associated with intervening infrastructure requirements of the BRMDP.

Comment 4:

Chapter 3, Section 3.7 – Mitigation Measure No. 3.7-2

This Section of the DEIR states, "Due to the proximity of the Project Site to high voltage transmission lines, the impacts are potentially significant." As such, the DEIR proposes the following mitigation measure; "The 70kv transmission lines and poles located on the west side of G Street adjacent to the proposed project site will be located to the east side of G Street in the City of Merced's right of way." It is our understanding that prior to the issuance of building permits for the proposed project, this mitigation measure shall be completed. Crosswinds requests this timing language be inserted into the language of Mitigation Measure No. 3.7.2.

Response: According to the City of Merced, The City does not issue building permits for public school districts educational facilities. However, the City will be issuing the underlying land use entitlements for the project as discussed above. The power poles will be relocated 6 months prior to occupancy of the school.

Comment 5:

Chapter 3, Section 3.8 – Mitigation Measure No. 3.8-1

Because of the proposed High School's proximity to Yosemite Lake, flooding of the project site is identified as a significant impact, as noted under Impact No. 3.8-1 – Flooding of the Project Site. As such, the District is proposing Mitigation Measure No. 3.8-1 to raise the Project Site above flood

inundation levels. According to this mitigation measure, the District is proposing the raise the site approximately 3.5 feet.

Both the impact and mitigation measure suggested in this Section does not identify the potential impacts to the adjacent properties as a result of raising the site 3.5 feet. Therefore, Crosswinds requests the DEIR and Final EIR address the impacts to the adjacent residential development and street improvements. It may be helpful for the District's Engineer, and Crosswinds' Project Engineer, as well as the City of Merced Public Works Department, meet and resolve any potential issues associated with the proposed grading of the Project Site. In order to fully address any potential impacts to adjacent properties as a result of the proposed mitigation measure, such meeting should occur prior to the MUHSD certification of the Final EIR.

Response: Regarding flood impacts, the Yosemite Lake Dam Break Evaluation (August 2006) analyzed a catastrophic dam break and maximum flood volume and velocities of a flood wave as it moves downstream from the dam to the school site. The analysis assumed a raised pad to accommodate the proposed project. Adding the proposed school causes the flood water to slow down and go around the school improvements. In doing so, the level of flooding will slightly increase upstream of the school. However, the amount of water level increase would be very small given the small width of the school improvements versus the width of the flood area and would cause a less than significant impact.

Comment 6:

Chapter 3, Section 3.11 – Noise

(This comment is previously stated in our letter to the MUHSD, dated August 2, 2006, which is attached).

Response: Comment noted. Stadium noise impacts were analyzed in Section 3.11. Implementation of Mitigation Measure #3.11-3 will reduce the impact to a less than significant level.

Comment 7:

Chapter 3, Section 3.15 – Traffic/Circulation

Unless otherwise noted, the following comments are in regards to the Traffic/Circulation Section of the DEIR:

As noted previously, and based on our review of the BRMDP Development Agreement, with the purchase of the Project Site land from the Gragnani Family, the MUHSD assumed the title of, "Developer" of the BRMDP, and specifically, Village 20, and as such, is required to be a participant in the installation of, or proportionate share funding of the costs associated with improvements related to traffic and circulation. Of such improvements, most notable are the G Street Widening and Frontage Improvement, traffic signals, improvements to Farmland Avenue and Barclay Way, and a proportionate share towards the costs of installing the Barclay Way and Farmland Avenue Fahrens Creek Bridge Crossing.

Additionally, as noted on Page 3-77 of the DEIR, "…it was determined that the traffic analysis should investigate the operational characteristics of the following existing intersections on the streets serving the proposed project; 1) G Street/Farmland Avenue, 2) Farmland Avenue/Golf Road, 3) Bellevue Road/SR 59; 4) Bellevue Road/Barclay Avenue, 5) Bellevue Road/G Street, 6) G Street/Cardella Road, and 7) G Street/Yosemite Avenue. Based on the proposed High School's location to M and R Streets, why were the intersections of M Street/Bellevue Road, and R Street/Bellevue Road not included in the traffic analysis? We think it is fair to assume that residents within the Bellevue Ranch East and West Subdivisions may utilize both M Street and R Street to travel to and from the proposed High School. As such, those intersections should be included in the analysis.

Response: The District will fulfill it's contractual and legal obligations associated with the Development Agreement of the Bellevue Ranch Master Development Plan. The intersections to be addressed in the traffic study were identified in initial consultation with City staff based on the location of the school and the location of anticipated growth.

Comment 8:

Development Assumptions:

On Page 3-82 of the DEIR, the preparer states, "The most noteworthy ongoing development in the area of the School site is Bellevue Ranch. The approved Master Plan addresses the area west of G Street between Cardella Road and Bellevue Road. Other development is also occurring east of G Street." The preparer further notes in Table 3.15-3 that approximately 5,400 residences (single and multi-family) are expected in the School site area by the year 2010. According to our records, there are a total of ***480 single-family units*** *currently constructed within the BRMDP (south of Bellevue Road), which consists of the Bellevue Ranch East and West Subdivisions. Additionally, as you may know, Crosswinds is currently working with City Staff in the re-phasing of backbone infrastructure necessary to support development in the BRMDP (north of Bellevue Road) in what is now considered Phase 3. By year 2010, Crosswinds anticipates developing approximately* ***478 single-family units****. Even with the current build-out scenario and current market conditions, it is most likely infeasible to assume that within the School site area, 5,400 residences will be developed by the year 2010. As such, Crosswinds requests that the preparer of the DEIR re-discuss a realistic build-out scenario with both City Staff and the Crosswinds Project Team.*

Furthermore, based on the projection of 5,400 residences by the year 2010, the preparer also assumes that the associated infrastructure (i.e. traffic/circulation improvements) will be installed prior to the development of the proposed High School. Once again, it appears that the preparer may need to re-discuss the unit build-out and infrastructure assumptions utilized in this Section of the DEIR, as well as the suggested mitigation measures presented in Table 3.15-4.

Therefore, Crosswinds is of the position the Traffic/Circulation Section of the DEIR needs to be revised to include realistic development assumptions, which will result in revised impacts and/or mitigation measures that what is suggested in the DEIR. As such, the impacts and proposed mitigation measures

Response: All assumptions regarding the pace of residential development in Merced are speculative. As noted in the traffic study, the amount and location of Opening Day and Cumulative residential development assumed in the DEIR traffic study was identified by City of Merced Staff specifically for this traffic study.

Comment 9:

Appendix E – Traffic Impact Analysis

Additionally, the following comments have been provided based on a review of the Traffic Impact Analysis for Merced Union High School District's Bellevue Road Campus, prepared by KD Anderson & Associates, Inc., August 8, 2007 (Appendix E of the DEIR).

Page 13, Table 4 – Assumed Roadway Improvements:

This table does not address current and proposed improvements to "G" Street from Yosemite Avenue to Cardella Avenue. It suggests four (4) lanes for G Street, but does not present a configuration of those lanes proposed, which according to Table 6.1 of the BRMDP, is identified as three (3) lanes south, one (1) lane north. It also states that "R" Street will be constructed from Yosemite Blvd to Cardella. Currently, the City of Merced has retained a Consultant to review the biological issues and required process necessary to obtain applicable Federal and State Permits for the installation of R Street in this section. Crosswinds suggests the preparer of the above Traffic Study, as well as the DEIR, consult with City of Merced Staff, Woodside Homes, and the City's Biological Consultant to confirm the timing of this improvement. Based on our review of the timing of this improvement, it is unlikely R Street, between Yosemite Avenue and Cardella Road, will be completed prior to the development of the proposed High School. Similarly, Cardella Avenue, from "G" Street to "R" Street cannot be constructed at this time based on the above-mentioned biological constraints. Barclay Way, North of Bellevue Road, is currently constructed to the South Property line of the High School Site. Farmland Avneue is not constructed, East of "G" Street, but both the frontages of Barclay Way and Farmland Avenue would need to be constructed along the School District's frontage of their property. This includes the participation in the twenty-five (25) percent of each of the Bridge constructions over Fahrens Creek, for both Barclay Way and Farmland Avenue, as the Developer of that Project Site. Based on the above, Crosswinds suggests the preparers of the Traffic Study and DEIR re-analyze the development assumptions, both in the way of unit development by the 2010, and the improvements assumed to be constructed prior to the proposed high school being developed.

Response: All assumptions regarding the pace of residential development in Merced and the extent of associated circulation improvements are speculative. The extent of new roadways and intersection improvements that could reasonably be expected to be in place under Opening Day conditions was identified by City of Merced staff based on development trends anticipated at the time the report was prepared.

Comment 10:

Page 32, Table 11 – Bellevue High School Contribution to Barclay Avenue and Farmland Avenue Traffic:

Page 32 of the Traffic Study addresses the percentages of traffic contributed by the school with that of the estimated total traffic volumes. The assumption of restricting left turns from the School Site onto westbound Farmland Avenue, might be viable but a signal at the location may function as a better proposal for traffic turns. Right hand turns at the westerly exit onto Barclay way, may be more efficient for students and drivers to the school on exiting to the eventual developed area on the west side of Fahrens Creek. May I remind the Traffic Report preparer, that the School District as a "Developer" would participate with improvements to their frontage for each of the two bridges over Fahrens Creek at Barclay Way and Farmland Avenue. That participation based on the frontage amounts is 25% of each bridge. Thought might be taken to coordinate the driveway on the north side of the High School Project to be located with the street intersection of the Village to the North on the Bellevue Ranch Project.

Response: The District will fulfill it's contractual and legal obligations associated with the Development Agreement of the Bellevue Ranch Master Development Plan and with funding the bridges over Fahrens Creek on Farmland Avenue and Barclay Road. The District will pay a proportionate share of bridge construction costs.

Comment 11:

Page 37, Summary of Design / Mitigation Requirements – Participation in Local Off-site Improvements:

The MUHSD is proposing to participate in the two (2) bridges crossing Fahrens Creek at the twenty-four (24) hour contribution of traffic flows utilizing the bridges at full build-out of the BRMDP area. This percentage is estimated at 10%. May we continue to remind the Districts Representatives, that MUHSD Staff is forgetting that since the purchase of the High School Site, they have taken on a new designation as "Developer" in accordance with the BRMDP Development Agreement. With that designation, the MUHSD also assumes the responsibility to install frontage improvements along their project frontage, no matter what the percentage of participation in traffic flows are determined to be. Based on this assumption, the twenty four (25) percent of each of the Bridge Structures will be the cost borne as part of the High School's improvements.

Response: The District will fulfill it's contractual and legal obligations associated with the Development Agreement of the Bellevue Ranch Master Development Plan and with funding the bridges over Fahrens Creek on Farmland Avenue and Barclay Road. The District will pay a proportionate share of bridge construction costs.

Comment 12: *On behalf of Crosswinds, we look forward to receiving and reviewing the MUHSD response to the above comments, as well as the Bellevue Road Area High School Final EIR, in the near future. Additionally, we respectfully request to be officially notified and provided copies of any documents and/or public notices relating to the proposed Bellevue Road Area High School.*

Response: Comment noted. Crosswinds will be provided copies of any documents and public notices relating to the project.

COMMENT LETTER 7
PACIFIC GAS AND ELECTRIC
Andrew Smith, Senior Land Planner

Comment 1: *Pacific Gas and Electric Company (PG&E) appreciates the opportunity to submit comments on the Draft Environmental Impact Report (DEIR) for the proposed Bellevue Road Area High School (Project). While PG&E is committed to working with the District and the City of Merced to continue to provide safe, reliable electricity to the Merced area, we have concerns about the potential impacts of the proposed to relocate PG&E's transmission line to the opposite side of the street.*

As a mitigation measure for locating the school at this site, the DEIR proposes that the District relocate PG&E's existing Merced-Merced Falls 70 kV Power Line to the east side of "G" Street, within the City of Merced's right-of-way. "G" Street is also being widened to accommodate the school project.

Normally as part of a road-widening project, PG&E would move its poles out to the edge of the new roadway – on the same side of the street. Here, however, the DEIR is requiring the District to relocate the power line to the opposite side of the street. PG&E has briefly viewed the site, and is concerned about two issues.

First, relocating the power line to the east side of the street will likely require the removal of mature trees and other vegetation. Second, relocation to the opposite side of the street may be difficult due to an existing drainage ditch along the east side of the street. These issues have not been addressed in the DEIR.

PG&E requests that the DEIR include the relocation of this power line as part of the project description and address the relocation from all aspects of CEQA review, so that local property owners affected by this relocation have adequate notice and can participate fully in the process. This review would include, for example, the potential visual impacts of removing mature trees, as well as the potential utility and health and safety impacts of conflicts between the utility line and the drainage ditch. The DEIR should be re-circulated to allow public notice and participation in the decision to relocate the line.

Moreover, if PG&E's power line must be relocated to the east side of the street, the DEIR should require the District to take responsibility for clearing the new power line route of trees, vegetation and any other obstacles so that PG&E can proceed with the relocation. The District should also be responsible for any mitigation measures imposed as a result of the impacts analysis for the relocation. For example, the District should be responsible for installing new landscaping to mitigate for the removal of mature trees.

Response: The District will be responsible for the cost of removing any existing trees that conflict with relocating the power lines and other incremental costs of relocating the power poles which might include culverts at the pole locations to avoid obstructing drainage and provide a surface for repair crews to stand on when working on the poles and engineered poles to avoid conflict of guy wires with existing development on adjacent property.

Comment 2: *As a final matter, because the siting and design of transmission line facilities are under the sole jurisdiction of the California Public Utilities Commission (CPUC), the CPUC should be listed as a responsible agency. (See Chapter Two – Project Location and Description, page 2-5, listing of responsible agencies.)*

Response: Page 2-5 of the DEIR will be revised to include California Public Utilities Commission as a responsible agency.

SECTION FOUR

CLARIFICATIONS TO THE DRAFT EIR

SECTION FOUR – CLARIFICATIONS TO THE DRAFT EIR

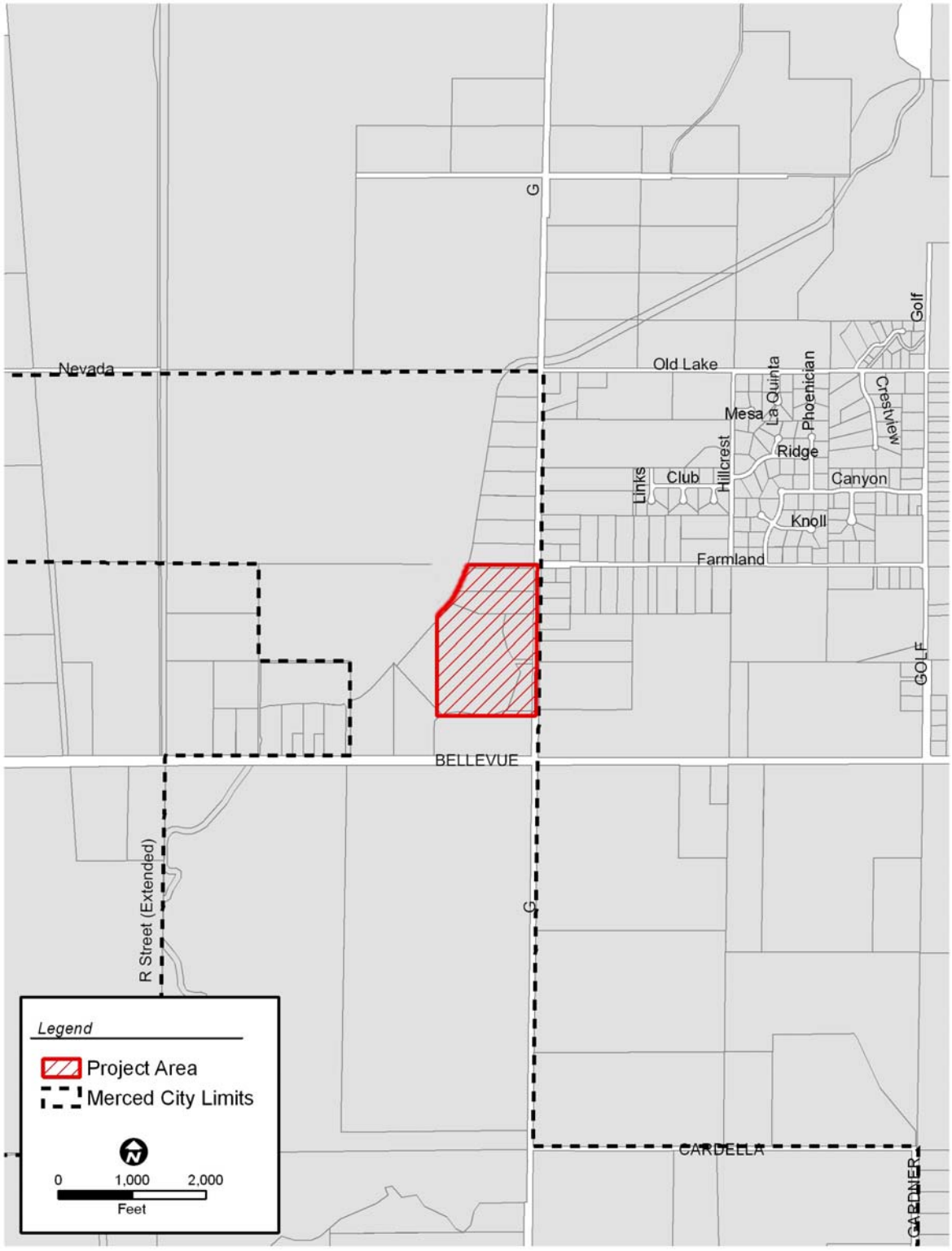
Introduction

According to the CEQA Guidelines, Section 15132, a Final EIR must contain the Draft EIR or a revision of the Draft EIR. For this Final EIR, revisions have been made to various sections of the Draft EIR. The following pages of this Chapter include excerpted pages from the Draft EIR that have been revised based upon public comment.

The location of the sections in the Final EIR as compared to the Draft EIR is shown below.

Discussion Area	Draft EIR Page	Final EIR Page
Project Description	ES-3	4-2
Table ES-1	ES-11	4-3
Table ES-1	ES-21	4-4
Table ES-1	ES-22	4-5
Table ES-1	ES-24	4-6
Project Background and Location	2-3	4-7
Regulatory Context	2-6	4-8
Land Use and Planning	3-70	4-9
Land Use and Planning	3-71	4-10
Land Use and Planning	3-73	4-11
Traffic/Circulation	3-83	4-12
The Program	5-1	4-13
Transportation/Traffic	6-13	4-14 – 4-15
Transportation/Traffic	6-14	4-16
Transportation/Traffic	6-15	4-17

Following this Introduction, there are several errata pages, excerpted from the Draft EIR and revised. Two page numbers are listed at the bottom of each page. The upper number identifies the location of the discussion in the Draft EIR, and the lower number indicates the location in this Final EIR.



Quad Knopf

VICINITY MAP

Figure ES - 2

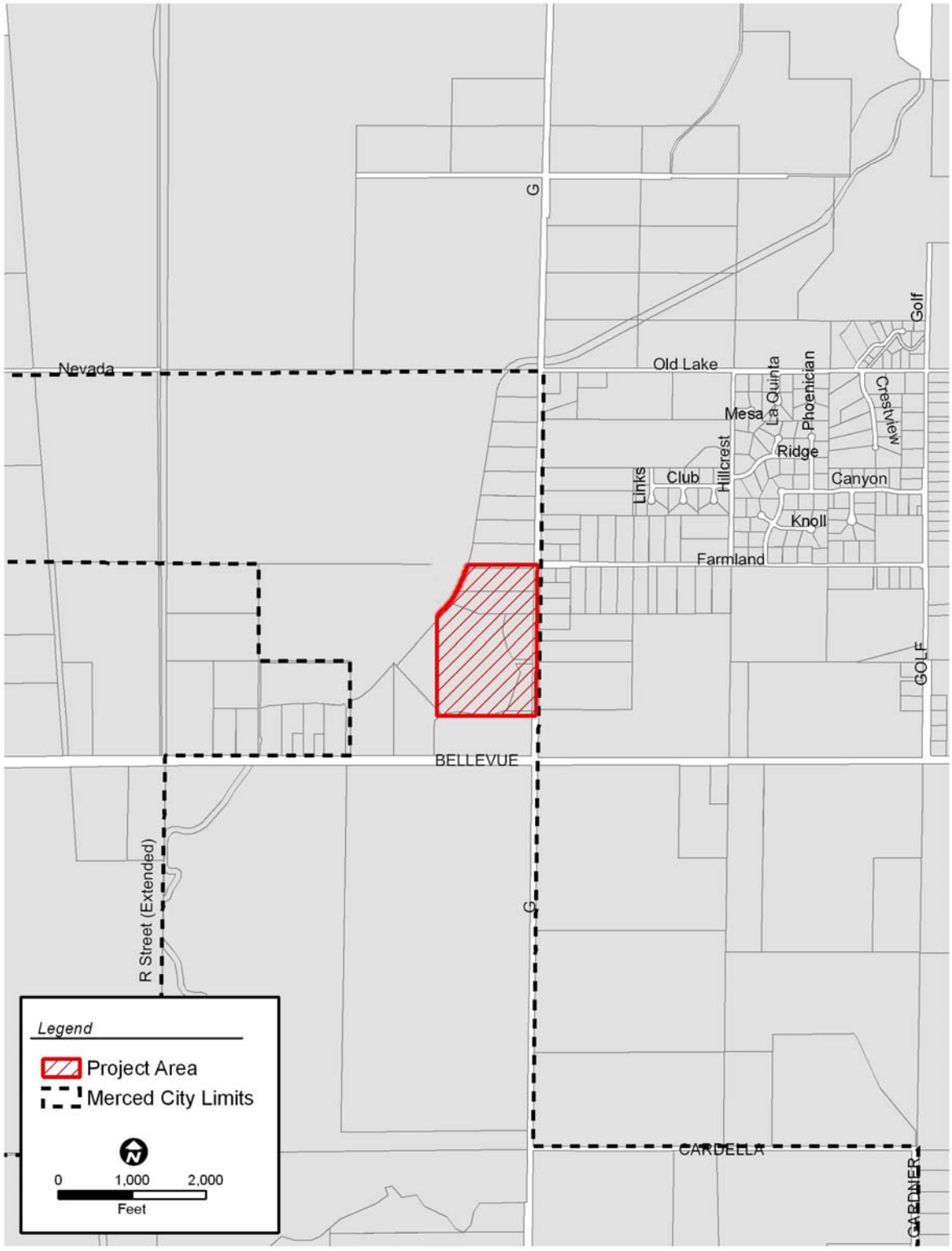
Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	transportation allowance equivalent to the value of subsidized parking). ▪ Provide showers and lockers for employees bicycling or walking to work.			
Impact #3.4-1a - Development Of The Project Would Have A Potentially Significant Adverse Impact On Nesting Raptors.	**Mitigation Measure #3.4-1a:** If construction would commence between March 1 and September 1, surveys should be conducted 30 days prior to construction of the project. The raptor nesting surveys shall include examination of all trees and shrubs within the area of influence of the proposed project. For the purposes of this document, the "area of influence" is within 1,000 feet of the project site. If nesting raptors are identified during the surveys on the project site, the dripline of the nest tree or shrub must be fenced with orange construction fencing and a 300-foot radius buffer around the nest tree or shrub must be fenced with bright orange construction fencing. This 300-foot buffer may be reduced in size if a qualified raptor biologist determines through monitoring that the nesting raptors are acclimated to people and disturbance, and otherwise would not be adversely affected by construction activities. At a minimum, however, the non-disturbance buffer shall be a radius of 100 feet around the nest tree or shrub. If the nest site is on an adjacent property, the portion of the buffer that occurs on the project site shall be fenced with orange construction fencing. When construction buffers are reduced in size, the raptor biologist shall monitor distress levels of the nesting birds while the birds nest and construction persists. If at any time the nesting raptors show levels of distress that could cause	District/Construction Contractor	Monitoring shall be the responsibility of the District and California Department of Fish and Game.	Prior to issuance of building permits and ongoing enforcement during construction.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	constitute a significant adverse impact pursuant to the CEQA. However, if Swainson's hawks nest on or within the area of influence of the project site (within 1,000 feet of the project site), impacts to nesting Swainson's hawks would be regarded as significant and adverse, and mitigation compensation would be required. Mitigation required would include a 1:1 impact to replacement ratio (58 acres of mitigation land) for all project disturbed habitat. ~~The CDFG Mitigation Guidelines states that acceptable mitigation to offset impacts to Swainson's hawk foraging habitat can be met by Fee Title acquisition of Swainson's hawk habitat, or by acquisition of the right to record a conservation easement over lands that can be managed for this hawk species (hereinafter Habitat Management Lands). Any land acquired through Fee Title would have to be donated to a suitable conservation organization for management. In addition to providing Habitat Management Lands, the applicant would be assessed a management fee for the long-term management of the Habitat Management Lands by a suitable conservation organization.~~ Implementation of the above mitigation measures would reduce impacts to Swainson's hawk to a level considered *less than significant.*			
Impact #3.4-1c - Development Of The Project Would Have A Potentially Significant Adverse Effect On The Western Burrowing Owl.	**Mitigation Measure #3.4-1c - Mitigation for Western Burrowing Owl:** Mitigation Measure A. A nesting survey shall be conducted for ground nesting raptors, such as western burrowing owl and northern harrier. The survey should be conducted in accordance with	District/Construction Contractor	Monitoring shall be the responsibility of the California Department of Fish and Game.	Prior to issuance of building permits and ongoing enforcement during construction.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
Impact # 3.7-1 - Presence of Toxic and Hazardous Substances.	**Mitigation Measure #3.7-1:** ~~The District will complete a PEA form for submittal to the DTSC for evaluation. Should the PEA report determine the Project Site contains residue of organo-chlorine pesticides or other hazardous materials; the District is required to follow DTSC cleanup guidelines and implement the last step of the DTSC Three-Step Process, the Response Action, described below:~~ ▪ ~~The District shall amend the existing Environmental Oversight Agreement (EOA) to a Voluntary Cleanup Agreement (VCA), or School Cleanup Agreement (SCA).~~ ▪ ~~The District shall then be required to conduct a Supplemental Site Investigation, Removal Action Work Plan, Remedial Investigation, Feasibility Study or Remedial Action Plan following DTSC guidelines.~~ None are necessary. DTSC approved the PEA in September 2007	~~District~~N/A	~~District~~N/A	~~Prior to issuance of building permits.~~N/A
Impact # 3.7-2 - Proximity to High-Voltage Transmission Line.	**Mitigation Measure # 3.7-2:** The 70 kV transmission lines and poles located on the west side of G Street adjacent to the proposed project site will be relocated to the east side of G Street in the City of Merced's right-of-way. The District will be responsible for the cost of removing any existing trees that conflict with relocating the power lines and other incremental costs of relocating the power poles which might include culverts at the pole locations to avoid obstructing drainage and provide a surface for repair crews to stand on when working on the poles and engineered poles to avoid conflict of guy wires with existing development on adjacent property.	PG&E	District	~~Prior to issuance of building permits.~~Prior to issuance of Notice to Proceed by MUHSD.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
Impact # 3.7-3 – Transport and Storage of Hazardous Substances.	**Mitigation Measures:** None are needed.			
Impact #3.8-1 – Flooding of the project site.	**Mitigation Measure #3.8-1:** The elevation of the Project Site will be increased using fill to reduce the potential of site flooding. The amount of fill required and other site-specific requirements that will be implemented are provided in the Yosemite Lake Dam Failure Analysis (Appendix G). The Project site will be graded and raised approximately 3.5 feet to meet flood inundation levels. The building foundation pads and campus quad area will be elevated 1.5 feet above the inundation elevations. A licensed surveyor shall be retained to adjust the elevations reported to 1988 NAVD (*North American Vertical Datum* of 1988) and verify elevations and fill height.	District	District	Prior to issuance of building permits and during construction.
Impact #3.9-1 – Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.	**Mitigation Measure #3.9-1:** The MUHSD will apply for approval for a General Plan Amendment, a Site Utilization Plan (SUP) Revision~~, a Rezoning~~ and encroachment permits for any work done in the rights-of-way (road work).	District	District	Prior to issuance of building permits.
Impact #3.11-1 - Traffic Noise.	**Mitigation Measures:** None are required.			
Impact #3.11-2 - Construction Noise.	**Mitigation Measures #3.11-2:** The operation of noise producing equipment used during construction shall be restricted to the hours from 7:00 a.m. to 7:00 pm., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturday and	Construction contractor/ inspector for the project	The construction contractor/inspector shall insure that work is done during non-restricted hours and mufflers are	Ongoing during construction.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	Participation in local offsite improvements. Regarding construction of the bridges on Farmland and Barclay, MUHSD has proposed that the District will pay a proportionate share of bridge construction costs ~~based on a 24-hour contribution of traffic flows utilizing the bridges at full build-out of the BRMDP area~~. ~~The "school's 24-hour contribution of traffic flows is estimated to be 10%.~~ **State Highway Improvements.** ~~There is currently no adopted mitigation fee mechanism developed by the City of Merced for SR59 improvement participation.~~Fair share contributions to SR 59 improvements will be paid through PFFP fees, Regional Transportation fees, and Traffic Mitigation fees as applicable.			



Quad Knopf	VICINITY MAP	Figure 2 - 2

The San Joaquin Valley Air Pollution Control District (SJVAPCD) has the authority to issue Authority to Construct, Authority to Operate and permits to operate internal combustion engines.

The California Department of Toxic Substances Control (DTSC) approves the final draft Preliminary Endangerment Assessments.

The California Public Utilities Commission has jurisdiction over siting and design of transmission lines.

2.1 Relationship to Plans, Ordinances and Approvals

The project area is located in the Bellevue Ranch Master Development Plan and is subject to the guidelines contained in the Development Plan, including design standards, project description, conditions of approval, mitigation measures, and development agreements. The 1,365-acre Bellevue Ranch Master Development Plan is the first project being proposed to implement the Merced Villages Concept Plan and Design Guideline (Concept Plan).

The Concept Plan calls for growth to occur in "villages" which are self-sufficient, pedestrian-oriented, mixed-use communities that provide the opportunity for people to live, work, go to school, shop and gather all within the village.

Public facility land use of the Bellevue Ranch Master Development Plan include: two elementary school sites (19.9 total acres), one high school site (40.0 total acres) and one fire station (1.6 acres).

The District is applying for a General Plan Amendment to change the Project area's status from "Low Density Residential" to "School". The City of Merced is also requiring the school district to apply for a Site Utilization Plan (SUP) Revision and rezoning the site to "school."

Table 2-1 depicts the necessary permits, approvals and environmental requirements.

2.5 Uses of the EIR/Required Agency Actions and Permits

This EIR will be the basic environmental review document for discretionary land use permits that are required by the construction of this project. This EIR may also be used for approvals by other agencies. Anticipated permits and approvals that are needed for construction are shown in Table 2-1.

Agencies using this EIR in their decision making process will include the City of Merced California Department of Education, California Department of Transportation, California Regional Water quality Control Board, and California Department of Fish and Game. In addition, the San Joaquin Valley Air Pollution Control District and California Department of Toxic Substances Control reviews the EIR and issues approvals or permits as described in Table 2-1.

Mitigation Measure #3.8-1: The elevation of the Project Site will be increased using fill to reduce the potential of site flooding. The amount of fill required and other site-specific requirements that will be implemented are provided in the Yosemite Lake Dam Failure Analysis (Appendix G). The Project site will be graded and raised approximately 3.5 feet to meet flood inundation levels. The building foundation pads and campus quad area will be elevated 1.5 feet above the inundation elevations. A licensed surveyor shall be retained to adjust the elevations reported to 1988 NAVD (*North American Vertical Datum* of 1988) and verify elevations and fill height.

Effectiveness of Mitigation Measure: Implementation of this mitigation measure will reduce the potential of flooding to a level that ***is less than significant***.

3.9 Land Use and Planning

INTRODUCTION

The Initial Study (reference Appendix A) concluded that the proposed project would have no environmental impact from dividing an established community or conflicting with any applicable habitat conservation plan or natural community conservation plan. It also concluded that the proposed project would have a less than significant environmental impact form conflicting with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, these issues were not going to be discussed any further in subsequent environmental studies, such as the Draft EIR.

The City has indicated that the Merced Vision 2015 General Plan shows this proposed new high school within the boundaries of the "Bellevue Ranch Master Development Plan" (BRMDP), which was adopted by the City in June, 1995. The BRMDP includes policies and a development plan designed to regulate development within the entire 1,356 acres of property in the BRMDP. This development plan shows a 43-acre high school site along with a variety of residential, light commercial and public service uses.

Other policies in the General Plan address the importance of schools for the education of the city's youth, the provision of additional passive public open space, and other inherent consequential benefits to the community that would be provided with the addition of a new school.

SETTING

The proposed new high school site is in an area designated "standard single-family" residential development. According to City Planning staff, it has been long standing City policy that the Development Plan approved at the time of adoption of each P-D (Planned Development) zone also provides the specific zoning designation(s) within each P-D zone. In other words, any development within a P-D zone has to conform to its approved plan. Therefore, for this project to proceed, the City Council will need to adopt the final version of this DEIR and the district will need to apply to the City for a ~~General Plan Amendment,~~ Site Utilization Plan (SUP) Revision. The District applied for a General Plan Amendment in July 2007.~~, and Rezoning~~. In addition, encroachment permits will need to be obtained from the City for any work done in the rights-of-way (road work). Refer to Appendix A for letters from the City.

Section 2.8 of the BRMDP states that "the adopted City of Merced ordinances shall be utilized to address densities, intensities, setbacks and heights while the Merced Village Design Guidelines shall be utilized for more detail on architectural features and design. The underlying zoning standards of the City of Merced ordinances consistent with each land use shall apply unless exempted by this section." Section 7 of the BRMDP analyzes and confirms the BRMDP's consistency with the Merced General Plan, the Zoning Ordinance and Standards of the City of Merced and the Merced Villages Conceptual Land Use Plan Design Guidelines, locating the high school at this site will not interfere with the consistency of the BRMDP with these documents.

IMPACT EVALUATION CRITERIA

Threshold of Significance are defined in Appendix G of the *CEQA Guidelines.*

Would the Project:

a) Physically divide an established community?

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

The Initial Study determined that, of these impacts, only b) was potentially significant in relation to this project.

Impact #3.9-1 – Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect: As stated in the Regulatory Setting section of this chapter, the Project Site is within the Bellevue Ranch Master Development Plan (BRMDP), adopted by the City in June 1995. The BRMDP includes policies and a development plan designed to regulate development within the entire 1,356 acres of property in the BRMDP. The development plan shows a 43-acre high school site on the northeast corner of Cardella Road and M Street (see Figure 3.9-1).

The proposed project is a high school on a 58-acre site located on the west side of G Street between Farmland Road and Bellevue Road. Because the high school site proposed by this project is larger than the one shown in the Bellevue Ranch Master Development Plan, and in a location shown on that plan as being for standard single family homes (see Figure 3.9-1), the City Council will need to adopt the final version of this DEIR and the District will need to apply to the City for ~~a General Plan Amendment,~~ Site Utilization Plan (SUP) Revision. The District applied for a General Plan Amendment in July 2007.~~, and Rezoning~~.

Conclusion: The mitigation measure below will reduce any potential impacts to existing land use plans, policies, and regulations of the City of Merced to less than significant.

Impact #3.15-1 - Increase in Traffic. Operation of the proposed Project will increase traffic volumes on various roadways in the Project vicinity.

Mitigation Measure #3.15-1: Traffic mitigation measures are outlined in Table 3.15-4. In addition to the District's improvements, additional roadway infrastructure will be necessary as the Bellevue Ranch Master Development Phasing Plan progresses. The District will pay it's approximately $1.53 million in local transportation impact fees and regional transportation impact fees. Traffic impact fees were calculated using the city's Institutional Land Use impact fee schedule ($6,174 per 1,000 sq. ft. of building space) and the Regional Transportation impact fee schedule ($1,900 per 1,000 sq. ft. of building space) for a total of $8,074 per 1,000 sq. ft. The proposed project includes approximately 190,000 sq. ft. for a total impact fee of $1,534,060.

Participation in local offsite improvements. Regarding construction of the bridges on Farmland and Barclay, MUHSD has proposed that the District will pay a proportionate share of bridge construction costs based on a 24-hour contribution of traffic flows utilizing the bridges at full build-out of the BRMDP area. ~~The school's 24-hour contribution of traffic flows is estimated to be 10%.~~

State Highway Improvements. ~~There is currently no adopted mitigation fee mechanism developed by the City of Merced for SR59 improvement participation.~~Fair share contributions to SR 59 improvements will be paid through PFFP fees, Regional Transportation fees, and Traffic Mitigation fees as applicable.

Effectiveness of Mitigation Measure: These measures will reduce short-term impacts to a ***less than significant*** level for all the roads and intersections discussed above. Additional mitigations necessary to fully mitigate Master Plan and General Plan buildout will be provided through development impact fees and implemented by the City on as-needed basis.

Implementation/Monitoring: Implementation and monitoring shall be performed by MUHSD and Caltrans.

3.16 Utilities and Service Systems

INTRODUCTION

The Initial Study concluded that the proposed project would have no impact to the following: exceed wastewater treatment requirements of the applicable RWQCB; require or result in the construction of new water or wastewater treatment facilities, the construction of which could cause significant environmental effects; require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed; result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs; and comply with federal, state, and local statutes and regulations related to solid waste.

CHAPTER FIVE – MITIGATION MONITORING AND REPORTING PROGRAM

Introduction

State and local agencies are required by Section 21081.6 of the California Public Resources Code to establish a mitigation monitoring and reporting program for all projects which are approved and which require CEQA processing.

Local agencies are given broad latitude in developing programs to meet the requirements of Public Resources Code Section 21081.6. The mitigation monitoring program outlined in this document is based upon guidance issued by the Governor's Office of Planning and Research.

In this instance, mitigation of the potentially significant environmental impacts attributable to the project and to project-permitted growth will be accomplished by the City in accordance with their construction plan review and site inspection activities.

The mitigation monitoring and reporting program for the proposed project corresponds to mitigation measures outlined in the project EIR. The program summarizes the environmental issues identified in the EIR, the mitigation measures required to reduce each potentially significant impact to less than significant, and the agency or agencies responsible for monitoring and reporting on the implementation of the mitigation measures. The time span or period of mitigated measure performance is also provided.

The environmental impacts of this project, such as loss of prime farm land, air quality, noise, and traffic congestion may not be mitigated to a level less than *potentially significant* even when the recommended mitigation measures are applied. There is no further discussion in this chapter of impacts that can not be addressed with mitigation measures, such as the loss of prime farmland. These impacts are fully discussed in Chapter 3 of this EIR.

5.1 The Program

Construction and operation of the Belleview High School will require approval by the City of Merced ~~through the acquisition of a building permit~~for land use entitlements, approval by the California Regional Water Quality Control Board; and an Authority to Construct permit from the San Joaquin Valley Air Pollution Control District. The mitigation measures contained herein shall be included as conditions of approval for each of these permits, to the extent permitted by law. The City of Merced shall ensure that all construction plans and project operations conform to the conditions of the mitigated project. Table 5-1 shall be attached to all permits as a condition of approval.

CEQA Guidelines (15097(c)(1)) state that: The public agency may choose whether its program will monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. "Monitoring" is generally an ongoing or periodic process of project oversight.

public facilities. This represents a ***significant cumulative increase*** in population and housing, which is ***unavoidable and unmitigatable***.

PUBLIC SERVICES

The Initial Study concluded that the proposed project would have less than significant impacts on fire and police protection, school capacity, parkland and other public facilities. Police and fire protection services will be provided by the City of Merced. One of the approved, proposed projects, the Belleview Ranch project, includes the construction of a new fire station. Payment of development impact fees and City property taxes will contribute to expansion of police and fire protection services for the vicinity. These measures will mitigate cumulative impacts to a level that is ***less than significant***.

RECREATION

There will be a cumulative significant increase in the need for recreational facilities in the vicinity of the project. The Merced High School District has made its school campuses available to the community for recreational use, thus the project will help reduce the cumulative need for recreational facilities. Additionally, the Belleview Ranch project, one of the approved, pending projects, incorporates additional schools, parks, and other open space elements. These facilities will reduce the cumulative recreational impacts to ***less than significant***.

TRANSPORTATION/TRAFFIC

Cumulative impacts of the project were evaluated in the year 2030 plus project scenario in the traffic study for rural segments and intersection. Table 10, of Appendix E, summarizes the impacts to the following intersections:

- G Street/Farmland Avenue
- Golf Road/Farmland Avenue
- SR 59/Bellevue Road
- Bellevue Road/Barclay Road
- Bellevue Road/G Street
- G Street/Cardelle Road
- G Street/Yosemite Road

As shown in Table 10 with the implications of planned regional improvements, long term traffic conditions in the study area will operate within the City of Merced's LOS D minimum at all study locations with and without the proposed high school.

Cumulative conditions were also evaluated at the site access intersections and at the G Street/ Bellevue Road intersection assuming the peak traffic characteristics associated with high schools. The text which follows describes resulting conditions.

~~**G Street / Farmland Avenue intersection.** Assuming the cumulative geometry described earlier, this intersection will operate at LOS F. This is a ***significant*** impact. To provide "below~~

G Street / Farmland Avenue intersection. Assuming the cumulative geometry described earlier and the improvements prescribed for short term conditions, this intersection will operate "below capacity" during the peak minutes before the school day begins. However, the queue in the single northbound turn lane would be very long (i.e., 34 vehicles or 850 feet). Widening G Street to provide a dual left turn lane into the site or lengthening the planned northbound turn lane to provide this storage is recommended, although not required to meet the City's minimum LOS standard.

Bellevue Road / Barclay Avenue intersection. This intersection would operate at "below capacity" conditions during the peak period before the school day begins. However, the queue in the single eastbound left turn lane would be very long (i.e., 37 vehicles or 925 feet). Widening Bellevue Road to provide a dual left turn lane into the site or lengthening the planned eastbound turn lane to provide this storage is recommended, although not required to meet the City's minimum LOS standard.

To provide "above capacity" conditions the following improvements would be needed at the Bellevue Road / Barclay Avenue intersection:

1. Provide a three lane southbound approach on Barclay Avenue, and configure this approach with a separate left turn, a combination left + through lane and a separate right turn lane;
2. Widen Bellevue Road to create a second eastbound left turn lane into the site.

This level of improvement would deliver LOS E during the peak period. These improvements are recommended but are not required to meet the City's minimum LOS standard.

G Street / Bellevue Road. This intersection would operate "below capacity" during the peak period before school. No additional improvements beyond those already contemplated by the City are needed.

capacity" conditions at the G Street / Farmland Avenue intersection the following improvements would be needed:

1.Construct a three lane eastbound approach with separate left turn, through and right turn lanes, and "overlap" the right turn with the northbound left turn.

This level of improvement would deliver LOS D during the peak period. However, the queue in the single northbound turn lane would be very long (i.e., 40 vehicles or 1,000 feet). Widening G Street to provide a dual left turn lane into the site would be recommended. Although not required to meet the City's minimum LOS standard.

Bellevue Road / Barclay Avenue intersection. This intersection would operate at LOS F during the peak period before the school day begins. This is a ***significant*** impact. To provide "below capacity" conditions the following improvements would be needed at the Bellevue Road/ Barclay Avenue intersection:

1.Create a "free" westbound right turn lane onto northbound Barclay Avenue that was not controlled by the signal;

2.Provide a three lane southbound approach on Barclay avenue, and configure this approach with a separate left turn, a combination left + through lane and a separate right turn lane;

3.Widen Bellevue Road to create a second eastbound left turn lane into the site.

This level of improvement would deliver LOS E during the peak period. These improvements are recommended but are not required to meet the City's minimum LOS standard.

G Street / Bellevue Road. This intersection would operate at LOS F during the peak period before school. This is a ***significant*** impact. To deliver "below capacity" conditions the following additional improvements are needed:

1.Construct separate right turn lanes on the Bellevue Road approaches.

This level of improvement would yield LOS E during the peak period.

However, as with the G Street/Farmland Avenue intersection, a very long queue would develop in the northbound left turn lane. Dual left turn lanes on the northbound approach would be recommended.

Certain improvements specified above are included in the funding programs for the citywide traffic impact fee and the Bellevue Ranch Master Development Plan mitigation fee program. These programs and the construction of the related improvements are outside of the legal ability of the district to perform. Several of the mitigations are within the District's legal, fiscal and technical ability, including the following:

1.Left turn from Bellevue onto Barkley

~~2.Create acceleration/deceleration lane on Barkley~~
~~3.Create right lane from Barkley onto Bellevue~~
~~4.Extended 1,300 foot through lane on G~~
~~5.Added right turn lane from Farmland onto G~~
~~6.Right in and right out from site to G~~

~~Where these facilities are provided off-site, the District will pay the City for such improvements.~~

Traffic mitigation for the Project are outlined in Table 3.15-4.

Effectiveness of Mitigation: These measures will reduce short-term impacts to a ***less than significant*** level of all the roads and intersections discussed above. Additional mitigations necessary to fully mitigate Master Plan and General Plan buildout will be provided through development impact fees and implemented by the City on as-needed basis.

UTILITIES

The proposed project would not contribute to significant impacts to utilities and service systems. However, the project and other approved pending projects will cumulatively and significantly impact utilities and service systems. Expansion of those systems will be required to accommodate the expected growth envisioned for the area. These issues have been adequately evaluated and addressed in the Belleview Ranch EIR and the City of Merced EIR. Cumulative impacts to utility systems are ***cumulatively significant, unavoidable***, but will be mitigated by the planned expansion of the utility systems.

SECTION FIVE

MITIGATION REPORTING/MONITORING PROGRAM

SECTION FIVE – MITIGATION MONITORING AND REPORTING PROGRAM

Introduction

State and local agencies are required by Section 21081.6 of the California Public Resources Code to establish a mitigation monitoring and reporting program for all projects which are approved and which require CEQA processing.

Local agencies are given broad latitude in developing programs to meet the requirements of Public Resources Code Section 21081.6. The mitigation monitoring program outlined in this document is based upon guidance issued by the Governor's Office of Planning and Research.

In this instance, mitigation of the potentially significant environmental impacts attributable to the project and to project-permitted growth will be accomplished by the City in accordance with their construction plan review and site inspection activities.

The mitigation monitoring and reporting program for the proposed project corresponds to mitigation measures outlined in the project EIR. The program summarizes the environmental issues identified in the EIR, the mitigation measures required to reduce each potentially significant impact to less than significant, and the agency or agencies responsible for monitoring and reporting on the implementation of the mitigation measures. The time span or period of mitigated measure performance is also provided.

The environmental impacts of this project, such as loss of prime farm land, air quality, noise, and traffic congestion may not be mitigated to a level less than *potentially significant* even when the recommended mitigation measures are applied. There is no further discussion in this chapter of impacts that can not be addressed with mitigation measures, such as the loss of prime farmland. These impacts are fully discussed in Chapter 3 of this EIR.

5.1 The Program

Construction and operation of the Bellevue High School will require approval by the City of Merced through the issuance of land use entitlements, approval by the California Regional Water Quality Control Board; and an Authority to Construct permit from the San Joaquin Valley Air Pollution Control District. The mitigation measures contained herein shall be included as conditions of approval for each of these permits, to the extent permitted by law. The City of Merced shall ensure that all construction plans and project operations conform to the conditions of the mitigated project. Table 5-1 shall be attached to all permits as a condition of approval.

CEQA Guidelines (15097(c)(1)) state that: The public agency may choose whether its program will monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. "Monitoring" is generally an ongoing or periodic process of project oversight.

Table 5-1
Mitigation Monitoring and Reporting Program

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
Impact #3.1-1 - Create a new source of substantial light or glare which would adversely affect day or night time views in the area.	**Mitigation Measure #3.1-1:** Lighting will be designed to avoid direct lighting of off-site areas and to reduce associated glare to surrounding areas. A lighting plan will be developed by a registered illumination engineer, which demonstrates that the resultant lighting levels conform to the following standards: ▪ Off site lighting and glare will be limited to no more than 0.5 foot-candle illumination (0.5 lumen per square foot). Lighting on-site shall be limited to no more than 7 footcandle illumination, except directly within the stadium and athletic fields. ▪ All lighting fixtures on the perimeter of the project shall be outfitted with hoods and cut-off lenses so that the light source itself is not visible to the naked eye from neighboring properties or to drivers or pedestrians from neighboring streets. The developer shall submit a lighting plan, which demonstrates that the resultant lighting levels conform to this standard before issuance of a Building Use Permit. ▪ All yard, security and canopy lighting in excess of 150 watts shall be hooded or shielded so that it is not visible to the naked eye form adjacent properties.	Project architect/engineer	This measure shall be included in the District's construction plans and specifications. Monitoring shall be accomplished by the District by review of these documents prior to construction and site inspection following construction.	Prior to issuance of building permits for lighting and prior to occupancy.
Impact # 3.2-1 - Loss of Prime Farmland.	**Mitigation Measure #3.2-1:** There are no mitigation measures for the loss of prime farmland. The loss of Prime Farmland will be ***significant and unavoidable.***	N/A	N/A	N/A

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
Impact #3.3-1 - Construction Emissions - Particulate Matter.	**Mitigation Measure #3.3-1:** The Mandatory Control measures provided in Table 3.3-4 shall be implemented to reduce construction emissions. The following control measures shall also be implemented to reduce particulate matter emissions: ▪ Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent. ▪ Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use. ▪ Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways. (For curtailment during periods of high ambient pollutant concentrations, the criteria should be set in terms of the Air Quality Index.)	Construction Contractor/ Applicant	Monitoring shall be the responsibility of the SJVAPCD.	Ongoing during construction.

Table 3.3-4
Mandatory Control Measures for Construction, Excavation, Extraction, and Other Earthmoving Activities

A. Pre-Activity:

A1: Pre-water site sufficient to limit Visible Dust Emissions (VDE) to 20% opacity

A2: Phase work to reduce the amount of disturbed surface area at any one time.

B. During Active Operations:

B1: Apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity

B2: Construct and maintain wind barriers sufficient to limit VDE to 20% opacity. If utilizing wind barriers, control measure B1 above shall also be implemented.

B3: Apply water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas sufficient to limit VDE to 20% opacity and meet the conditions of a stabilized unpaved road surface.

C. Temporary Stabilization During Periods Of Inactivity:

C1: Restrict vehicular access to the area

C2: Apply water or chemical/organic stabilizers/suppressants, sufficient to comply with the conditions of a stabilized surface. If an area having 0.5 acres or more of disturbed surface area remains unused for seven or more days, the area must comply with the conditions for a stabilized surface area as defined below:

Stabilized Surface: any disturbed surface area or open bulk material storage pile that is resistant to wind blown fugitive dust emissions. A surface is considered to be stabilized if it meets at least one of the following conditions:

- A visible crust; or
- A threshold friction velocity (TFV) for disturbed surface areas corrected for non-erodible elements of 100 centimeters per second or greater; or
- A flat vegetative cover of at least 50 percent that is attached or rooted vegetation; or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind; or
- A standing vegetative cover of at least 30 percent that is attached or rooted vegetation with a predominant vertical orientation; or
- A standing vegetative cover that is attached or rooted vegetation with a predominant vertical orientation that is at least 10 percent and where the TFV is at least 43 centimeters per second when corrected for nonerodible elements; or
- A surface that is greater than or equal to 10 percent of non-erodible elements such as rocks, stones, or hard-packed clumps of soil.

D. Speed Limitations and Posting of Speed Limit Signs

D1: Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour.

D2: Post speed limit signs that meet State and Federal Department of Transportation standards at each construction site's uncontrolled unpaved access/haul road entrance. At a minimum, speed limit signs shall also be posted at least every 500 feet and shall be readable in both directions of travel along uncontrolled unpaved access/haul roads.

E. Wind Generated Fugitive Dust Requirements

E1: Cease outdoor construction, excavation, extraction, and other earthmoving activities that disturb the soil whenever VDE exceeds 20% opacity. Indoor activities such as electrical, plumbing, dry wall installation, painting, and any other activity that does not cause any disturbances to the soil are not subject to this requirement.

E2: Continue operation of water trucks/devices when outdoor construction excavation, extraction, and other earthmoving activities cease, unless unsafe to do so.

Table 5-1
Mitigation Monitoring and Reporting Program (Continued)

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
Impact #3.3.2 – Construction Emissions - Gaseous Emissions.	**Mitigation Measures #3.3-2:** The following measures from the GAMAQI (January 2002) shall be implemented in order to reduce gaseous construction emissions: ▪ Use alternative fueled or catalyst equipped diesel construction equipment where feasible. ▪ Minimize idling time to a maximum of 10 minutes. ▪ Where feasible, replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable fossil fuel generator set). ▪ Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways.	Construction Contractor/ Applicant	Monitoring shall be the responsibility of the SJVAPCD.	Ongoing during construction and prior to occupancy for improvements.
Impact #3.3-3 - Operational Air Emissions.	**Mitigation Measure #3.3-3:** Require the following design features be implemented: ▪ Use energy efficient design including automated control system for heating/air conditioning and energy efficiency, utilize lighting controls and energy-efficient lighting in buildings and use light colored roof materials to reflect heat.	Construction Contractor/ District Inspector	The Districts construction inspector to enforce the provisions as set forth in the contractor agreement.	Ongoing during construction and prior to occupancy for improvements.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	▪ Plant deciduous trees on the south and westerly facing sides of buildings. ▪ Provide low nitrogen oxide (NOx) emitting and/or high efficiency water heaters. ▪ Purchase low-emission, alternatively-fueled or electrical-driven maintenance vehicles and equipment. ▪ Promote pedestrian, bicycle and transit modes of travel through informational programs and provision of amenities such as transit shelters, secure bicycle parking and attractive pedestrian pathways. ▪ Designate an on-site Transportation Systems Management coordinator. ▪ Implement carpool/vanpool program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool vehicles, student carpooling incentives, etc. ▪ Coordinate with the local transit operators to extend or expand service to the Project Area. ▪ Provide transit use incentives, provide transit alternatives information such as printed schedules and establish transit information kiosks at appropriate locations. ▪ Implement parking cash-out program for employees (non-driving employees receive			

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	transportation allowance equivalent to the value of subsidized parking). ▪ Provide showers and lockers for employees bicycling or walking to work.			
Impact #3.4-1a - Development Of The Project Would Have A Potentially Significant Adverse Impact On Nesting Raptors.	**Mitigation Measure #3.4-1a:** If construction would commence between March 1 and September 1, surveys should be conducted 30 days prior to construction of the project. The raptor nesting surveys shall include examination of all trees and shrubs within the area of influence of the proposed project. For the purposes of this document, the "area of influence" is within 1,000 feet of the project site. If nesting raptors are identified during the surveys on the project site, the dripline of the nest tree or shrub must be fenced with orange construction fencing and a 300-foot radius buffer around the nest tree or shrub must be fenced with bright orange construction fencing. This 300-foot buffer may be reduced in size if a qualified raptor biologist determines through monitoring that the nesting raptors are acclimated to people and disturbance, and otherwise would not be adversely affected by construction activities. At a minimum, however, the non-disturbance buffer shall be a radius of 100 feet around the nest tree or shrub. If the nest site is on an adjacent property, the portion of the buffer that occurs on the project site shall be fenced with orange construction fencing. When construction buffers are reduced in size, the raptor biologist shall monitor distress levels of the nesting birds while the birds nest and construction persists. If at any time the nesting raptors show levels of distress that could cause	District/Construction Contractor	Monitoring shall be the responsibility of the California Department of Fish and Game.	Prior to issuance of building permits and ongoing enforcement during construction.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	nest failure or abandonment, the raptor biologist shall have the right to re-implement the full 300-foot buffer. Instances when the buffer could be reduced in size would be if the raptors were well acclimated to disturbance and/or if there were physical barriers between the nest site and the construction project that would reduce disturbance to the nesting raptors. No construction or earth-moving activity should occur within the non-disturbance buffer until it is determined by a qualified raptor biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones. This typically occurs by July 1st. Regardless, the resource agencies consider September 1st the end of the nesting period unless otherwise determined by a qualified raptor biologist. Once the raptors have completed the nesting cycle, that is the young have reached independence of the nest, no further regard for the nest site shall be required. No other compensatory mitigation is required. When implemented these mitigation measures would reduce impacts to nesting raptors to a level considered *less than significant*.			
Impact #3.4-1b - Development Of The Project Would Have A Potentially Significant Adverse Effect On The Swainson's Hawk.	**Mitigation Measure #3.4-1b - Mitigation for Swainson's Hawk:** CDFG has prepared guidelines for conducting surveys for Swainson's hawk entitled: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (CDFG 2000). These survey recommendations were developed by the Swainson's Hawk Technical Advisory Committee (TAC) to	District/Construction Contractor	Monitoring shall be the responsibility of the California Department of Fish and Game.	Prior to issuance of building permits and ongoing enforcement during construction.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	maximize the potential for locating nesting Swainson's hawks, and thus reduce the potential for nest failures as a result of project activities and/or disturbances. To meet the CDFG's recommendations for mitigation and protection of Swainson's hawks, surveys should be conducted for a half-mile radius around all project activities and should be completed for at least the two survey periods immediately prior to a project's initiation. The guidelines provide specific recommendations regarding the number of surveys based on the project is scheduled to begin and the time of year the surveys are conducted. If Swainson's hawks are found to be nesting on or in the immediate vicinity of the project site, consultation with CDFG and mitigation compensation would be required. At that time, the necessity of acquiring a Fish and Game Section 2081 management authorization should be determined. CDFG has prepared a *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California* (CDFG 1994) (hereinafter the Mitigation Guidelines) that prescribes avoidance and mitigation guidelines for impacts to Swainson's hawk nesting and foraging habitats. The Mitigation Guidelines require applicants to replace any impacted Swainson's hawk nesting and/or foraging habitat with other suitable Swainson's hawk nesting/foraging habitat. Because there is extensive foraging habitats for Swainson's hawks north and northeast of the project site in a local perspective, Merced Unified School District has determined that impacting potential agricultural foraging habitat from implementation of the project would not			

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	constitute a significant adverse impact pursuant to the CEQA. However, if Swainson's hawks nest on or within the area of influence of the project site (within 1,000 feet of the project site), impacts to nesting Swainson's hawks would be regarded as significant and adverse, and mitigation compensation would be required. Mitigation required would include a 1:1 impact to replacement ratio (58 acres of mitigation land) for all project disturbed habitat. Implementation of the above mitigation measures would reduce impacts to Swainson's hawk to a level considered *less than significant.*			
Impact #3.4-1c - Development Of The Project Would Have A Potentially Significant Adverse Effect On The Western Burrowing Owl.	**Mitigation Measure #3.4-1c - Mitigation for Western Burrowing Owl:** Mitigation Measure A. A nesting survey shall be conducted for ground nesting raptors, such as western burrowing owl and northern harrier. The survey should be conducted in accordance with the survey requirements detailed in the CDFG's October 17, 1995 *Staff Report on Burrowing Owl Mitigation.* Surveys shall be conducted in both the breeding season (April 15-July 15) and non-breeding season (December-January) to assess use of the project site by this species. If burrowing owls are present on the project site during the breeding season (peak of the breeding season is April 15 through July 15), and appear to be engaged in nesting behavior, a fenced 75 meter (276-foot) buffer would be required between the nest site(s) (i.e., the active burrow(s)) and any earth-moving activity or other disturbance on the project site. This 276-foot buffer could be removed once it is determined by a qualified raptor biologist that	District/Construction Contractor	Monitoring shall be the responsibility of the California Department of Fish and Game.	Prior to issuance of building permits and ongoing enforcement during construction.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	the young have fledged (that is, left the nest). Typically, the young fledge by August 31. This date may be earlier than August 31, or later, and would have to be determined by a qualified raptor biologist. If northern harriers are identified on the project site, mitigation measures detailed above for nesting raptors (Mitigation Measure BIO-1) should be implemented. Additionally, if burrowing owls are identified nesting onsite or within the area of influence of the project site (within 1,000 feet of the project site), an upland mitigation area for burrowing owls shall be established either on or offsite. The mitigation site must be determined to be suitable by a qualified biologist. The size of the required mitigation site will be based on the number of burrowing owls observed on the project site with a minimum of 6.5 acres preserved per pair of owls or single owl observed using the site. The number of owls for which mitigation is required shall be based on the combined results of the protocol-level survey and the preconstruction surveys (i.e., if two pairs of owls are observed on the project site during the protocol-level survey, the mitigation requirement shall be 2 x 6.5 = 13 acres provided that no more than two pairs of owls are observed during the preconstruction survey; if three pairs of owls are observed during the preconstruction survey, then the mitigation requirement shall be 3 x 6.5 = 19.5 acres). A detailed mitigation and monitoring plan shall be developed for the burrowing owl mitigation area. This plan must be prepared in coordination with CDFG, and approved by this agency.			

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	Mitigation Measure B. Preconstruction surveys of the project site shall be conducted no more than 30 days prior to ground disturbing activities. If more than 30 days lapse between the time of the preconstruction survey and the start of ground-disturbing activities, another preconstruction survey must be completed. This process should be repeated until the habitat is converted to non-habitat (e.g., graded and developed). Mitigation Measure C. If burrowing owls must be passively relocated from the project site, as approved by CDFG, passive relocation shall not commence until October 1st and must be completed by February 1st. After passive relocation, the project site and vicinity will be monitored by a qualified biologist daily for one week and once per week for an additional two weeks to document where the relocated owls move and to ensure that the owls are not reoccupying the project site. A report detailing the results of the relocation and subsequent monitoring will be submitted to CDFG within two months of the relocation. Mitigation Measure D. If an upland mitigation site is designated for burrowing owls, it shall be approved as a suitable burrowing owl mitigation property by CDFG. The preserved area shall be preserved in perpetuity as wildlife habitat via recordation of a conservation easement that designates the California Department of Fish and Game (CDFG), or any other qualified conservation organization as the Grantee of the easement.			

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	Mitigation Measure E: If a conservation easement is established over burrowing owl habitat, an endowment to cover the management of the mitigation area and implementation of the mitigation and monitoring plan shall be provided by the project applicant to the Grantee of the Conservation Easement within six months of breaking ground on the project site. Implementation of the mitigation measures above would reduce impacts to western burrowing owl to a level considered ***less than significant***.			
Impact #3.4-1d - Development Of The Project Would Have A Potentially Significant Adverse Effect On Common And Special-Status Nesting Birds.	**Mitigation Measure #3.4-1d - Mitigation for Common and Special-Status Nesting Birds:** In order to avoid impacts to common and special-status nesting birds protected pursuant to the Migratory Bird Treat Act and California Department of Fish and Game Codes §3503, §3503.5, and §3800, a nesting survey should be conducted prior to commencing with construction work if construction work would commence between March 15th and August 31st. If special-status birds are identified nesting within the area of influence, a 100-foot non-disturbance radius around the nest must be fenced (this fencing requirement shall not replace or be constructed in lieu of fencing discussed above for impacts to nesting raptors). No construction or earth-moving activity shall occur within this 100-foot staked buffer until it is determined by a qualified ornithologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones. This typically occurs by July 1st. This date may be earlier or later, and would have to be determined	District/Construction Contractor	Monitoring shall be the responsibility of the California Department of Fish and Game.	Prior to issuance of building permits and ongoing enforcement during construction.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	by a qualified ornithologist. Similarly, the qualified ornithologist could modify the size of the buffer based upon site conditions and the bird's apparent acclimation to human activities. If common (that is, not special-status) passerine birds (that is, perching birds such as northern mockingbirds) are identified nesting in any tree or shrub proposed for removal, tree removal would have to be postponed until it is determined by a qualified ornithologist that the young have fledged and have attained sufficient flight skills to leave the project site. Typically, most passerine birds can be expected to complete nesting by July 1st, with young attaining sufficient flight skills by this date that are sufficient for young to avoid project construction zones. Unless otherwise prescribed for special-status bird species, upon completion of nesting no further protection or mitigation measures would be warranted for nesting birds.			
Impact #3.4-2 - Adverse Affect on any Riparian Habitat or Other Sensitive Natural Community.	**Mitigation Measure:** There are none required.			
Impact #3.4-3 - Disturbance to Wetlands and Jurisdictional Waters.	**Mitigation Measures:** There are none required.			
Impact #3.4-4 - Interfere substantially with the movement of fish or wildlife, impede wildlife	**Mitigation Measures:** None are required.			

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
corridors, or disturb wildlife nursery sites.				
Impact #3.5-1 – Potential disruption to significant historical or archeological resources.	**Mitigation Measure #3.5-1:** In the event of accidental discovery of human remains or items of historical or archaeological significance, the guidelines set forth in Section 15064.5 of CEQA require that the project be halted immediately, an archaeologist and the City called to the site to investigate further.	Construction contractor and District's construction inspector	The construction contractor and/or inspector to notify the Center for Archaeological Research at California State University, Bakersfield if any cultural resources are found. The Native American Heritage Commission shall be notified if human remains are found.	Ongoing during construction.
Impact #3.6-1 - Strong ground shaking.	**Mitigation Measure #3.6-1**. ▪ The project will be designed in compliance with Title 24 of the Uniform Building Code, Earthquake Requirements for Seismic Zone three and will be inspected by City building inspectors during the construction phase. ▪ The project will be designed by an engineer to resist any seismic-related impacts. ▪ The project will be designed for the appropriate soil type by an engineer to resist spreading, subsidence, or collapse.	District	District	Prior to construction.
Impact #3.6-2 - Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving land subsidence.	**Mitigation Measures:** None are needed.			

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
Impact #3.6-3 - Result in substantial soil degradation or contamination.	**Mitigation Measure #3.6-3:** To reduce soil contamination from construction equipment, the following measures will be implemented: 1. All maintenance and refueling of construction equipment will be conducted at a pre-approved location on site. All used oil and other contaminants will be collected and disposed of properly. 2. All equipment will be regularly and properly maintained to reduce leakage of fuel, oil, and other potential soil contaminants. 3. Any soil that is contaminated by fuel spills, oil spills, or spills of other potential soil contaminants will be removed from the site and disposed of at a suitable toxic waste facility.	Construction Contractor and Districts Construction Inspector	Specific measures to be incorporated into construction documents and enforced by District's Construction Inspector.	Ongoing during construction.
Impact # 3.7-1 - Presence of Toxic and Hazardous Substances.	**Mitigation Measure #3.7-1:** None are necessary. DTSC approved the PEA in September 2007.	N/A	N/A	N/A
Impact # 3.7-2 - Proximity to High-Voltage Transmission Line.	**Mitigation Measure # 3.7-2:** The 70 kV transmission lines and poles located on the west side of G Street adjacent to the proposed project site will be relocated to the east side of G Street in the City of Merced's right-of-way. The District will be responsible for the cost of removing any existing trees that conflict with relocating the power lines and other incremental costs of relocating the power poles which might include culverts at the pole locations to avoid obstructing drainage and provide a surface for	PG&E	District	Prior to issuance of Notice to Proceed by MUHSD.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	repair crews to stand on when working on the poles and engineered poles to avoid conflict of guy wires with existing development on adjacent property.			
Impact # 3.7-3 – Transport and Storage of Hazardous Substances.	**Mitigation Measures:** None are needed.			
Impact #3.8-1 – Flooding of the project site.	**Mitigation Measure #3.8-1:** The elevation of the Project Site will be increased using fill to reduce the potential of site flooding. The amount of fill required and other site-specific requirements that will be implemented are provided in the Yosemite Lake Dam Failure Analysis (Appendix G). The Project site will be graded and raised approximately 3.5 feet to meet flood inundation levels. The building foundation pads and campus quad area will be elevated 1.5 feet above the inundation elevations. A licensed surveyor shall be retained to adjust the elevations reported to 1988 NAVD (*North American Vertical Datum* of 1988) and verify elevations and fill height.	District	District	Prior to issuance of Notice to Proceed by MUHSD.
Impact #3.9-1 – Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.	**Mitigation Measure #3.9-1:** The MUHSD will apply for approval for a General Plan Amendment, a Site Utilization Plan (SUP) Revision and encroachment permits for any work done in the rights-of-way (road work).	District	District	Prior to issuance of Notice to Proceed by MUHSD.
Impact #3.11-1 - Traffic Noise.	**Mitigation Measures:** None are required.			

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
Impact #3.11-2 - Construction Noise.	**Mitigation Measures #3.11-2:** The operation of noise producing equipment used during construction shall be restricted to the hours from 7:00 a.m. to 7:00 pm., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturday and Sunday. Effective mufflers shall be fitted to gas- and diesel-powered equipment.	Construction contractor/ inspector for the project	The construction contractor/inspector shall insure that work is done during non-restricted hours and mufflers are fitted on gas- and diesel-powered equipment.	Ongoing during construction.
Impact #3.11-3 – Stadium Noise.	**Mitigation Measure #3.11.3 Stadium Noise (a, b, d):** The District shall establish procedures for the installation and operation of the public address systems. Specific measures shall include location and direction of loudspeakers and establishment of maximum volume levels in compliance with the daytime 65dB CNEL at adjacent residential properties. The District shall set 10:00 p.m. as the targeted time to end all football games and all other outdoor stadium events that attract large numbers of spectators.	District	District	Ongoing.
Impact #3.15-1 - Increase in Traffic.	**Mitigation Measure #3.15-1:** Traffic mitigation measures are outlined in Table 3.15-4. In addition to the District's improvements, additional roadway infrastructure will be necessary as the Bellevue Ranch Master Development Phasing Plan progresses. The District will pay it's approximately $1.53 million in local transportation impact fees and regional transportation impact fees. Traffic impact fees were calculated using the city's Institutional Land Use impact fee schedule ($6,174 per 1,000 sq. ft. of building space) and the Regional Transportation impact fee schedule ($1,900 per 1,000 sq. ft. of building space) for a total of $8,074 per 1,000 sq. ft. The proposed	District/Caltrans	District/Caltrans	Prior to occupancy.

Impact	Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	Time Span
	project includes approximately 190,000 sq. ft. for a total impact fee of $1,534,060. **Participation in local offsite improvements.** Regarding construction of the bridges on Farmland and Barclay, MUHSD has proposed that the District will pay a proportionate share of bridge construction costs. **State Highway Improvements.** Fair share contributions to SR 59 improvements will be paid through PFFP fees, Regional Transportation fees, and Traffic Mitigation fees as applicable.			

Table 3.15-4
Traffic Mitigation Table

	Impact	Condition		Description of Mitigation	Method To Implement Mitigation Measure: Improvement or Payment of Fees			Reimbursable Or Credit for Improvement
		Peak Hour vs. Peak Period *	Project or Cumulative *		Improvement by District	Impact Fees paid by District	Other Fee	
"G" Street / Yosemite Avenue								
1	Level of Service E	PH	Project	Add lanes on G Street	No	Yes	No	NA
"G" Street / Farmland								
2	Level of Service on WB Farmland Approach is LOS F	PH	Project	None – not significant itself due to (a) small volume; (b) presence of alternate road; (c) only one approach of intersection is substandard.	No	No	No	NA
"G" Street / Farmland Avenue Intersection								
4.	"Above Capacity" Conditions	PP	Project	Configure EB approach with right turn lane, through lane and separate right turn lane on Farmland Ave from HS driveway to G Street	Yes	NA	No	No
5				Signalize Intersection and Overlap phasing for EB Farmland Right turn with NB left turn.	Yes	NA	No	87.5% of cost reimbursed
6	Long northbound queue on G Street	PP	C+ Project	Construct extended northbound left turn lane on G Street (850 feet)	Yes	No	No	No

Table 3.15-4
Traffic Mitigation Table (Cont.)

	Impact	Condition		Description of Mitigation	Method To Implement Mitigation Measure: Improvement or Payment of Fees			Reimbursable Or Credit for Improvement
		Peak Hour vs. Peak Period *	Project or Cumulative *		Improvement by District	Impact Fees paid by District	Other Fee	
Bellevue Road / Barclay Avenue Intersection								
7	"Above Capacity" conditions	PP	Project	Construct a separate SB right turn lane, a SB left, and SB through	NA - Built by Paseo	Yes	No	NA
8				Construct extended EB left turn lane on Bellevue Road (925 feet).	NA - Built by Crosswinds	Yes	No	NA
9				Restripe center SB lane from "through" to a combination SB left and through, and modify signal related improvements to provide for this change.	No	Yes	No	No
"G" Street / Bellevue Road								
11	"Above Capacity" Conditions	PP	Project	Construct 2nd NB and SB lanes on G Street	NA - Built by Others	Yes	No	NA
13				Construct NB dual left turn lanes.	NA - Built by Others	Yes	No	NA
Farmland Avenue / HS Access								
15	Long westbound Queue on Farmland Ave	PP	Project	Construct WB Farmland between High School driveway and G Street with separate left turn lane and through lanes	***Yes***	No	No	North side of centerline reimbursable from adjoining property owners

Table 3.15-4
Traffic Mitigation Table (Cont.)

	Impact	Condition		Description of Mitigation	Method To Implement Mitigation Measure: Improvement or Payment of Fees			Reimbursable Or Credit for Improvement
		Peak Hour vs. Peak Period *	Project or Cumulative *		Improvement by District	Impact Fees paid by District	Other Fee	
G Street Frontage								
16	Cumulative traffic impacts city streets	PH	C	Improve G Street frontage to ½ ultimate 6 lane Arterial section	Yes	No	No	Credit for asphalt section more than collector road standard
Farmland Ave Frontage								
17	Cumulative traffic impacts city streets	PH	C	Improve Farmland Frontage to full ultimate collector section except parkstrip and sidewalk on north side.	Yes	No	No	North side of centerline reimbursable from adjoining developer
Barclay Ave Frontage								
18	Cumulative traffic impacts city streets	PH	C	Improve Barclay Avenue to full ultimate collector frontage except parkstrip and sidewalk on west side.	Yes	No	No	West side of centerline are reimbursable from adjoining developer
Bridges of Fahrens Creek at Barclay and Farmland								
19	Cumulative traffic impacts to City Streets	PH	C	Contribute to City a Fair-Share fee for cost to improve these bridges prior to awarding bid for Project.	No	No	Yes	No

* PP = Peak Period Impact; PH = Peak Hour Impact; EX + Project = project impact; C = cumulative impact; C + Project = cumulative impact created by project

In addition to the mitigation measures that are required specifically for the Bellevue High School project, there are mitigation measures that were developed for the Bellevue Ranch project that apply and must be implemented. These additional measures are provided in Table 5-2 and must be implemented and monitored by the District.

Table 5-2
Mitigation Measures for Bellevue Ranch
That Must be Implemented for the Bellevue High School Project

MM 4.2.1	The project applicant, in cooperation with adjacent land owners, shall provide interim buffers between future urbanized areas and existing agricultural uses that use pesticides, herbicides, or create dust and/or odors. Width and location of buffers shall be determined prior to approval of tentative maps, and shall be maintained until the project applicant has demonstrated that adjacent agriculture uses have ceased.
MM 4.5.1	Prior to the approval of building permits, the City shall require a detailed geotechnical report to be prepared by a California registered geotechnical engineer for each project.
MM 4.5.2	The City shall require the recommendations contained in the geotechnical report be incorporated into the design prior to approval of building permits.
MM 4.5.3	During construction, the geotechnical engineer shall provide inspection to ensure that recommendations and plans are properly implemented.
MM 4.7.4	A comprehensive plan to prevent erosion, siltation, and contamination of storm water during construction will be required for any development proposal within the Bellevue Ranch project area prior to approval of the improvement plans.
MM 4.9.1	Prior to the approval of a tentative map, the project applicant shall submit to the City of Merced Public Works Department detailed water supply and delivery plans for review and approval.
MM 4.9.2	The following two water conservation measures shall be implemented as required by state law – all buildings shall include low-flow fixtures and insulation of hot water lines in water recirculation systems.
MM 4.9.3	Prior to the approval of a tentative map, the project applicant will submit to the City Planning Department for review and approval general landscaping plans (as specified by the City's CUP submittal requirements).
MM 4.9.4	The project applicant, as approved by the City Public Works Department and Fire Department, will demonstrate that the water system proposed for the project is designed to meet the projected water capacity and fire flow requirements as well as all City specifications, prior to the approval of the first final map.

Table 5-2
Mitigation Measures for Bellevue Ranch
That Must be Implemented for the Bellevue High School Project (Continued)

MM 4.9.5	Prior to the approval of a tentative map, the project applicant will submit to the City Public Works Department detailed wastewater service plans for review and approval.
MM 4.9.6	Prior to the approval of a tentative map, the project applicant will demonstrate to the City that they have coordinated with Pacific Gas and Electric regarding the location and phases of natural gas and electrical facilities to serve the area.
MM 4.9.7	Prior to the issuance of building permits, the project applicant shall demonstrate to the City that their architect(s) have consulted with Pacific Gas and Electric regarding the incorporation of energy conservation techniques into building and landscape design.
MM 4.9.8	Prior to the approval of a tentative map, the project applicant will demonstrate to the City that they have coordinated with Pacific Bell regarding the extension, location, and phasing of telecommunication facilities to serve the project.
MM 4.9.9	The project applicant shall pay all Cost Revenue Impact System fees, or other applicable program fees as defined by the City, which are intended to cover all Police Department costs.
MM 4.9.10	Developers associated with Bellevue Ranch shall meet with the Merced Police Department prior to issuance of building permits. Specific security mitigation, as agreed between the Department and the developer, shall be incorporated into the construction plans.
MM 4.9.12	Payment of Cost Revenue Impact System fees or other applicable fees as determined by the City of Merced.
MM 4.9.13	Construction of exterior and interior water lines, fire hydrants, and provision of sufficient water pressure shall be determined by the Merced Fire Department.
MM 4.11.1	To ensure that construction mitigation is utilized, final approval shall not be granted to any development until the developer or contractor submits a satisfactory construction mitigation plan.
MM 4.11.2	As a condition of project approval, the project applicant shall coordinate with the City to implement a Transportation Demand Program.
MM 4.11.3	Employers within the Master Plan area shall coordinate with the City to implement a strong Transportation Demand Management program for all employment generating use.

Table 5-2
Mitigation Measures for Bellevue Ranch
That Must be Implemented for the Bellevue High School Project (Continued)

MM 4.11.4	Project design shall be reviewed by the City Planning Department prior to tentative map approvals to encourage telecommuting.
MM 4.11.5	Project design shall be reviewed by the City Planning Department prior to approval of the Master Development Plan to encourage the provision of park-and-ride amenities within the project.
MM 4.12.1	For the year 2010 with the project scenario noise environment, 6 to 12 foot sound walls, earth berms, or other acoustical shielding would need to be constructed to meet the City's recommended outdoor noise goal of DNL 65 db. A detailed noise study should be performed along impacted roadway segments to corroborate the actual noise environment and the required acoustical shielding.
MM 4.12.3	Trucks used for the development of Bellevue Ranch will be required to use the City's designated truck routes.
MM 4.12.4	All construction activity shall be conducted in accordance with City of Merced Standards for times of operations.