FINAL

FRESNO EL PASEO ENVIRONMENTAL IMPACT REPORT

SCH#2008011003

prepared for:

CITY OF FRESNO

Contact:
Mike Sanchez
Project Manager

prepared by:

THE PLANNING CENTER

Contact:
JoAnn Hadfield
Director,
Environmental Services

OCTOBER 2010

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2600 Fresno Street, Third Floor
Fresno, CA 93721

Contact:
Mike Sanchez
Project Manager

prepared by:

THE PLANNING CENTER

1580 Metro Drive
Costa Mesa, CA 92626
Tel: 714.966.9220 • Fax: 714.966.9221
E-mail: information@planningcenter.com
Website: www.planningcenter.com

Contact:
JoAnn Hadfield
Director,
Environmental Services

JAC-01.0E

OCTOBER 2010

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1. Introduction

1.1 INTRODUCTION

This Final Environmental Impact Report (FEIR) has been prepared in accordance with the California Environmental Quality Act (CEQA), as amended (Public Resources Code Section 21000 et seq.), and CEQA Guidelines (California Administrative Code Section 15000 et seq.).

According to CEQA Guidelines, Section 15132, the FEIR shall consist of:

(a) The Draft Environmental Impact Report (DEIR) or a revision of the Draft;

(b) Comments and recommendations received on the DEIR either verbatim or in summary;

(c) A list of persons, organizations, and public agencies comments on the DEIR;

(d) The responses of the lead agency to significant environmental points raised in the review and consultation process;

(e) Any other information added by the lead agency.

This document contains responses to comments received on the DEIR for the Fresno El Paseo Master Plan Project during the public review period, which began May 6, 2010, and closed June 21, 2010. In addition, this document also contains responses to comments received on the Recirculated DEIR for the Fresno El Paseo Master Plan Project during the public review period, which began August 19, 2010, and closed on October 4, 2010. This document has been prepared in accordance with CEQA and the CEQA Guidelines and represents the independent judgment of the lead agency. The FEIR comprises this document and the circulated DEIR and Recirculated DEIR, in accordance with CEQA Guidelines, Section 15132.

1.2 FORMAT OF THE FEIR

This document is organized as follows:

Section 1, Introduction. This section describes CEQA requirements and contents of this FEIR.

Section 2, Response to Comments. This section provides a list of agencies and interested persons commenting on the DEIR and Recirculated DEIR; copies of comment letters received during the public review periods; and individual responses to written comments. To facilitate review of the responses, each comment letter has been reproduced and assigned a number (A-1 through A-11 for letters received from agencies and organizations, and R-1 for the letter received from a resident). Comment letters received during the Recirculated DEIR public review period have the letter “R” preceding the assigned number (e.g., RA-1 for comment letters received from agencies and organizations). Individual comments have been numbered for each letter and the letter is followed by responses with references to the corresponding comment number.

Section 3. Revisions to the Draft and Recirculated DEIR. This section contains revisions to the DEIR and Recirculated DEIR text and figures as a result of the comments received by agencies and interested persons as described in Section 2, and/or errors and omissions discovered subsequent to release of the DEIR and Recirculated DEIR for public review.

The responses to comments contain material and revisions that will be added to the text of the FEIR. City of Fresno staff has reviewed this material and determined that none of this material constitutes the type of significant new information that requires recirculation of the other portions of the DEIR not included in the Recirculated DEIR, nor would it require recirculation of the Recirculated DEIR for further public comment under CEQA Guidelines Section 15088.5. None of this new material indicates that the project will result in a significant new environmental impact not previously disclosed in the DEIR and/or Recirculated DEIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5.

1.3 CEQA REQUIREMENTS REGARDING COMMENTS AND RESPONSES

CEQA Guidelines Section 15204 (a) outlines parameters for submitting comments and reminds persons and public agencies that the focus of review and comment of DEIRs should be "on the sufficiency of the document in identifying and analyzing possible impacts on the environment and ways in which significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible. …CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR."

CEQA Guidelines Section 15204 (c) further advises, "Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Section 15204 (d) also states, "Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency's statutory responsibility." Section 15204 (e) states, "This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section."

In accordance with CEQA, Public Resources Code Section 21092.5, copies of the written responses to public agencies will be forwarded to those agencies at least 10 days prior to certifying the environmental impact report. The responses will be forwarded with copies of this FEIR, as permitted by CEQA, and will conform to the legal standards established for response to comments on DEIRs.

2. Response to Comments

Section 15088 of the CEQA Guidelines requires the lead agency (City of Fresno) to evaluate comments on environmental issues received from public agencies and interested parties who reviewed the DEIR and prepare written responses.

This section provides all written responses received on the DEIR and Recirculated DEIR and the City of Fresno's responses to each comment.

Comment letters and specific comments are given letters and numbers for reference purposes. Where sections of the DEIR or Recirculated DEIR are excerpted in this document, the sections are shown indented. Changes to the DEIR and Recirculated DEIR text are shown in underlined text for additions and ~~strikeout~~ for deletions.

The following is a list of agencies and persons that submitted comments on the DEIR during the public review period.

Number Reference	Commenting Person/Agency	Date of Comment	Page No.
Agencies & Organizations			
A1	Fresno Yosemite International Airport	May 10, 2010	2-3
A2	City of Clovis Department of Planning and Development Services	June 8, 2010	2-7
A3	Madera County Resource Management Agency Planning Department	June 11, 2010	2-11
A4	Fresno Irrigation District	June 14, 2010	2-29
A5	Aquarius Aquarium	June 15,2010	2-37
A6	County of Fresno Department of Public Health	June 15, 2010	2-47
A7a	State of California Department of Transportation	June 17, 2010	2-51
A7b	State of California Department of Transportation	July 7, 2010	2-61
A8	Central Unified School District	June 21, 2010	2-65
A9	Public Utilities Commission	June 21, 2010	2-71
A10	San Joaquin Valley Air Pollution Control District	June 21, 2010	2-79
A11a	Fresno Metropolitan Flood Control District	June 21, 2010	2-83
A11b	Fresno Metropolitan Flood Control District	August 3, 2010	2-95
Residents			
R1	Suzanne Lanfranco	June 21, 2010	2-99

The following is a list of agencies and persons that submitted comments on the Recirculated DEIR during the public review period.

Number Reference	Commenting Person/Agency	Date of Comment	Page No.
Agencies & Organizations			
RA1	Fresno County Department of Agriculture	September 3, 2010	2-115
RA2	Fresno Yosemite International Airport	September 7, 2010	2-119
RA3	County of Fresno Department of Public Health	September 27, 2010	2-123
RA4	San Joaquin Valley Air Pollution Control District	October 4, 2010	2-127
RA5	Public Utilities Commission	October 4, 2010	2-131
RA6	Native American Heritage Commission	September 9, 2010	2-135
RA7	State Clearinghouse	October 5, 2010	2-143
RA8	State of California Department of Transportation	October 14, 2010	2-147

LETTER A1 – Fresno Yosemite International Airport (1 page)

FRESNO YOSEMITE
INTERNATIONAL AIRPORT

City of Fresno Airports Department

DATE: May 10, 2010

TO: MIKE SANCHEZ, Planning Manager

FROM: DANIEL YRIGOLLEN, Airports Projects Supervisor

SUBJECT: COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE EL PASEO PROJECT (SCH# 2008011003)

The Department of Airports anticipates no adverse impacts on the Fresno Yosemite International Airport or the Fresno Chandler Executive Airport.

Note applicable to the entire site: Any structure or erecting equipment that exceeds a height of 200 feet Above Ground Level (AGL) is required to file a form 7460-1 Notice of Proposed Construction or Alteration with the Federal Aviation Administration (FAA). The form may be filed electronically at: A1-1

https://oeaaa.faa.gov/oeaaa/external/portal.jsp

The form is to be filed 30 days prior to submitting an application for a building permit.

4995 E. Clinton Way · Fresno CA, 93727-1525 · (559) 621-4500 · www.flyfresno.com

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A1. Response to Comments from Fresno Yosemite International Airport, dated May 10, 2010.

A1-1 Comment acknowledged. The Federal Aviation Administration noticing requirements, as noted in this comment, are not applicable to the proposed project. Height limitations included in the various zoning designations for the project site would not allow structures over 200 feet.

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LETTER A2 – City of Clovis (2 pages)

CITY OF CLOVIS
Department of Planning and Development Services
CITY HALL • 1033 FIFTH STREET • CLOVIS, CA 93612

June 8, 2010

Mr. Mike Sanchez, Planning Manager
2600 Fresno Street, Third Floor
Fresno, CA 93721

Dear Mr. Sanchez

Subject: Draft Environmental Impact Report for the El Paseo Project

Thank you for the opportunity to comment on the draft EIR. Clovis has reviewed the document and has the following comments:

1. **Section 5.13.1 / Existing Roadway System / State Route 99**
   Figure 5.13-7
   This section assumes that the Veterans Avenue/SR 99 partial Cloverleaf interchange will be in place by 2017. It is Clovis' staff's understanding that the funding schedule for this improvement is not certain and it is likely that the availability of funding is many years out. If the later phases of the project may be constructed prior to the interchange being in place, the EIR should evaluate a scenario to identify impacts that would occur without this interchange in place. A2-1

2. **Section 5.13.7 Mitigation Measures**
   Impacts 5.13-4 and 5.13-5: Caltrans Facility Impacts/SR-99 Capacity and Weaving.
   Mitigation Measure 13-23 connects the payment of the RTMF to capacity improvements needed on SR-99 for mitigation of project traffic. This section also conflicts with the fair share computation methodology set forth in Appendix L. Our understanding of the RTMF nexus study is that it does not include these improvements and the RTMF would not provide any funding toward them. We think that mitigation of these impacts should be based on a fair share contribution in accordance with past Caltrans policy. This fair share contribution toward the mitigation would be in addition to and separate from the RTMF. A2-2

3. **Section 5.13.7 / Mitigation Measures**
   Impact 5.13-2: Intersection LOS Impacts
   Mitigation Measures 13-29, 13-33, 13-35, and 13-38 state that payment of the RTMF is the project's fair share contribution to the construction of ramp improvements at Shaw/SR-99 and Ashlan/SR-99. Since these improvements are not included in the RTMF Nexus Study, the payment of the RTMF would not provide mitigation and these improvements would not have a source of funding. We think that mitigation of these impacts should be based on a fair share contribution in accordance with past Caltrans policy. This fair share contribution toward the mitigation would be in addition to and separate from the RTMF. Also, it appears that this section conflicts with the fair share computation methodology set forth in Appendix L. A2-3

1

4. **Section 5.13.8 / Level of Significance After Mitigation**
   Impact 5.13-4 and 5.13-5: Caltrans Facility Impacts/SR-99 Capacity and Weaving
   This section states that the payment of the RTMF mitigates impacts to SR-99, resulting in the impacts to SR-99 being "less than significant". It is our understanding that the RTMF and Measure C will not fund these facilities. Therefore, no mitigation is provided through the stated mitigation measure. Also, it appears that this section conflicts with the fair share computation methodology set forth in Appendix L. A2-4

5. **Table 5.13-15 / Summary Traffic Mitigation Table**
   The table lists the RTMF as the funding source for ramp improvements at SR-99/Shaw and SR-99/Ashlan. The table should be corrected as necessary to reflect the correct source of funding consistent with Appendix L. A2-5

Again, thank you for the opportunity to comment on this project. If you have any questions, please contact me at (559) 324-2340.

Sincerely,

Dwight Kroll
Planning and Development Services Director

engpub: mikeh\El Paseo DEIR comment letter.doc

2

A2. Response to Comments from City of Clovis Department of Planning and Development Services, dated June 8, 2010.

A2-1 The DEIR and Traffic Impact Study (TIS) both acknowledge that the funding availability and construction schedules for the SR-99/Veterans Boulevard interchange, as well as the future extensions of Veterans Boulevard and the UPRR grade separation at Herndon Avenue are uncertain. The SR-99/Veterans Boulevard interchange is proposed to be funded by the Regional Transportation Mitigation Fee (RTMF) in addition to the Measure "C" Sales Tax and State Transportation Improvement Program funds, which are all part of the Measure "C" program. The Program EIR has been prepared at a project level for Phase 1 of the project and a programmatic level for the remaining Phases (2-5). Detailed improvement requirements for each subphase have been included in the mitigation requirements. Based on the traffic analysis, the Veterans Boulevard/SR-99 interchange is not required in order to mitigate Phase 1, but will be required prior to occupancy of Phase 3. The following mitigation measure was included in the Recirculated DEIR and assures that development resulting in significant impacts cannot occur until appropriate improvements are in place to provide acceptable levels of service:

13-54 Project Applicant shall prepare a traffic impact study for each of the subsequent development phases (Phases 2 through 5) of the Master Plan to confirm conditions and related cumulative growth assumptions. The traffic impact study shall be prepared in a manner similar to the level of the Phase 1 traffic analysis (including its sub-phases). These updates shall be prepared consistent with the City of Fresno Traffic Impact Study Guidelines and shall incorporate any fee requirements from the City's Traffic Signal Mitigation Impact and Fresno Major Street Improvement programs, the Fresno County Regional Transportation Mitigation Fee program, and applicable Caltrans requirements. In addition, the traffic analyses shall provide updated information on the status of local and regional capital traffic improvements, and analyze background traffic conditions accordingly.

- Prior to the issuance of building permits for the respective phase, the Project Applicant shall demonstrate that none of the following conditions would result from implementation of the project phase:

- For ramp intersections on SR-99, the project causes a ramp intersection to drop from Level of Service (LOS) C or better to LOS D or worse.

Per CEQA Guidelines Section 15126.6(a), an EIR is required to "describe a range of reasonable alternatives to the project, which would…avoid or substantially lessen any of the significant effects of the project…." The mitigation measure above assures that project development will not result in a significant impact related to any potential delays in the construction of the SR-99/Veterans Boulevard interchange. Therefore, it is not necessary to evaluate a scenario without the interchange in place.

A2-2 The commenter is correct in noting that the Nexus Study for the RTMF program does not indentify SR-99 capacity improvements. However, the City of Fresno's

Traffic Signal Mitigation Impact and Fresno Major Street Improvement programs do address capacity enhancements along with Proposition 1B funds that Caltrans is utilizing to widen and add mainlines from four to six lanes. Additionally, Measure C has funding for Veterans Boulevard/SR-99 that provides capacity enhancement to SR-99/Herndon Avenue and SR-99/Shaw Avenue. The commenter also correctly identifies a discrepancy between the discussion for regional roadway improvement funding sources (RTMF vs. fair share program) between the DEIR and TIS in DEIR Appendix L. This information has been updated and corrected in the Recirculated DEIR and associated updated appendices. As recommended by this commenter, project-related mitigation as updated in the Recirculated DEIR includes both RTMF fees and fair share contribution towards Caltrans facility improvements not included in the RTMF.

A2-3 Please refer to Response A2-2; the Recirculated DEIR, Section 5.13, *Transportation and Traffic* and Recirculated DEIR Appendix L.

A2-4 Please refer to Response A2-2; the Recirculated DEIR, Section 5.13, *Transportation and Traffic*, and Recirculated DEIR Appendix L.

A2-5 The referenced table in this comment (DEIR Table 5.13-15, Summary Traffic Mitigation) has been updated and corrected in the Recirculated DEIR and is included as Table 5.13-17. The table is provided in ~~strike out~~ and <u>underlined</u> format to clearly indentify the changes in the table. The revisions identify the correct sources of funding consistent with the updated traffic study and addendum (as included in the DEIR and Recirculated DEIR appendices).

LETTER A3– County of Madera (9 pages)

RESOURCE MANAGEMENT AGENCY
PLANNING DEPARTMENT
Norman L. Allinder, AICP
Director

• 2037 W. Cleveland Avenue
• Mail Stop G
• Madera, CA 93637
• (559) 675-7821
• FAX (559) 675-6573
• TDD (559) 675-8970
• mc_planning@madera-county.com

June 11, 2010

Mr. Mike Sanchez
Planning Manager
City of Fresno
2600 Fresno Street, Third Floor
Fresno. CA 93721

RE: DEIR, The Fresno El Paseo Master Plan Project

Dear Mr. Sanchez:

Thank you for the opportunity to review the Draft Environmental Impact Report for The Fresno El Paseo Master Plan Project.

CEQA is a full disclosure statute that requires Lead Agencies to inform decision makers and the public of the potential impacts of proposed projects.

Please find the following as our comments:

1. Page 1-6, Section 1.5: First paragraph, first sentence, the cited CEQA Guidelines (§15126(a)) is an incorrect citation for the quote. The section citation should be §15126.6(a). A3-1

2. On page 1-32, Mitigation Measure 10-4, "…AM to 10PM…" What is the AM hour? A3-2

3. Page 1-34, Mitigation Measure 10-6, how can 10PM be considered a part of daytime hours? Is this definition a part of some criteria? Please elaborate. A3-3

4. Page 1-37, Impact 5.12-1, introduction of new structures, workers and businesses into the Fresno Fire Department's protection boundaries. How can this be less than significant with no mitigations? Mitigations should include the addition of fire prevention construction (building materials as well as installation of sprinkler or related devices). A3-4

5. Page 1-39, Mitigation Measure 13-2, reads as if it were deferring traffic congestion mitigations into the future. Pursuant to CEQA §15126.4(1)(A), this is not a proper mitigation measure. A3-5

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6. Page 1-43, Mitigation Measure 13-25 requiring additional Traffic Studies after each phase is not technically a mitigation measure, but is more of a study. Studies technically are not mitigation measures in the strict definition. One may use a study to develop a mitigation. A3-6

7. Page 4-13, top of page, referring to CEQA Guidelines §15130(b)(1): the reference to the information is correct, however, the referencing number should be amended to read §15130(b(1)(A) and (B) as it currently reads in the 2010 Guidelines. A3-7

8. In Section 5.11 *Population and Housing*, there appears to be no discussion of cross-county transit of workers (those who work in Fresno, but live in adjacent Counties). Please provide an analysis of this, as well as a discussion on the impacts to surrounding communities on their jobs/housing ratios and potential mitigations. A3-8

9. Page 5.13-18 describes approximately 11 trains between 7AM and 7PM, while the second paragraph of page 5.10-7 describes 8 trains between 6AM and 6PM. Please provide an explanation for the discrepancy. A3-9

10. Section 5-13 *Transportation and Traffic*, there is no discussion of cross-county transit of workers as discussed in #8 above. A review of the TIS in Appendix L reviews the same issue. A3-10

11. Appendix C, *Market Study*, page 2, where it summarizes the potential regional impacts, it does not mention the impacts this center will have on surrounding counties. This should be taken into consideration, as an overall impact related to economics, air (automobile exhaust from travel), and transportation/circulation in creating more traffic on the roads leading to this center. A3-11

12. Appendix C, *Market Study*, page 33 where it discusses, albeit briefly, the impact to Madera County's retail centers, the discussion would imply that the trade area being evaluated extends to and into Madera County. However, in previous pages (specifically the map on page 22 and the narrative on page 20) would indicate that no studies on the impact to the Madera County trade and retail services were not conducted. We would like to see more studies conducted on the regional impact of this project in relation to surrounding, and immediately adjacent, counties. A3-12

13. There is no discussion in the DEIR or the Market Study (Appendix C) on the long range impacts (blight, loss of trade, etc.) on Madera County as a result of this project. We would like to see an evaluation taking into consideration those issues on the surrounding Counties. A3-13

14. While economics is typically not an evaluation in an environmental document, effects on small businesses should be included whenever considering a big business project such as this. This evaluation should A3-14

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look at traffic circulation patterns, how these patterns will impact air quality, and congestion in the area as a result of closure of the small businesses. Potential mitigations to surrounding communities as a result:

a. Development road impact fees to Caltrans for Highway 99 impacts

b. Development road impact fees to Madera County for any impacts related to the project.

A3-14 cont'd.

15. While some review of socioeconomic impacts was done, pursuant to §15064(f)(6), a detailed examination of the impacts to surrounding communities and counties should be conducted. A3-15

16. §15131 of CEQA discusses how economic factors should be evaluated based on the physical environment. We would like to see more of this type of evaluation as it relates to surrounding communities. A3-16

17. In section 5.11 where the discussion is centered on the jobs/housing balance and related topic, we would like to see more discussion on the impact of jobs leaving surrounding counties to fill this center at build-out. This should be on multiple levels, looking at the loss of jobs, the increased transit impacts for those taking jobs out of the areas of their residence, circulation, air impacts and economic impacts in other counties as a result of this project. A3-17

18. Page 5.13-71, Section 5.13.4, Cumulative Impacts for Traffic and Transportation, first sentence "(t)he impact analysis included in section 5.14.4…." There is no analysis in the section referred to, as this section is just one paragraph in length. A3-18

19. In review of the Traffic Study appendix, the only real reference to Madera County is on page 6-1 as it relates to the segment of SR-99 north of Ashlan and the widening of the freeway to six lanes. There is no cumulative impact of traffic passing through the County as a direct or indirect result of this project. A3-19

20. There appears to be no analysis, cumulative or otherwise, on air quality as it is tied to transportation of goods through Madera County as it relates to this project. As this project includes retail services, it is a natural assumption that goods will need to be transported, typically by "big rig" transit on the major through-fairs in the region. This will increase the impacts to air quality throughout the region. A3-20

21. Impact #5.13-6 indicates that there is no congestion management plan, thus no impacts on congestion causing projects. How can one state with confidence that congestion will not occur even without the plan? Additionally, there is no indication of congestion conditions, or a A3-21

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cumulative impact, or a "ripple effect" of congestion conditions on surrounding communities. A3-21 cont'd.

22. As has been observed elsewhere, local issues have evolved over time into regional issues, with many issues related to growth being cumulative. As such, while the EIR looks at the close proximity impacts to the project site, we recommend that a more regional impact review take place and be incorporated into the project. A3-22

23. In regards to the mitigation measures related to air quality, while the measures presented are minimally adequate.

    a. Energy efficiency mitigation measures will help with energy use, lighting, and heating and cooling issues which have direct and indirect impacts on air pollution nationwide.

    b. Vehicle emissions are often the largest continuing source of emissions from the operational phase of a development. Reducing the demand for single-occupancy vehicle trips is a simple, cost-effective means of reducing vehicle emissions. As such we recommend the following mitigation measures to be included:

        i. Provide for on-site renewable energy systems;
        ii. Provide for a parking lot design that includes clearly marked and shaded pedestrian pathways between transit facilities and building entrances;
        iii. Provide mass transit points and shelters for local mass transit to access; A3-23
        iv. Orient the project towards existing or planned mass transit corridors;
        v. Provide shade (within 5 years) and/or use light-colored/high albedo materials (reflectance of at least 0.3) and/or open grid pavement for at least 30% of the site's non-roof impervious surfaces, including parking lots, walkways, plazas, etc.
        vi. Exceed the Title 24 requirements by at least 20% project wide;
        vii. If the project is to contain a grocery store or home improvement retail outlet, provide customers a home delivery program in clean fueled vehicles;
        viii. Develop a "no idling" program for heavy-duty diesel vehicles to include, but not be limited to, signage and citations;
        ix. Require the installation of electrical hookups at loading docks and the connection of trucks equipped with electrical hookups to eliminate the need to operate diesel-powered TRUs at the loading dock;
        x. Fund a program to buy and scrap older, higher emission heavy duty vehicles.

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xi. Enter into a Voluntary Emission Reduction Agreement with the San Joaquin Valley Air Quality District.
xii. Coordinate with surrounding communities and jurisdictions in developing and implementing strategies for mitigating air quality impacts/

A3-23 cont'd.

Thank you again for the opportunity to evaluate the Environmental Impact Report. If you have any questions, please feel free to call me at (559) 675-7821, extension 3226.

Sincerely,

Robert Mansfield, REA
Planner III

cc: Norman L. Allinder, Planning Director
Rayburn Beach, Resource Management Director

5

RESOURCE MANAGEMENT AGENCY
PLANNING DEPARTMENT
Norman L. Allinder, AICP
Director

• 2037 W. Cleveland Avenue
• Mail Stop G
• Madera, CA 93637
• (559) 675-7821
• FAX (559) 675-6573
• TDD (559) 675-8970
• mc_planning@madera-county.com

Socioeconomic considerations
In Environmental Assessments

Considerations of Blight on Surrounding Regions

In consideration of shopping malls, blight and empty storefronts tend to be major issues. A recent study indicated that there were 70 empty big-box stores in Columbus, Oho alone.[1] Several considerations are taken into account for why big box chains close stores: low sales performance, chains reinventing themselves (such as Wal-Mart vacating earlier generations of their stores for bigger "superstores"); and the big box stores building more retail space than the market can support.

In general, urban decay (blight) can be described as the physical effect, including facilities that are poorly maintained and in disrepair, deterioration of buildings and improvements, visual and aesthetic impacts, increase in property crime, and increased demand for emergency services, which result from increases in retail closures and long-term vacancies. The initial impetus of urban decay often originates from financial conditions faced by individual property owners; if a landlord is no longer collecting rent on a vacant property and does not believe that it can be re-leased, the incentive to maintain the property may evaporate. The effect can spread to adjacent properties and become self-fulfilling as customers start to avoid the area. Urban decay can be reinforced by a reduction in the fiscal resources of local governing entities because of declining property and sales tax revenue.[2]

A freestanding big box retail building that has been abandoned, also known as a "ghost box," or a declining regional mall, known as a "gray field," can pose a particularly strong risk for urban decay if not re-leased quickly. Not only are these facilities bigger and thus generally more difficult to quickly re-lease or reuse compared to smaller infill sites, they are generally more visually significant and thus provide a more widespread signal of decay and negative business climate.[3]

Big box stores are the typical scapegoat when it comes to economic decline of existing stores in a given region. These types of stores are seen as the "all in one shopping" center and are typically able to provide less expensive alternatives. Surrounding stores will experience a loss of revenue due to this increased competition. Studies have been conducted throughout the country that shows store closures occur closer to these big box stores.

While big box retailers profit, communities tend to be left to bear much of the cost when the stores close. Empty big box stores often remain vacant for years. A 2005 study in Texas found that the state's 30 empty Wal-Mart stores had been idle for an average of three years. Several had been vacant for a decade and one had been

[1] Stacey Mitchell. *Big Box Swindle*. Beacon Press. 2006. Page 121.
[2] *Wal-Mart Supercenter Economic Impact Analysis – Final Draft Report*. City of Fairfield, Economic Planning Systems. September, 2005.
[3] *Wal-Mart Supercenter Economic Impact Analysis – Final Draft Report*. City of Fairfield, Economic Planning Systems. September, 2005.

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vacant for seventeen years.[4] These stores tend to remain vacant because retailers tend to continue to lease them after they vacate so as to prevent competitors from entering the market. In some contracts, clauses are put in that would forbid property owners from leasing the building to another company without the original tenant's approval.

It is not just the loss of businesses that are at stake with big-box stores coming into the community. When they leave, their empty stores can have a high public cost included. These costs include: the empty store becoming a magnet for crime and vandalism, lower property values nearby, they can undermine the vitality of nearby (remaining) businesses, and create a negative image of the town that deters new businesses and investment. These costs have proven so high that communities have used tax dollars to raze abandoned big-box stores.

A recent survey of city officials indicated that the general consensus is that retail conditions are worse at the time of the survey then they were a year prior.[5]

CEQA and NEPA

It has long been established that under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) that the purpose of environmental reviews is to look at the physical impacts of a project on the environment both in the short term and long term aspects. Economic impacts, much less socioeconomic, are rarely if ever taken into consideration. Economic and social impacts are not considered environmental effects under CEQA.[6] However, that being said, CEQA Guidelines acknowledges that agency decisions cannot be guided solely by environmental values. Pursuant to Guidelines §15021(d), "[A} public agency has an obligation to balance a variety of public objectives, including economic...and social factors..."[7]

An Environmental Impact Report is not required to look at the impacts of the construction of a large shopping center; however the Lead Agency should analyze the impacts of traffic patterns when the smaller businesses close as a result of the new shopping center.[8] With this change in traffic patterns, one can make the argument that air quality patterns will change and need to be evaluated for their impacts on the new project site.

On a regional level, air quality impacts to surrounding communities and counties needs to be evaluated with the opening and closing of retail establishments, especially the "big box" retailers. This is due to not only the shift of the customer base to the new operations and the closing of smaller operations, but also the delivery of merchandise via overland transport.

What is typically not considered is the impacts to air quality in a given city or region as a result of retail development. This impact has the potential of being a dual edged sword in that there will be the impact in the city or region in question, but also on a regional scale as customers travel more to that particular retail outlet especially if it is a niche type market.

NEPA (the National Environmental Policy Act) differs somewhat with CEQA in the evaluation of socioeconomic impacts. Under NEPA, the definition of human environment states that economic or social effects are not intended, by themselves, to require preparation of an environmental statement. However, when one is prepared, the

[4] Harold Hunt and John Ginder. *Lights Out: When Wall-Marts Go Dark*. Tierra Grande, 1720. Texas A&M. April 2005)
[5] McFarland, Christine. *State of America's Cities Survey: Local Retail Slowdown.* March 2009.
[6] Bass, Ronald E. *CEQA Deskbook*. Second Edition (1999). Page 102
[7] Remy, Michael H. *Guide to CEQA California Environmental Quality Act.* 2007. Page 404.
[8] Bass, Ronald E. *CEQA Deskbook*. Second Edition (1999). Page 102.

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economic and social must be discussed if they are interrelated to the natural or physical environmental effects.[9] NEPA's requirement to consider socioeconomic impacts is slightly broader than CEQA's; in practice, federal agencies generally include more economic and social information than state and local agencies do.[10]

Case Law of Economic Blight

There have been court cases that indicate the courts view economic impacts as a serious consideration in EIR's.

If evidence is submitted to the legislative body of the jurisdiction that a fair argument exists that a significant impact could occur, and the agency fails to consider the impact, then certification of an EIR may be overturned as was addressed in *Bakersfield Citizens for Local Control* v. *City of Bakersfield* (124 Cal. App. 4th 1184 (2004). In *Bakersfield*, opponents to two Wal-Mart supercenters submitted reports indicating that the centers could over saturate the market, resulting in store closures and long-term vacancies in nearby retail areas. The city contended that even though there was an impact, it was not under the purview of CEQA. The court concluded that given the evidence, the city was required to determine whether indirect physical effects, such as urban decay or deterioration, may occur.[11] The *Bakersfield* case held that when there is evidence suggesting that the economic and social effects caused by the proposed shopping center ultimately could result in urban decay or deterioration, then the lead agency is obligated to assess this indirect impact.

The Fifth District Court of Appeals rejected the EIRs for both shopping centers because, among other deficiencies, they failed to evaluate potential urban decay impacts. The court stated that a proposed new shopping center does not trigger a presumption that decay will occur as a result of other businesses being closed. However, evidence – including a professional report – had been introduced suggesting that the economic impact of the shopping centers would trigger the environmental effect of urban decay. The court held that when such evidence is introduced, an EIR must evaluate that issue.

The court felt that the risk of "urban decay" was real from these projects:

> "Water contamination and air pollution, now recognized as very real environmental problems, initially were scoffed at as the alarmist ravings of environmental doomsayers. Similarly, experts are now warning about land use decisions that cause a chain reaction of store closures and long term vacancies, ultimately destroying existing neighborhoods and leaving decaying shells in their wake. In this case, the trial court recognized that the shopping centers posed a risk of triggering urban decay or deterioration, and that it concluded that CEQA required an analysis of the potential impact.....We....agree that CEQA requires analysis of the shopping centers' individual and cumulative potential to indirectly cause urban decay."[12]

In the *Anderson First Coalition* v. *City of Anderson* (130 Cal. App. 4th 1173 (2005)) case, the Court found that social or economic changes that may have a physical impact should be considered in an EIR. The Courts pressed this, and made the point of indicating that these impacts must be considered even if the evidence also would support an opposite determination.[13]

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[9] Bass, Ronald E. *CEQA Deskbook*. Second Edition (1999). Page 135. Citing 40CFR Section 1508.14.
[10] Ibid. Page 135.
[11] Curtain, Daniel J. *Curtin's California Land Use and Planning Law*. 2007. Page 159.
[12] Remy, Michael H. *Guide to CEQA California Environmental Quality Act*. 2007. Page 187.
[13] Curtain, Daniel J. *Curtin's California Land Use and Planning Law*. 2007. Page 159.

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A similar case in Inyo County, *Citizens Association for Sensible Development of Bishop Area* v. *County of Inyo* (172 Cal. App. 3d 151) (1985), stated that the lead agency must consider whether the proposed shopping center will take business away from the downtown shopping area and thereby cause business closures and eventual deterioration of the downtown area of Bishop.[14] In *Anderson First Coalition* v. *City of Anderson* (130 Cal. App. 4th 1173) (2005), the Court found that social or economic changes that may have a physical impact should be considered in an EIR.[15]

A city's ability to limit big-box retail stores was upheld on police power grounds in *Wal-Mart* Stores v. *City of Turlock* (137 Cal. App. 4th 273 (2006). Wal-Mart challenged a city zoning ordinance prohibiting the development of discount superstores as exceeding the police power. The court held that the police power empowers cities to "control and organize development within their boundaries as a means of serving the general welfare."[16] The court found that the city legitimately chose to organize development by using dispersed neighborhood shopping centers in an effort to protect against environmental effects that the city determined could result from the development of such superstores.[17] Courts have also found that regulations affecting economic interests in real property are also an appropriate exercise of the police power (reference *Birkenfield* v. *City of Berkeley* (17 Cal. 3d 129, 158 (1976)).[18]

[14] City of San Rafael. *Target Store Environmental Impact Report*. September 2008.
[15] City of San Rafael. *Target Store Environmental Impact Report*. September 2008.
[16] Curtain, Daniel J. *Curtin's California Land Use and Planning Law*. 2007. Page 3.
[17] Ibid. Page 3.
[18] Ibid. Page 3.

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A3. Response to Comments from Madera County Resource Management Agency, Planning Department, dated June 11, 2010.

A3-1 The commenter is correct and the cited reference should be CEQA Guidelines Section 15126.6(a). This correction has been made and is reflected in Chapter 3, *Revisions to the Draft* EIR of this Final EIR.

A3-2 The Mitigation Measure (10-4) referenced in this comment is complete in the main text of the document, Section 5.10, *Noise.* Material delivery shall be restricted to 7 AM to 10 PM. The omission of the AM hour in the Executive Summary has been corrected in Chapter 3, *Revisions to the Draft EIR.*

A3-3 The hours specified in Mitigation Measure 10-6 are consistent with the City of Fresno's Municipal Code and standards for specific time periods. Please refer to DEIR Table 5.10-7, *Exterior Noise Standards,* which lists the City's noise standards for the following time periods: 10 PM to 7 AM, 7 AM to 7 PM, and 7 AM to 10 PM. The DEIR reference to the 7 AM to 10 PM time period as "daytime" hours has been revised as included in Chapter 3, *Revisions to the Draft EIR.*

A3-4 The conclusion that the referenced project-related impact on fire service is less than significant is substantiated by the information included in DEIR Section 5.12.1.3, *Public Services, Environmental Impacts.* That section also references the response from Deputy Fire Chief Joel Aranaz of the Fresno Fire Department (see DEIR, Appendix K, *Service Provider Correspondence*). The commenter is correct in stating that the project should incorporate fire prevention construction and sprinklers. These are existing regulatory requirements, however, and do not need to be provided as CEQA mitigation measures. DEIR Section 5.12.1.5, *Existing Regulations*, specifies these requirements for the El Paseo project and the conclusions that fire impacts would be less than significant are based on compliance with these requirements.

A3-5 The potential impact of holiday traffic is not known without monitoring as recommended in Mitigation Measure No. 13-2. The City is being proactive by requiring monitoring and a Holiday Traffic Control Plan and associated measures, if required, to assure that holiday-related congestion and safety concerns are mitigated. The mitigation measures appropriately include sample measures that could be required to mitigate any problem identified. This measure is not deferred mitigation.

A3-6 The Draft EIR is a Program EIR for the entire project and a project-level EIR for Phase 1 of the proposed project. The Phase 1 traffic analysis level, therefore, includes a detailed evaluation of five subphases in much greater detail than the Program level assessment for Phases 2 through 5. The mitigation measure referenced in this comment was intended to assure that the detailed traffic study for the subsequent phases is conducted and information is updated as appropriate. This mitigation, however, was strengthened in the Recirculated DEIR to include performance standards and now reads as follows:

13-~~25~~30 Project Applicant shall prepare ~~an update of the~~ a traffic impact study for each of the subsequent development phases (Phases 2 through 5) of the Master Plan to confirm conditions and related cumulative growth assumptions. The traffic impact study shall be prepared in a manner similar to the level of the Phase 1 traffic analysis (including its subphases). These updates shall be prepared consistent with the City of Fresno Traffic Impact Study Guidelines and shall incorporate any fee requirements from the City's TSMI and FMSI programs, the Fresno County RTMF program, and applicable Caltrans requirements. In addition, the traffic analyses shall provide updated information on the status of local and regional capital traffic improvements, and analyze background traffic conditions accordingly.

Prior to the issuance of building permits for the respective phase, the Project Applicant shall demonstrate that none of the following conditions would result from implementation of the project phase:

- Triggers an intersection operating at acceptable LOS (LOS D or better) to operate at unacceptable levels of service.
- Triggers an intersection operating at unacceptable LOS (LOS E) to operate at LOS F.
- Increases the average delay by five or more seconds for an intersection that is already operating at unacceptable LOS.
- An unsignalized intersection found to operate at unsatisfactory LOS (LOS E or lower) requires preparation of a traffic signal warrant to determine whether signalization of the intersection would be warranted.

A3-7 The commenter is correct and the cited reference per the updated 2010 CEQA Guidelines is §15130 (b)(1)(A) and (B). This correction has been made and is reflected in Chapter 3, *Revisions to the Draft* EIR, of this Final EIR.

A3-8 The Draft EIR provides the regional context of the proposed project in several sections, including the *Population and Housing, Land Use,* and *Transportation and Traffic* sections. The role of the Council of Fresno County Governments Fresno COG is described, as are the Regional Transportation Plan (RTP), San Joaquin Valley Blueprint, and related funding programs (e.g., Regional Transportation Mitigation Fee (RFMF)). As quantified in Table 5.11-10, *Projected Jobs/Housing Ratio in the City of Fresno* the project would have a minimal impact in the jobs/housing balance for the City (increase from 1.35 to 1.36 from baseline conditions without the project, to conditions with project buildout). This analysis provides support that the proposed project would not indirectly result in substantial project area population growth. A discussion of cross-county transit of workers or jobs/housing balance analysis for surrounding jurisdictions is beyond the scope of a project-level EIR. Moreover, given the minimal effect that buildout of the project would have on the local jobs/housing balance, any change in the regional jobs/housing balance is unlikely to be appreciable.

A3-9 This comment correctly cites two different sections of the Draft EIR. The information provided in the DEIR traffic section (page 5.13-18) was based on a site survey that was conducted over a three-day period. The survey indicated an average of 11 trains between the hours of 7 AM to 7 PM. The information provided in the DEIR noise section (page 5.10-7) was based on the Federal Railroad Administration's (FRA) train count of eight trains between the hours of 6 AM and 6 PM. This information was used solely to estimate the noise impact of each train as it passed by the project site. The information as referenced by the commenter for both the DEIR traffic section and the DEIR noise section is detailed in the RSS (Appendix H).

A3-10 Discussion of the cross-county transit of workers is not a requirement of the City's Traffic Impact Study Guidelines on which the TIS is based. Although there is no specific discussion about the cross-county transit of workers in the Traffic section of the DEIR and the Final TIS in Appendix L, the traffic analysis included the cross-county distribution of project-related trips, which includes employees and patrons of all phases of the Master Plan. The traffic distributions for all phases of the Master Plan are based on select zone trip assignments from the Fresno COG travel demand model. The Fresno COG travel demand model is the City-approved source for trip distribution patterns for projects within the City. According to the select zone trip assignments, project traffic heading to and from Madera County is estimated at 2 to 3 percent.

A3-11 Contrary to the comment, the Executive Summary section of the Market Study does mention the impacts the proposed project would have on surrounding counties. In the second paragraph in the Potential Regional Impacts section on page 2, the document notes that the market study analyzed impacts to two regional trade areas, one of which included regional shopping centers in Madera. The third paragraph in this section summarizes the analysis's finding that the regional trade area in Madera generates "sufficient consumer spending, even with the loss of spending that the proposed project could capture, to support existing and planned retail development." This section also summarizes the analysis' conclusion that the proposed project should not cause long-term vacancies and urban decay in the region beyond its defined trade area. Please refer to Response A3-10 regarding traffic methodology and DEIR Section 5.3, *Air Quality*, for an analysis of vehicle-generated air quality impacts.

A3-12 Contrary to the comment, the Market Study does assess the potential impacts in Madera County. This comment confuses two separate issues covered in the Market Study. The Trade Area chapter, pages 18 through 23, discusses the trade area for the proposed project. The Potential Regional Impacts chapter, pages 28 through 33, discusses the potential for urban decay impacts in the two regional trade areas adjacent to the proposed project's trade area, specifically including Madera County.

As delineated on the map on page 22, the project's trade area would extend into the southern portion of Madera County. The Market Study found that there is sufficient consumer spending in the proposed project's trade area to support the amount of existing retail building space as well as the proposed project and other planned retail development. Because there is sufficient spending to support the amount of retail building space, the Market Study, on page 26, concludes that the proposed

project would not cause long-term structural vacancies leading to urban decay within the proposed project's trade area.

The second separate issue is whether or not the proposed project would cause long-term structural vacancies in the adjacent regional trade areas. Generally, a new shopping center will draw customers who previously drove a farther distance to shop at competing retail centers. When the proposed project begins operation, residents living the project's trade area will no longer drive farther to shopping centers in the rest of Madera County and the Fresno-Clovis metropolitan area. The Market Study assess whether or not there is sufficient consumer spending remaining in these two regional trade areas to support the amount of existing and planned retail building space.

The Market Study does provide a map of the delineated trade areas for the proposed project (Map 3 on page 22) and for the regional trade area in the Fresno-Clovis area (Map 4 on page 30). Although there is no map delineating the regional trade area in Madera County, the text on page 33 clearly defines this trade area as "all of Madera County except for the portion included in the proposed project's regional trade area and the portion included in the trade area for Blackstone Corridor/Clovis regional retail centers." The Market Study finds on page 34 that the Madera County regional "trade area contains sufficient consumer spending to support the existing and planned retail build space even with the proposed project's capture of some of Madera County's consumer spending."

Because the Market Study does indeed assess the potential regional impacts in Madera County and because it finds that the proposed project would not create long-term structural vacancies leading to urban decay in Madera County, no additional studies are warranted.

A3-13 This comment is essentially the same as comment A3-12. The commenter suggests that the DEIR and Market Study have not considered the potential economic impacts in Madera County. As the response to comment A3-12 makes clear, the Market Study does indeed evaluate the potential impacts and finds that the proposed project would not cause long-term structural vacancies leading to urban decay.

This comment, however, adds the phase "loss of trade." Loss of trade in Madera County would only be an environmental impact to the degree that it would cause long-term structural vacancies leading to urban decay. Indeed, if the threshold were simply loss of trade, then there would be no new retail development anywhere in California, because every new retailer captures some spending that currently goes elsewhere. The Market Study does, however, find that even without the consumer spending that would be diverted to the proposed project, there would still be sufficient spending to support the amount of existing and planned retail building space in the Madera County regional trade area.

A3-14 As concluded in the Market Study and summarized in previous responses A3-11 through A3-13, the Market Study found that there is sufficient consumer spending in the proposed project's trade area to support the amount of existing retail building space in the trade area as well as the proposed project and other planned retail development. Small business closures in Madera County due to the proposed El

Paseo project, therefore, would not occur, and mitigation related to business closure is not required. Mitigation to address project-related impacts to regional facilities, however, including SR-99, is detailed in the EIR. Please refer to the updated analysis and mitigation included in the Recirculated DEIR.

A3-15 CEQA Guidelines Section 15064(f)(6) does not require "a detailed examination of the impacts to surrounding communities and counties," as stated in the comment. This section reads as follows:

> 15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT
>
> (f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.
>
> (6) Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment.

The Draft EIR appropriately addresses potential project-related impacts, including indirect socioeconomic impacts, to surrounding communities and counties.

A3-16 CEQA Guidelines Section 15131 states that "Economic or social information may be included in an EIR or may be presented in whatever form the agency desires" and notes that economic or social effects of a project shall not be treated as significant effects on the environment. An economic or social impact can be significant if it results in a significant physical change. Moreover, this section states that "the intermediate economic or social changes need not be analyzed in any detail greater than necessary to tract the chain of cause and effect."

The Market Study concludes that there is sufficient consumer spending in the proposed project's trade area to support the amount of existing retail building space as well as the proposed project and other planned retail development. The proposed project would not result in economic effects that would indirectly result in significant physical, environmental effects, and no additionally evaluation is required.

A3-17 Section 5.11, *Population and Housing*, substantiates the conclusion that employment growth and indirect population growth generated by the proposed project would not constitute a substantial adverse impact. The jobs/housing balance analysis demonstrates that the project's impact on this ratio for the City of Fresno would be minimal. A jobs/housing analysis of surrounding counties is beyond the scope of a project-specific EIR. The economic impacts of the project have been addressed in the Market Study, and air quality and circulation impacts, including regional considerations, are addressed in DEIR Sections 5.3 and 5.13, respectively.

A3-18 The referenced DEIR sentence erroneously refers to Section 5.13.4 instead of 5.13.3**.** This correction has been made and is reflected in Chapter 3, *Revisions to the Draft and Recirculated EIR,* of this Final EIR.

A3-19 The Traffic Impact Study (TIS) prepared for the proposed project (Final Traffic Impact Study for Fresno El Paseo Project, DKS, 2008) includes existing, cumulative (ambient growth and approved/pending projects), and project traffic distributed on SR-99 north to/from Madera County. The TIS was prepared consistent with the Traffic Impact Study Guidelines of the City of Fresno (lead agency) and utilized regional traffic forecasting methodology consistent with the Fresno COG travel demand model. Based on Select Zone model runs from the Fresno COG traffic model, approximately 2 percent (weekdays) and 3 percent (Saturdays) of project traffic would originate and/or be destined northward to Madera County and other destinations to the north, while a majority of project traffic would be destined to the south and east. This distribution was also applied to the 70+ cumulative projects analyzed in the study area. Ambient growth from outside the Fresno area was 1.08 to 1.12 percent per year as provided in the COG traffic model. The impact of the cumulative traffic volumes can be seen in the growth of the future traffic volumes on the northbound and southbound segments of the SR-99 freeway, north of Herndon Avenue, as analyzed in the TIS.

A3-20 DEIR Section 5.3, *Air Quality*, provides an evaluation of air quality impacts from operation of the proposed project. Project-related air pollutant emissions from operational activities were calculated and compared to the San Joaquin Valley Air Pollution Control District's (SJVAPCD) regional significance thresholds. These thresholds address the impacts of air pollutant emissions from motor vehicles traveling to and from a project in addition to stationary sources on local and regional air quality. Projects in the San Joaquin Valley Air Basin (SJVAB) whose operation-related emissions exceed the regional emissions thresholds will be considered to have significant air quality impacts. Madera County is in the SJVAB and therefore is included in this analysis. According to the SJVAPCD, an exceedance of the regional emissions thresholds would result in contribution to the nonattainment designation of SJVAB.

The air quality analysis is based on the project-related vehicle trips as provided by the TIS. The project-related trips include all vehicle trips including vendor trips (please see response to Comment A3-10). The UREMIS2007 model assumes heavy-duty trucks for the fleet mix. As shown in Table 5.3-8 of the DEIR, the proposed project would exceed the SJVAPCD's regional emissions thresholds for VOC, NO_X, and PM_{10} for all phases of development. Therefore, air quality impacts from the project's operation-related air pollutant emissions would be significant and would contribute to the nonattainment designations of the SJVAB. According to the SJVAPCD, any proposed project that would individually have a significant air quality impact would also be considered to have a significant cumulative air quality impact. Section 5.3 concludes that because the proposed project's operation-related air pollutant emissions would exceed the SJVAPCD's regional emissions thresholds for VOC, NO_X, and PM_{10}, it would therefore result in significant cumulative air quality impacts. Per CEQA Guideline Section 15091, the City of Fresno as the lead agency and decision maker would be required to prepare a written finding stating this and also prepare in writing a statement of overriding considerations per CEQA Guideline Section 15093 if the City approves the project.

A3-21 As referenced on DEIR page 5.13-19, Section 5.13.2 *Thresholds of Significance,* CEQA Guidelines Appendix G includes the following checklist question (referenced

as Threshold T-2 in this DEIR): Would the project "Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?" Impact No. 5.13-6 directly answers this threshold question which specifically relates to project consistency with a Congestion Management Plan (CMP). As noted, as of the publication of the DEIR there is not a CMP for Fresno County. The impact statement accurately states that since there is no plan or related CMP-adopted service standard, the proposed project would not exceed a CMP standard. The DEIR text does not state or imply that congestion would not occur. Project-related traffic impacts and level of service are addressed in this section of the DEIR (Section 5.13, *Transportation and Traffic)* and the supporting TIS (Appendix L).

A3-22 The DEIR provides the regional context for the project and evaluates regional impacts and impacts to surrounding communities at an appropriate level of detail. Please also refer to response to comment A3-8.

A3-23 The proposed project would implement various mitigation measures, as discussed in Chapter 5.3, *Air Quality*, and Chapter 5.15, *Global Climate Change* that would reduce project-related operational emissions from both stationary and mobile sources. Some of the mitigation measures included in these two chapters correspond with the commenter's recommended measures, which are discussed below. The following discusses the applicability of the commenter's recommended measures.

i. Comment acknowledged and has been forwarded to the project applicant for consideration. The proposed project includes various project features and mitigation measures, including incorporation of SJVAPCD's Best Performance Standards, which would increase energy efficiency and reduce GHG emissions from mobile and stationary sources. In addition, several of the commenter's recommendations are included as mitigation for the proposed project. The project would not result in a significant GHG impact from area sources, energy and water usage, and waste after implementation of mitigation.

ii. This measure is already included as part of Mitigation Measure 3-6.

iii. The proposed project would accommodate public transit and alternative transit use. Phase 1 includes plans for internal pedestrian pathways and proposes a small Fresno Area Express (FAX) transit center (i.e., bus turnout with shelter) south of the Bryan Avenue/"Anchor A" driveway intersection. This bus turnout would serve the patrons of Phase 1 as well as the neighboring residential communities and the adjacent schools. Pedestrian walkways will provide access to this bus turnout. This would encourage the use of public transit and pedestrian circulation within the Phase 1 site. Figure 5.13-8, *Pedestrian Master Plan*, of the Recirculated DEIR shows the linkages of pedestrian facilities for Phase 1 and all phases of the Master Plan. As the site plan will be reviewed by FAX, all City and/or FAX design requirements would be met in order to obtain site plan design approval. Additionally, future transit routes and potential for additional bus stops would be determined with precise site plans in coordination with FAX. In

addition, Mitigation Measure 15-7 would require coordination with FAX to provide transit stops with bicycle/pedestrian access and would also require applicants for new development projects to construct bus turnouts.

iv. Please see response above.

v. This measure is already included as Mitigation Measure 15-12.

vi. This measure is already included as part of Mitigation Measure 3-5.

vii. It is not anticipated that either a grocery store or home improvement retail outlet would be developed for Phase 1. For future phases (i.e., Phases 2 through 5), specific tenant mix is currently unknown. Additionally, establishing this type of home delivery program would be at the discretion of the individual tenants.

viii. The California Air Resources Board (CARB) has adopted Rule 2485, which limits nonessential idling of commercial diesel vehicles to five minutes or less and would be applicable to the proposed project.

ix. The DEIR evaluates impacts in accordance with the degree of specificity required (CEQA Guidelines Section 15168). No significant impacts were identified with regard to truck deliveries as described on pages 5.7-11 and 5.7-12 of the DEIR. Truck refrigeration units were included in the evaluation of health risks associated with truck deliveries. Therefore, mitigation measures are not required.

x. Establishment of this type of funding program would be at the discretion of each of the individual commercial/retail tenants (businesses) or the company providing the trucking services because the trucks used would not be owned or operated by the project applicant.

xi. Comment acknowledged and forwarded to the project applicant for consideration.

xii. The proposed project would comply with the SVJAPCD Indirect Source Review program (Rule 9510) in addition to other applicable district rules and CARB and state regulations that would reduce air quality impacts. In addition, the proposed project incorporates various mitigation measures to increase energy efficiency and reduce air pollutant emissions from both stationary and mobile sources.

LETTER A4 – Office of Fresno Irrigation District (5 pages)

OFFICE OF
FRESNO IRRIGATION DISTRICT
YOUR MOST VALUABLE RESOURCE - WATER

TELEPHONE (559) 233-7161
FAX (559) 233-8227
2907 S. MAPLE AVENUE
FRESNO, CALIFORNIA 93725-2218

June 14, 2010

JUN 17 2010
Planning Division
Planning & Development Dept
CITY OF FRESNO

Mr. Mike Sanchez
City of Fresno
Planning & Development Dept.
2600 Fresno Street, Third Floor
Fresno, CA 93721

RE: Notice of Availability of Draft Environmental Impact Report
Fresno El Paseo Master Plan Project

Dear Mr. Sanchez:

The Fresno Irrigation District (FID) has reviewed the Draft Environmental Impact Report for the Fresno El Paseo Master Plan Project and has the following comments:

1. FID does not own, operate, or maintain any facilities located within the limits of the proposed development as indicated on the attached FID exhibit map. A4-1

2. For informational purposes; FID's Epstein Canal traverses along the west side of Parkway Drive, west of Highway 99, as shown on the attached FID exhibit map. Should any street improvements be required along Parkway Drive and in the vicinity of the pipeline crossing, FID requires it review and approval of all plans. A4-2

Thank you for submitting this for our review. We appreciate the opportunity to review and comment on the subject documents for the proposed project. If you have any questions please contact James Shields at 233-7161 extension 319 or jshields@fresnoirrigation.com.

Sincerely,

William R. Stretch

William R. Stretch, P.E.
Chief Engineer

Attachment

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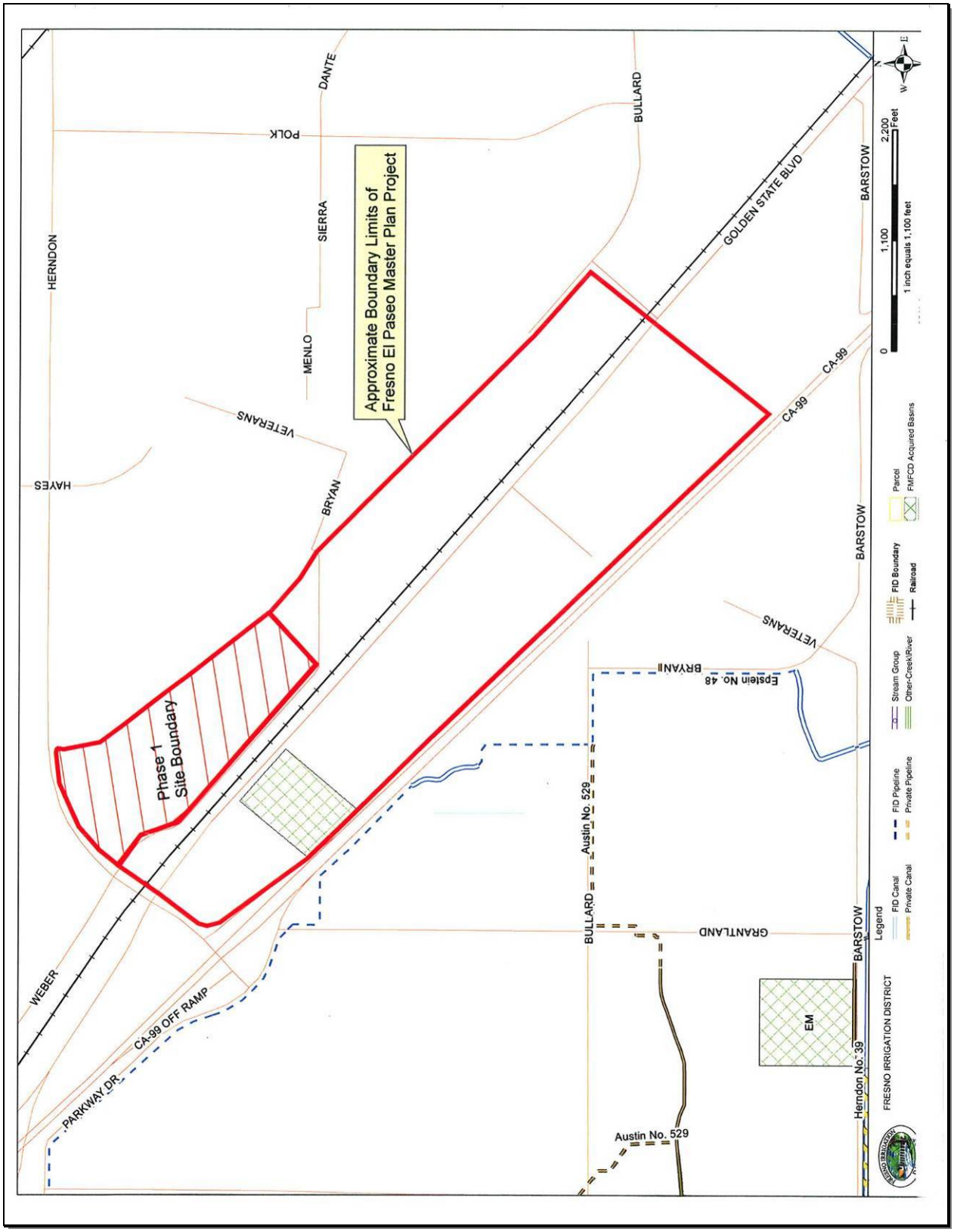
BOARD OF DIRECTORS President JEFFREY G. BOSWELL, Vice-President JEFF NEELY
STEVE BALLS, RYAN JACOBSEN, GEORGE PORTER, General Manager GARY R. SERRATO


Approximate Boundary Limits of
Fresno El Paseo Master Plan Project
Phase 1
Site Boundary
HERNDON
HAYES
WEBER
PARKWAY DR.
CA-99 OFF RAMP
VETERANS
MENLO
SIERRA
DANTE
POLK
BRYAN
BULLARD
GOLDEN STATE BLVD
CA-99
CA-99
BARSTOW
BARSTOW
BARSTOW
VETERANS
BRYAN
Epstein No. 48
Austin No. 529
Austin No. 529
BULLARD
GRANTLAND
EM
Herndon No. 39
0
1,100
2,200
Feet
1 inch equals 1,100 feet
N
W
E
Legend
FID Canal
Private Canal
FID Pipeline
Private Pipeline
Stream Group
Other-Creek\River
FID Boundary
Railroad
Parcel
FMFCD Acquired Basins
FRESNO IRRIGATION DISTRICT

RECEIVED

MAY - 3 2010

Fresno Irrigation District

NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT REPORT (SCH# 2008011003) FOR THE FRESNO EL PASEO MASTER PLAN PROJECT

DATE: May 6, 2010
TO: DEIR Distribution List **LEAD AGENCY:** City of Fresno

SUBJECT: **Notice of Availability of a Draft Environmental Impact Report for the El Paseo Project**

General Plan Amendment A-08-011 (City and Applicant)
Rezone Application No. R-08-15
Development Agreement (Phase 1 only)
Master Conditional Use —Permit Application No. C-08-172 (Phase 1 only)
Vesting Parcel Map No. 2008-13 (Phase 1 only)
Variance Applications (Phase 1 only)
Street Vacation Applications (Phase 1 only)
CFD Formation
State Clearinghouse No. 2008011003

Introduction:

The DEIR addresses Phase 1 at a Project level and the remaining Phases at a Program level pursuant to CEQA Guidelines sections 15161 and 15168.

Project Location:

238 acres bounded by Herndon Avenue on the north, Bryan and Bullard Avenues on the east, Carnegie Avenue on the South and SR-99 on the west. The project site contains two areas. The first is on the south side of West Herndon Avenue bound by North Bryan Avenue to its connection with Bullard Avenue (east); Carnegie Avenue (south); and the Union Pacific Railroad Tracks/North Golden State Boulevard (west) covering 165 acres. The second is bound by the Union Pacific Railroad tracks/North Golden State Boulevard (east); the proposed Veteran's Boulevard (south); SR-99 (west); with the northern boundary approximately 2000 feet south of West Herndon Avenue covering the remaining 73 acres.

Description:

The proposed project would develop a 238-acre site at the northwest gateway of the City of Fresno. The development would include retail, office, hospitality, and entertainment uses, including:

- A large retail marketplace
- A lifestyle center or town center project
- A mid-rise office park and hotel
- A light industrial business park

The proposed project would be implemented in five phases. Project buildout is anticipated to occur over approximately nine years.

Phase 1

The Phase 1 "Marketplace at El Paseo" would consist of a power center retail development with up to 906,788 square feet of retail space, including smaller outparcel restaurant and retail uses.

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Phase 4 will seek a general plan amendment redesignating 8.18 acres from medium density residential to neighborhood commercial, and a related rezone from the AE-5/UGM (Exclusive Agriculture – Five Acres) zone district to the C-1/UGM (Neighborhood Shopping Center/Urban Growth Management) zone district.

Phase 5 encompasses 10.06 acres and entails a general plan amendment from the medium density designation to the office commercial designation and related rezone from the AE-5/UGM (Exclusive Agriculture – Five Acres) zone district to the C-P/UGM (Administrative and Professional Office) zone district.

There is a proximate 38 acre parcel (APN 506-130-28) which is located on the southern portion of the Project. The City initiated General Plan amendment will change the land use designation of the 38 acre parcel to light industrial, neighborhood commercial and office commercial land use designations but does not involve a rezoning of the property.

Impacts: The Draft Environmental Report finds Significant Unavoidable Impacts in the following areas: Air Quality, Noise, Traffic and Transportation.

Public Review: Copies of the Draft Environmental Impact Report are available for review at the following locations:

City of Fresno Planning and Development Department 2600 Fresno Street Third Floor Fresno, CA 93721

Fresno County Free Library Central Reference 2420 Mariposa Street Fresno, CA 93721

Fig Garden Library 3071 West Bullard Avenue Fresno, CA 93711

The Draft Environmental Impact Report for the Master Plan Project is also available for public review on the City website ***within 5 business days from the date of this notice*** at

http://www.fresno.gov/Government/DepartmentDirectory//Planning Department/Planning//MajorProjectsUnderReview.htm

The public comment period on the Draft Environmental Impact Report will run from **May 6, 2010** to **June 21, 2010.** Comments must be received by the City no later than **5:00 p.m.** on **June 21, 2010** in order to be addressed in the Final EIR. Only responses to environmental issues raised will be prepared pursuant to Section 15204 of the CEQA Guidelines. Please send your comments to:

Mr. Mike Sanchez Planning Manager 2600 Fresno Street Third Floor Fresno, CA 93721

Or via e-mail at mike.sanchez@fresno.gov

(559) 621-8040 (Work)

(559) 498-1026 (Fax)

Date: May 6, 2010

Signature: _____
Planning Manager

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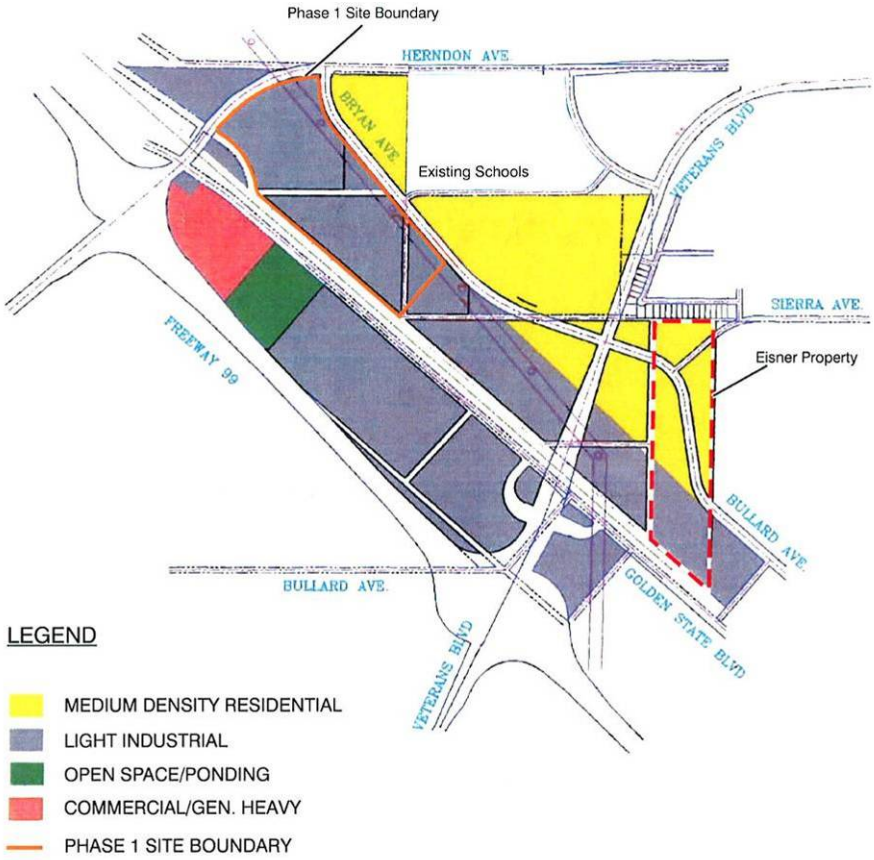
3

4. Environmental Setting

Existing General Plan Land Use Designations



Fresno El Paseo Draft EIR — *The Planning Center* • **Figure 4-2**

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A4. Response to Comments from Office of Fresno Irrigation District, dated June 14, 2010.

A4-1 Comment acknowledged.

A4-2 As detailed in the DEIR Section 5-13, *Transportation and Traffic*, and in the Traffic Impact Study (TIS) included as DEIR Appendix L, project mitigation includes roadway and intersection improvements for Parkway Drive at Herndon Avenue and Parkway Drive at Grantland Avenue, potentially in the vicinity of Fresno Irrigation District's (FID's) pipeline crossing. The following mitigation is added to assure that FID has the opportunity to review and approve the improvement plans. This new mitigation measure has also been included in Section 3, *Revisions to the Draft and Recirculated EIR*.

13-25a The project applicant and City shall coordinate with the Fresno Irrigation District regarding road and intersection improvements in the vicinity of Parkway Drive that could potentially affect FID's pipeline crossing. Final plans shall be reviewed and approved by FID prior to construction of improvements in this vicinity.

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LETTER A5 – Aquarius Aquarium Institute (4 pages)

Aquarius Aquarium
INSTITUTE

June 15, 2010

VIA E-MAIL

Mr. Mike Sanchez
City of Fresno Planning Division
Fresno City Hall
2600 Fresno St., Room 3043
Third Floor, South End
Fresno, CA 93721-3604

RE: Fresno El Paseo Draft Environmental Impact Report (DEIR)

Dear Mr. Sanchez,

Thank you for the opportunity to comment on the above-referenced DEIR. I am executive director of Aquarius Aquarium Institute (Aquarium), which has its own approved, potentially significantly impacted nonprofit 501(c)(3) public benefit project in the proposed project's neighborhood within the City of Fresno's sphere of influence, and wish to express our organization's concerns about the significant impacts El Paseo will have on the environment under CEQA.

While we are generally supportive of the proposed project, from the opening of Phase 1A, El Paseo will worsen the traffic congestion at Herndon Avenue and Golden State Boulevard and at the adjacent at-grade Union Pacific Railroad (UPRR) crossing not only during peak hours, but also throughout the day and evening. The DEIR relies too heavily on the future construction of the proposed Veterans Boulevard for mitigation of project traffic impacts and does not propose adequate mitigation from the applicant for project impacts at SR-99/Herndon, Golden State/Herndon or UPRR/Herndon. A5-1

We also object to the proposal to close the southbound (Grantland) off ramp from SR-99 since this is the off ramp many of the Aquarium's future visitors will use to access our project and such closure would move this traffic to the Golden State/Herndon intersection, negatively impacting it even further. We believe an alternative design for the Herndon/Parkway intersection can be developed by the City's Traffic Engineering Department that would preserve this vital off ramp for both the Aquarium and County residents west of SR-99. A5-2

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1

Due to the failure of the City of Fresno over many years to collect adequate mitigation fees from developers, require adequate mitigation measures or place tougher Conditions of Approval on developers to address the cumulative impacts of numerous northwest area projects in addition to permitting developers to earmark mitigation fees for specific future projects such as Veterans Boulevard, the SR-99/Herndon Avenue interchange complex has unfortunately fallen into a state of complete inadequacy for the motoring public in Fresno. While this is certainly not the fault of the applicant, it is the existing environment in which the applicant has elected to build a major regional Shopping Center project. A5-3

The DEIR states on page 415: "The final design for improvements to the Golden State Boulevard/Herndon Avenue intersection (including street widening, lane addition, and traffic signal modifications) is complete, and construction of these improvements is anticipated to start in Spring 2010. A grade-separation project (Herndon Avenue underpass at the UPRR tracks) just east of Golden State Boulevard is also identified. The timing for this improvement is uncertain." This timing should not be uncertain and represents a fatal flaw in the DEIR. A5-4

The Aquarium believes that the DEIR's statement that the "final design for the intersection is complete" misleads the motoring public and decision makers and is in conflict with the City of Fresno's adopted 2025 General Plan: "Objective E-2: Maintain a coordinated land use and circulation system that conforms to planned growth, minimizes traffic conflicts, reduces impacts on adjacent land uses, and preserves the integrity of existing neighborhoods" because it implies no further improvements are planned when this is not the case. On April 15, 2010, the Fresno City Council held a hearing to approve a cooperative agreement with Caltrans for improvements at the SR-99/Herndon interchange and I expressed concerns at the meeting for the public record about the designs of the interchange and adjacent Golden State/Herndon intersection and UPRR/Herndon at-grade crossing being described as "complete." According to the adopted minutes from that meeting: *"Addressing Mr. Lang's earlier comments Traffic Engineer Jones stated the agreement between the City and Caltrans was in good faith as there were existing efficiencies and improvements were needed and added irregardless of Veterans Boulevard, or any other endeavor, near term improvements were needed, and stated the design was going to take some time so there will be plenty of time to modify any needs."* A5-5

There is no indication in the DEIR of an effort to create a circulation plan for El Paseo that is coordinated with other nearby County or City approved and proposed land uses such as the approved Public Aquarium project or even the proposed *Fountains at El Paseo* project directly across Bryan Avenue. While such coordination may exist internally within the City of Fresno's Traffic Division, the DEIR does not reference it. The interchange and intersection improvements proposed as mitigation in the DEIR at SR-99/Herndon, Golden State/Herndon and the UPRR/Herndon at-grade crossing do not take into account the cumulative traffic impacts of other City and County development A5-6

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that has been approved or has occurred in the area since El Paseo's Traffic Impact Study was completed in 2008, the impact of population growth of the Fresno metropolitan area, nor the new and significant information under CEQA that the current Level Of Service (LOS) at the Golden State/Herndon/SR-99 interchange complex is far worse today than was previously projected in numerous preceding City project TISs. A5-6 cont'd.

Since the El Paseo site is in a unique location adjacent to the UPRR, the City of Fresno should require the applicant to dedicate the necessary property fronting Herndon Avenue between Bryan and the UPRR for the construction of the 6-lane grade-separation project (Herndon Avenue underpass at the UPRR tracks) just east of Golden State Boulevard as was described in detail in the City of Fresno's Project Study Report (PSR) for Veteran's Boulevard under the No-Build scenario. A5-7

Further, the City should commit the applicant's substantial RTMF and FMSI fees as well as Measure C "Flex Funds" the City has been accumulating over the last 2 years to construct the UPRR/Herndon undercrossing and, as the Lead Agency, identify the timing for this improvement for inclusion in the Final EIR for the El Paseo project. The Aquarium respectfully suggests that the construction of the undercrossing should be completed no later than the date a Certificate of Occupancy is granted by the City for all subphases of Phase 1 (1A - F) of El Paseo. The proposed driveway into the shopping center from Herndon Avenue, a designated expressway in the City's 2025 General Plan, should also not be permitted in accordance with Policy E-2-h and because it would interfere with the future construction of the grade separation project. A5-8

In Policy E-2-b of the City's 2025 General Plan, the City must "Minimize vehicular and vehicle-pedestrian conflicts on major streets and adjacent land uses through use of traffic design and control measures that reduce congestion and increase safety," yet there is no mitigation measure proposed in the DEIR that provides for safe pedestrian access from the west side of SR-99/Herndon to this regional Power Center. Certainly, the many families who live in the County homes just west of the freeway would want to walk or bicycle to the nearby Super Target, Toys R Us, Babies R Us, and other major national retailers if it was safe to do so. The applicant should be required to install sidewalks and safe crossings along Herndon Avenue connecting the project to the west side of the freeway. A5-9

In Policy E-2-k, the City is to "Require the design of local streets to provide efficient circulation and allow convenient access while protecting neighborhoods from intrusion of through traffic." However, the El Paseo DEIR does not propose adequate mitigation measures to provide convenient access from west of SR-99 at Herndon. An adequate mitigation measure would be for a portion of the applicant's fees to go toward its pro-rata share of Caltrans reconstruction of the SR-99/Herndon undercrossing to accommodate at least three through traffic lanes in each direction, a bike lane and a safe pedestrian walkway. The remaining portion of this new undercrossing could be funded through a A5-10

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559-490-FISH (3474) www.AquariusAquarium.org

combination of the Measure C local transportation tax, the County's RTMF, State STIP and Proposition 1B funding designated for SR-99 improvements. A5-10 cont'd.

FHWA and Caltrans, in their final Mitigated Negative Declaration and Finding of No Significant Impact for the SR-99 Island Park Six-Lane Project (April 2010), state that this capacity-increasing freeway widening project "will have a minimal local traffic circulation impact when compared to land use decisions and subsequent development impacts to Herndon Avenue traffic" and is "independent of the proposed Herndon Avenue Ramp Project and the proposed Veterans Boulevard Projects." We disagree with these statements from the perspective of El Paseo since it is unlikely El Paseo would have considered locating their project in this area if improvements to the state facilities, including the new Veteran's Boulevard interchange were not planned. It may be unintended, but the reality is that as the freeway capacity is increased, the attraction to larger and larger developers is undeniable. A5-11

Since the Island Park Six-Lane Project is not funding improvements to Herndon or Shaw Avenue freeway interchanges, the responsibility falls to City development and local transportation taxes to fund necessary improvements to these prior to dedicating funds to new projects such as Veteran's Boulevard. A5-12

Thank you again for the opportunity comment on the El Paseo project DEIR. We respectfully request to be routed the final EIR when it is ready for circulation.

Sincerely,

Tom Lang
Executive Director
direct: (559) 930-3474
tlang@AquariusAquarium.
Aquarius Aquarium Institut

5541 Columbia Drive North, Fresno, CA 93727
559-490-FISH (3474) www.AquariusAquarium.org

4

A5. Response to Comments from Aquarius Aquarium Institute, dated June15, 2010.

A5-1 Subsequent to preparation and public circulation of the Draft EIR, a Recirculated DEIR was prepared and circulated, primarily to supplement the analysis of project-related traffic and rail safety impacts. Among other requirements, the Recirculated DEIR commits the project applicant to fair share contributions toward Caltrans facility improvements that are not included in the Regional Transportation Mitigation Fee (RTMF) program.

The Recirculated DEIR also describes capacity and operational improvements under construction in 2010 for the Golden State Boulevard/Herndon Avenue intersection and safety improvements at the adjacent at-grade UPRR crossing.

Particularly with the clarification and added mitigation in the Recirculated DEIR, the project does not rely too heavily on the future construction of the Veterans Boulevard interchange to mitigate project impacts. This improvement is not required to mitigate Phase 1 of the project, for which the EIR is a project-level EIR. Future project phases (Phases 2–5) will not be able to proceed without subsequent environmental review and traffic studies. New mitigation included in the Recirculated DEIR assures that development resulting in significant impacts cannot occur until appropriate improvements are in place to provide acceptable levels of service (please refer to Response A2-1)

In addition to referring this commenter to the Recirculated DEIR, the commenter is also requested to review comment letters RA5 and RA8 in this Final EIR from the California Public Utilities Commission (PUC) and California Department of Transportation (Caltrans), respectively. Upon review of the Recirculated DEIR and proposed subphasing for improvements, Caltrans has determined that the measures are acceptable to mitigate the proposed project impacts to the SR-99/Herndon interchange. Similarly, the PUC concurs with the recommendations in the Rail Safety Study. As recommended by the PUC, the City and applicant will coordinate the potential requirement for updated traffic studies to address the Bullard and Carnegie at-grade crossings for future phases.

A5-2 The closure of the SR-99 southbound off-ramp at Grantland Avenue (one of two southbound off-ramps that provide access to Herndon Avenue) would not adversely impact the intersection of Golden State Boulevard/Herndon Avenue due to the shift of off-ramp traffic to the existing Herndon Avenue southbound off-ramp. The mitigated Phase 1 traffic analysis took into account the shift in traffic volumes from the closed off-ramp to the intersection of Golden State Boulevard/Herndon Avenue. With this shift in southbound off-ramp traffic and completion of the City-funded improvements to Golden State Boulevard/Herndon Avenue, the intersection was forecast to operate with satisfactory levels of service with project traffic (LOS C in AM peak hour, and LOS D in PM peak hour). The project applicant has worked closely with City Traffic Engineering staff and Caltrans District 6 staff in the development of mitigation measures for the SR-99/Herndon Avenue interchange. Phase 1A would improve this interchange with the addition of new traffic signals and through traffic lane capacity enhancements. As part of those mitigation measures, Caltrans design requirements include the closure of the southbound off-ramp to provide improved progression between the new signals.

A5-3 The commenter's opinion of cumulative development conditions and existing operations at the SR-99/Herndon Avenue interchange is acknowledged. The project applicant has worked closely with City Traffic Engineering staff to develop detailed, appropriate, and feasible measures to mitigate the project impact of Phase 1, including specific subphase improvement requirements. Program level measures for Phases 2–5 will be required under Mitigation Measures 13-30 and 13-54 to prepare individual traffic impact studies (TIS) to assess the current status of transportation improvements at that time. Please also refer to the Recirculated DEIR, Chapter 1, *Executive Summary Table*, Section 5.13, *Transportation and Traffic,* and Appendix L. The Recirculated DEIR clarifies that the project applicant shall contribute Combined Share fees for Caltrans facilities impacted by the project as well as pay applicable RTMF to mitigate area-wide impacts to the transportation system.

A5-4 The improvements to Golden State Boulevard/Herndon Avenue have been confirmed by the City Traffic Engineer to be currently underway and are a fully funded and programmed improvement. The uncertainty of the timing for the UPRR grade separation at Herndon Avenue is not a fatal flaw of the DEIR. It is a reality and is appropriately acknowledged. This improvement is not required for Phase 1, for which the EIR is a project-level EIR. As noted above, new mitigation included in the Recirculated DEIR assures that future phases are subject to updated traffic studies and compliance with performance standards. Future development resulting in significant impacts cannot occur until appropriate improvements are in place to provide acceptable levels of service (please also refer to Response A2-1)

The Herndon Avenue grade-separation improvement is a listed improvement project under the City's Fresno Major Street Improvement (FMSI) program. The FMSI, however, would only provide partial funding for the grade separation. It would only help cover the local match for a larger Grade Separation Grant program and not the full funding or obligation to actually reimburse or construct the grade separation.

Please also refer to the Recirculated DEIR, Chapter 1, *Executive Summary Table*, Section 5.13, *Transportation and Traffic*, and Appendix L.

A5-5 The statement that the final designs for the Herndon Avenue/Golden State Boulevard project are "complete" was only meant to be applicable to improvements planned for this particular project, not to preclude the City from considering any future improvements at this intersection that they may find necessary. The current improvements designed for the Herndon Avenue/Golden State Boulevard intersection are currently under construction. This statement has been revised in Chapter 3 of this FEIR to specifically reference the improvements currently under construction.

A5-6 Consistent with City and county standards, the Fresno COG travel demand model was the basis for determining future traffic growth in the study area. The COG model is based on future land use plans (i.e., future projects) provided by regional (county) and local (cities) agencies. Cities and the county utilize the COG model in the development of circulation plans in the county. In addition, the traffic analyses and corresponding mitigation measures developed for each phase of development account for cumulative traffic impacts based on ambient local and regional growth, which includes growth from approved and pending projects in the City's database at

the time the TIS was initiated, The shorter-term horizon years for Phases 1 and 2, 2010 and 2012, respectively, contain traffic generated by 70+ cumulative projects, plus ambient growth (see Table 5.13-6 and Figure 5.13-6 of the Recirculated DEIR). The Fountains at El Paseo project was not an approved or pending project at the time the TIS was initiated and therefore was not included in the traffic analysis. However, as recently indicated by the City, the majority of the cumulative projects have had an inactive status in the past two years (2008 to 2010). Therefore, the traffic forecasts used for the analysis of Phases 1 and 2 are very conservative. Moreover, CEQA requires that existing conditions at the time of commencement of environmental review serve as the baseline for technical analysis. The traffic analysis is consistent with CEQA requirements.

A5-7 The project site and vehicular access along Herndon Avenue have been designed to accommodate the footprint of the future UPRR grade separation project. In the short term, even without the grade separation project, Herndon Avenue will be constructed to six lanes up to the existing at-grade UPRR crossing.

A5-8 As analyzed in the DEIR and Recirculated DEIR, Phases 1 and 2 of the proposed project do not require the Herndon Avenue/UPRR grade separation to mitigate significant impacts. Moreover, as noted in Response A5-4, adequate funding for the Herndon Avenue/UPRR grade separation has not been established. The planned Herndon Avenue/UPRR undercrossing will be partially funded by the FMSI fee. Measure C and the RTMF currently only fund Tier 1 projects, and the undercrossing is not listed as a Tier 1 project. Although the undercrossing is listed as a project in Measure C, full funding for the project has not been determined and therefore timing for the grade separation remains uncertain.

The project applicant has coordinated with City Traffic Engineering staff to reduce Phase 1 traffic impacts at the at-grade UPRR crossing by constructing the extension of Bryan Avenue to Bullard Avenue to the south. This extension would provide an alternate access for Phase 1 traffic. In coordination with the City, the proposed project would also process an amendment to the General Plan Circulation Element to reclassify Herndon Avenue from an Expressway to a Super Arterial from Parkway Drive to Bryan Avenue. This would allow for the proposed project access on Herndon Avenue. Additionally, the project site and vehicular access along Herndon Avenue have been designed to accommodate the footprint of the future UPRR grade separation project.

A5-9 The proposed project is consistent with Policy E-2b of the City's General Plan. Vehicular and vehicle-pedestrian conflicts would be minimized by adhering to conditions imposed by the City to install new traffic signals with pedestrian phasing along Bryan Avenue at major project intersections, constructing new street improvements along Bryan Avenue and Herndon Avenue that comply with City street standards that ensure that proper vehicle and pedestrian facilities are constructed, and installing two roundabouts along Palo Alto Avenue to calm traffic in the adjacent neighborhood.

The DEIR does not identify significant pedestrian safety issues that would require the applicant to construct sidewalks and safe crossings along Herndon Avenue connecting the west side of SR-99. Currently, there are minimal residential uses on

the west side of SR-99, and these uses are not served by pedestrian facilities that access land uses east of SR-99. Future pedestrian facilities would be constructed through the City's capital improvement program as citywide improvements, as well as through future developments that have frontage along future pedestrian rights-of-way, as noted in the City's Bicycle, Pedestrian, and Trails Master Plan (BMP). Per the City's Traffic Engineer, the BMP is anticipated to go to City Council on October 28, 2010, for formal adoption.

Based on the BMP's future circulation network, Class I paths are planned along Herndon Avenue and Class II lanes are planned along Bryan Avenue. The future Veterans Boulevard will have both Class I and Class II bike lanes. These improvements are consistent with the General Plan Trail and Bike Lane Network. Currently, all development projects from Polk Avenue to Golden State Boulevard have been conditioned to dedicate and construct an adopted Class I path along their frontages on the north side of Herndon Avenue. The propose project would pay traffic signal mitigation impact (TSMI), FMSI, and RTMF fees that would fund future street improvement projects on Herndon Avenue and the future Veterans Boulevard to construct Class II (on-street bicycle lanes) pedestrian/bicycle facilities consistent with the City's design standards. In addition, the proposed project would be conditioned to provide improvements on the site that would be consistent with future pedestrian and bicycle facilities (Class I and II trails) on the BMP.

A5-10 Please see response to Comment A5-9 for project's consistency in providing bicycle and pedestrian facilities. Phase 1 would provide efficient circulation and allow convenient access while protecting neighborhoods from the intrusion of through traffic through a condition imposed by the City to install two roundabouts along Palo Alto Avenue to calm traffic in the adjacent neighborhood and discourage cut-through traffic. Therefore, the proposed project is consistent with Policy E-2-k. The proposed project is not required to construct sidewalks and safe crossings along Herndon Avenue connecting the west side of SR-99. Per City policy, the project applicant will be required to pay appropriate City TSMI and FMSI, Fresno County Transportation Authority Joint Powers Authority RTMF, and Caltrans Combined Share fees. Payment of these fees goes to the funding of future programmed traffic improvements. According to the City, the future construction of Veterans Boulevard and its interchange with SR-99 would ultimately provide a six-lane roadway with bike lanes and pedestrian facilities for West Fresno to access the project site. This improvement is intended to accommodate future traffic as well as alleviate congestion at the SR-99/Herndon Avenue interchange and SR-99/Shaw Avenue interchange.

A5-11 Comment acknowledged. The decision for the project applicant to develop the Fresno El Paseo project at its current location may have involved ease of access, but was also due to market viability of the location and other economic considerations. However, per CEQA Guidelines Section 15002, the basic purpose of CEQA is to identify and minimize any potential environmental impacts of a project. Therefore, the specific reasons as to why an applicant chooses to locate a project at its ultimate location are outside the scope of CEQA.

A5-12 The commenter is correct in stating the Island Park Six-Lane Project is not funding improvements to the Herndon or Shaw Avenue freeway interchanges. Mitigation

measures have been provided that would require payment of the City's TSMI and FMSI fees, the RTMF, or construction of needed improvements by the project applicant. Additionally, the project has included mitigation measures that would require payment of the Combined Share fees to the City of Fresno for Caltrans facilities not covered under the County's RTMF program or not part of the City's TSMI and FMSI programs.

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LETTER A6 – County of Fresno (1 page)

County of Fresno
Department of Public Health
Edward L. Moreno, M.D., M.P.H., Director-Health Officer

June 15, 2010

999999999
LU0014578
PE 2602

Mike Sanchez, Planning Manager
City of Fresno
2600 Fresno Street, Third Floor
Fresno, CA 93721

Dear Mr. Sanchez:

PROJECT: Fresno El Paseo Master Plan Project DEIR

The Fresno County Department of Public Health, Environmental Health Division has reviewed the DEIR and concurs with the information contained therein and has no comments to offer at this time. A6-1

If I can be of further assistance, please contact me at (559) 445-3271.

Sincerely,

Glenn Allen Digitally signed by Glenn Allen
DN: cn=Glenn Allen, o=Environmental Health Division, ou=Public Health, email=glallen@co.fresno.ca.us, c=US
Date: 2010.06.15 16:44:57 -07'00'

R.E.H.S., M.S.
Supervising Environmental Health Specialist
Environmental Health Division

ga

Fresno El Paseo DEIR Comments

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A6. Response to Comments from County of Fresno Department of Public Health, dated June 5, 2010.

A6-1 Comment acknowledged.

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LETTER A7a – State of California Department of Transportation (5 pages)

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

DEPARTMENT OF TRANSPORTATION
1352 WEST OLIVE AVENUE
P. O. BOX 12616
FRESNO, CA 93778-2616
PHONE (559) 445-5868
FAX (559) 488-4088
TTY (559) 488-4066

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June 17, 2010

2131-IGR/CEQA
6-FRE-99-30.9
EL PASEO DEIR
SCH NO. 2008011003

Mr. Mike Sanchez
City of Fresno Development Department
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

Dear Mr. Sanchez:

Caltrans has reviewed the revised Administrative Draft of the Traffic Impact Study (TIS) for the "El Paseo" project. This is a mixed-use project located in an area generally bound by West Herndon Avenue on the north, North Bryan and West Bullard on the east, Carnegie Avenue to the south, and State Route (SR) 99 to the west. We have the following comments:

The El Paseo project as proposed would develop in five phases between the years 2010 and 2019. The first phase would include a retail marketplace consisting of two large discount stores and a home improvement superstore (906,788 ft^2). The second phase would include additional shopping centers, office park, fitness center, movie theatre, and business hotel (1,114,233 ft^2). The third phase would include more shopping centers, another business hotel, and development of a business park (500,900 ft^2). The fourth phase would be a final shopping center (83,000 ft^2), and the fifth phase would be general office space (113,000 ft^2). Given the nature and location of the proposed development, Caltrans projects that a majority of the trips generated by this site would impact the SR 99 interchange at Herndon/Grantland Avenue, with potential impacts to the SR 99 interchanges at Shaw and Ashlan Avenues. Trips generated by this site would also impact a proposed future SR 99 interchange at Veterans Boulevard. A7a-1

In order to accommodate the projected demand, previous traffic studies have identified the need for:

1. Signal controls and additional ramp lanes at the SR 99 northbound off-ramp to Herndon/Grantland Avenue;
2. Signal controls at the SR 99 southbound off-ramp to Grantland Avenue;
3. An additional turn lane on the SR 99 southbound off-ramp to Shaw Avenue ($339,100);
4. An additional turn lane on the SR 99 northbound off-ramp to Shaw Avenue ($339,100);
5. Widening of the structure crossing over Shaw Avenue in the eastbound direction ($1,130,000);
6. An additional turn lane on the SR 99 southbound off-ramp to Ashlan Avenue ($725,400);
7. An additional turn lane on the SR 99 northbound off-ramp to Ashlan Avenue ($1,537,000); and
8. Widening the structure in order to add an eastbound left-turn lane ($1,307,900).

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June 17, 2010
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Caltrans concurs with the following study findings for Phase One of this development's proportional share to mitigate for impacts to the State Highway System:

1. SR 99/northbound off-ramp to Shaw Avenue is $6,000;
2. SR 99/southbound off-ramp to Shaw Avenue is $10,000;
3. SR 99/Shaw Avenue overcrossing is $23,000;
4. SR 99/northbound off-ramp to Ashlan Avenue is $60,000;
5. SR 99/southbound off-ramp to Ashlan Avenue is $42,000; and
6. SR 99/Ashlan Avenue overcrossing is $106,000.

A7a-1 cont'd

As indicated in the previous comments on the draft TIS, given the size, nature, and location of the proposed development, the improvements previously identified to accommodate projected future demand at Herndon/Grantland will not be sufficient to fully accommodate this proposed development. In order to assure safe and satisfactory operation of the SR 99 interchange at Herndon/Grantland, opening-day improvements and proportional share for future improvements at Herndon/Grantland Avenue will be necessary. Also, please note that proportional share mitigation calculations were only provided for Phase I due to the assumption that the Veterans Boulevard interchange will be constructed and would alleviate congestion from existing interchanges for the subsequent phases. Should the Veterans Boulevard interchange not be constructed as assumed for future phases, there will be significant congestion at the identified locations. With the identified mitigation and the Veterans Boulevard interchange in place, the traffic study indicates that the volumes at the existing interchanges for project build out would be similar to those of Phase I for the 2035 scenario.

A7a-2

A review of the existing and projected volumes impacting the SR 99 southbound off-ramp to Herndon/Grantland confirms previous studies that indicate that this ramp is not efficiently utilized. Also, the close proximity of this ramp intersection to the intersection of Herndon Avenue and Parkway Drive likely interferes with the overall efficient operation of this interchange's system. Therefore, it was advised that this study should analyze the removal of this ramp. The small volume of traffic that currently utilizes this ramp would be re-routed to the SR 99 southbound off-ramp to Golden State Boulevard. It was hoped that the study would provide a discussion that directly compared the operation of the Herndon/Grantland interchange in the scenarios where this ramp is maintained and where this ramp is removed. However, it appears that the study simply assumed that this ramp would be removed as part of the signalization of the intersection of Herndon Avenue and Parkway Drive. The study thus fails to provide an analytical argument for the removal of this ramp due to operational or geometric constraints. Nevertheless, as indicated in the previous comments on the draft TIS, it is believed that the removal of this southbound off-ramp would facilitate a similar widening of Herndon Avenue for the westbound lane between Parkway Drive and the freeway structures. This would also assist in coordinating signal timing between the existing signals of Herndon/Golden State Boulevard and the future signals at the SR 99 northbound off-ramp intersection and the intersection of Herndon/Parkway. The spacing between each of these three intersections would be equal at about 615 feet. The removal of this ramp will likely require a Project Study Report (PSR) and Project Report (PR). If removal of this ramp is approved, then it should be pursued as an opening-day improvement for the El Paseo project.

A7a-3

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The previous comments on the draft TIS indicated that the length of the freeway structures crossing over Herndon Avenue constrain the number of lanes running under the freeway to only two lanes. However, recent field measurements indicate that the opening under the structures is actually 48 feet. This width could thus accommodate one eastbound lane and two westbound lanes under the structures. The resulting shoulder widths would only be six feet wide. A review of Figure 9-4A (2010 plus Phase 1) indicates that a single westbound lane under the structures would not have sufficient capacity to accommodate projected weekday peak demand. Even with this second lane, the westbound movements under the structures would near maximum capacity. A review of Figure 9-9 (2012 plus Phases 1 & 2) suggests that this westbound movement under the structures would be slightly exceeding the maximum capacity of two westbound lanes with the addition of the traffic from the second phase. However, a review of Figure 9-12 (2017 plus Phases 1, 2, 3, & 4 with Veterans) suggests that the westbound movement under the structures would return to something similar to the 2010 plus Phase 1 conditions due to the opening of the new proposed SR 99 interchange at Veteran's Boulevard. A review of Figure 9-18 (2025 plus Phases 1, 2, 3, 4, & 5 with Veterans) indicates that the westbound movement under the structures would return to something similar to the 2012 plus Phases 1 & 2 conditions. The addition of a second westbound lane under the structures would obviously provide greater capacity than just a single westbound lane. In addition to reducing the shoulder widths to only six feet wide, short retaining walls might be required on the eastbound and westbound approaches to the opening under the structures. Approach guardrails or crash cushions would also be needed on the approaches to the opening under the structures. It is recommended that converting this segment of Herndon Avenue, between Parkway Drive and the northbound off-ramp, from a single eastbound lane and a single westbound lane to two westbound lanes and a single eastbound lane should be an opening-day improvement. A7a-4

The previous comments on the draft TIS indicated that the opening-day improvements should include signals at the SR 99 northbound off-ramp to Herndon/Grantland and widening the SR99 northbound off-ramp to Herndon/Grantland so as to accommodate a left-turn lane and double right-turn lanes. However, based on a review of the right-turn volumes from this northbound off-ramp to eastbound Herndon Avenue (see Figures 9-4A, 9-9, 9-12, & 9-18) and based on the resulting unsatisfactory levels-of-service for this ramp intersection, it is now recommended that the configuration of the off-ramp include a left-turn lane and triple right-turn lanes on opening-day. The westbound approach to this ramp intersection would also now be two lanes due to the addition of the second westbound lane under the structures. Also, the triple right-turns from the northbound off-ramp seem to conform well with the study's recommendation of three through lanes on the eastbound approach to the intersection of Herndon Avenue and Golden State Boulevard in the year 2012 (see Figure 9-8). Thus, opening-day improvements should also include three eastbound lanes on the segment of Herndon Avenue between the northbound off-ramp and Golden State Boulevard. Additionally, since the volumes on the northbound off-ramp exceed 900vph with the addition of Phase 1 traffic, HDM Topic 504.3(6) has an Advisory Design Standard (see HDM Topic 82.2(2)) that indicates that provision for a two-lane exit ramp with 1,300 foot auxiliary lane should be provided. We concur with the study's finding that the development's proportional share for this future improvement of a two-lane exit ramp with 1,300 foot auxiliary lane is $147,000. A7a-5

At the intersection of Herndon Avenue and Parkway Drive, we concur with the opening-day mitigation indicated on Page 9-11 for the installation of signal controls and a westbound approach A7a-6

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configuration of dual left-turn lanes and a single right-turn lane. However, a review of the volume from Phase 1 through Phase 5 seems to indicate that a single southbound approach lane with shared through and left-turn movements would be sufficient through the year 2025. Also, a single northbound approach lane with shared through and right-turn movements should also be sufficient through the year 2025. These single northbound and southbound approach lanes to the intersection of Herndon Avenue and Parkway Drive is not consistent with the recommendations indicated on Pages 9-11 and 9-19 of the traffic study. As previously indicated in the comments for the draft TIS, in order to receive the double left-turns from westbound Herndon Avenue to southbound Parkway Drive, the southbound segment of Parkway Drive between Herndon Avenue and Grantland would need to be widened to two lanes. The widening of this southbound segment of Parkway Drive should be an opening-day improvement. The traffic study appears to recommend that the northbound segment of Parkway Drive between Herndon Avenue and Grantland would also need to be widened to two lanes; however, as indicated, a single northbound lane and approach to the intersection of Herndon Avenue and Parkway Drive should be sufficient. A7a-6 cont'd

At the intersection of Grantland Avenue, Parkway Drive, and the SR 99 southbound on-ramp from Herndon/Grantland, we concur with the opening-day mitigation indicated on Page 9-12 for the installation of signal controls. However, given that only one eastbound lane can be accommodated under the freeway structures crossing over Herndon Avenue and thus resulting in only one northbound lane for the approach to the intersection of Herndon Avenue and Parkway Drive, we recommend that there should be only one left-turn lane and one right-turn lane on the northbound approach to the intersection of Grantland Avenue, Parkway Drive, and the SR 99 southbound on-ramp from Herndon/Grantland (also see turning volumes on Figures 9-12 and 9-18) on opening-day. A review of the volumes from Phase 1 through Phase 5 seems to indicate that two eastbound approach lanes with the right-hand lane a trap left-turn lane would be sufficient through the year 2025. Since this will be a metered on-ramp, the ramp should consist of one HOV lane and one mixed lane on opening-day. These configurations for the approach lanes to the intersection are not consistent with the recommendations indicated on Page 9-12 of the traffic study. As previously pointed out, the traffic study appears to recommend that the northbound segment of Parkway Drive between Herndon Avenue and Grantland would also need to be widened to two lanes; however, as indicated, a single northbound lane and approach to the intersection of Herndon Avenue and Parkway Drive should be sufficient. A review of the volumes from Figure 9-18 (2025 with all phases) indicates that the volumes on the SR 99 southbound on-ramp from Herndon/Grantland would exceed 1,500vph. HDM Topic 504.3(7) indicates that a two-lane entrance ramp with 1,000 foot auxiliary lane would be required (additional mixed lane). Since this improvement is not shown as needed until 2025, proposed developments impacting this on-ramp would only need to contribute their proportional share. We concur with the study's finding that this development's proportional share for this future improvement of a two-lane entrance ramp with 1,000 foot auxiliary lane is $111,000. A7a-7

Caltrans has a construction project to widen SR 99 to six lanes at this location. Our plans call for using right-of-way within the median for the additional lanes. However, we are in the very early stages of the project, and we may determine that we need additional right-of-way for drainage and design. We will know this as we move ahead with the Project Study Report for this improvement project.

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No water from the proposed project shall flow into the State right-of-way without approval from the District Hydraulic Engineer.

Stormwater is not allowed to be discharged to the State right-of-way. Since the proposed development/project involves one acre or more of ground disturbance, the applicant needs to be advised by the lead agency to contact the Central Valley Regional Water Quality Control Board office in Fresno at (559) 445-5116 to determine whether a Notice of Construction will be required. The applicant will be required to adhere to Caltrans construction stormwater requirements if there is proposed work within the State right-of-way. Additional information on Caltrans stormwater management requirements may be found on the Internet at www.dot.ca.gov/hq/env/stormwater/index.htm.

Advertising signs within the immediate area outside the State right-of-way need to be cleared through the Caltrans Right-of-Way Division, Office of Outdoor Advertising. The project proponent must construct and maintain the advertising signs without access to the State Routes. Contact Parmelee at (916) 651-9327 for additional information or to obtain a sign permit application. Additional information on Caltrans Outdoor Advertising Permit requirements may also be found on the Internet at www.dot.ca.gov/hq/oda. A7a-8

An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under or over the State highway rights-of-way. Activity and work planned in the State right-of-way shall be performed to State standards and specifications, at no cost to the State. Engineering plans, calculations, specifications, and reports (documents) shall be stamped and signed by a licensed Engineer or Architect. Engineering documents for encroachment permit activity and work in the State right-of-way may be submitted using English Units. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued. Encroachment permits will be issued in accordance with Streets and Highway Codes, Section 671.5, "Time Limitations."

Please be advised that any future development adjacent to a State Route, whether the entitlement is deemed by the lead agency to be discretionary or ministerial should be sent to Caltrans for review. Also, Please send a response to our comments prior to staff's recommendations to the Planning Commission and the City Council. If you have any questions, please call me at (559) 445-5868.

Sincerely,

MICHAEL NAVARRO
Office of Transportation Planning
District 6

C: Mr. Scott Mozier, City of Fresno Public Works Department
Mr. Bryan Jones, City of Fresno Public Works Department
Mr. Tony Boren, Council of Fresno County Governments

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A7a. Response to Comments from the State of California Department of Transportation, dated June 7, 2010.

NOTE: Caltrans submitted two comment letters on the Draft EIR (comment letters A7a and A7b) and one letter in response to the Recirculated Draft EIR (comment letter RA8). As appropriate, the responses below reference updated information and comments as provided in the subsequent letters from Caltrans. As specified by Caltrans, the most recent letter, dated October 14, 2010, (RA8) supercedes the previous two letters submitted. Comprehensive responses, however, are provided for each comment for full disclosure to the public.

A7a-1 Comment acknowledged. The Recirculated DEIR has included mitigation measures requiring payment of Combined Share fees for Caltrans facilities impacted by the project that are not included on the nexus studies of the County's Regional Transportation Mitigation Fee (RTMF) program or the City's traffic signal mitigation impact (TSMI) or Fresno Major Street improvement (FMSI) programs.

A7a-2 Subsequent to Caltrans review of the of the draft traffic impact study (TIS) (DEIR Appendix L), a detailed traffic analysis was prepared that analyzed conditioned traffic improvements of the subphases of Phase 1 (Phases 1A–1F). That analysis is entitled *El Paseo Master Plan Phase 1 Sub-Phasing (1A through 1F) Traffic Analysis* (Arch Beach Consulting, December 2009), and is included in the traffic appendices for both the Draft EIR and Recirculated Draft EIR. The October 14, 2010, Caltrans comment letter (see letter RA8) on the Recirculated Draft EIR concludes that the proposed subphasing of improvements as outlined in this memorandum is acceptable to mitigate the proposed project impacts at the SR-99/Herndon Avenue interchange. As detailed in the memorandum and included as EIR mitigation measures, all of the proposed improvements to the SR-99/Herndon Avenue/Grantland Avenue interchange (i.e., signalization and coordination of ramp intersections and Parkway Drive/Herndon Avenue, southbound on-ramp and northbound off-ramp widenings, and roadway widening of Herndon Avenue and Parkway Drive) are included in Phase 1A and Phase 1B. Construction of those improvements in Phases 1A and 1B, payment of the Combined Share fees, and TSMI and FMSI fees, would mitigate the impacts of Phase 1 and its subphases for Opening Day conditions.

The DEIR and TIS acknowledge that the funding availability and construction schedule for the SR-99/Veterans Boulevard interchange are uncertain. The SR-99/Veterans Boulevard interchange is proposed to be funded by the RTMF in addition to Measure "C" Sales Tax and State Transportation Improvement Program funds. The Program EIR has been prepared at a project level for Phase 1 of the project and a programmatic level for the remaining Phases (2–5). Detailed improvement requirements for each subphase have been included in the mitigation requirements. Based on the traffic analysis, the Veterans Boulevard/SR-99 interchange is not required to mitigate Phase 1, but will be required prior to occupancy of Phase 2. The following mitigation measure, as included in the Recirculated DEIR, assures that development resulting in significant impacts cannot occur until appropriate improvements are in place to provide acceptable levels of service:

13-54 Project Applicant shall prepare a traffic impact study for each of the subsequent development phases (Phases 2 through 5) of the Master Plan to confirm conditions and related cumulative growth assumptions. The traffic impact study shall be prepared in a manner similar to the level of the Phase 1 traffic analysis (including its sub-phases). These updates shall be prepared consistent with the City of Fresno Traffic Impact Study Guidelines and shall incorporate any fee requirements from the City's Traffic Signal Mitigation Impact and Fresno Major Street Improvement programs, the Fresno County Regional Transportation Mitigation Fee program, and applicable Caltrans requirements. In addition, the traffic analyses shall provide updated information on the status of local and regional capital traffic improvements, and analyze background traffic conditions accordingly.

- Prior to the issuance of building permits for the respective phase, the Project Applicant shall demonstrate that none of the following conditions would result from implementation of the project phase:

- For ramp intersections on SR-99, the project causes a ramp intersection to drop from Level of Service (LOS) C or better to LOS D or worse.

A7a-3 As indicated in Comment A7a-3, removal of the SR-99 southbound off-ramp to Herndon Avenue/Grantland Avenue would facilitate the needed widening of the westbound lane of Herndon Avenue and would also assist in the coordination of signal timing between the existing signal at Golden State Boulevard/Herndon Avenue and the future signals at the SR-99 northbound off-ramp/Herndon Avenue and Parkway Drive/Herndon Avenue. The spacing of these three intersections would be equal at about 615 feet. For those reasons, the City Traffic Engineer and Caltrans's Deputy Directors directed the TIS to address the southbound ramp removal as a Condition of Approval of Phase 1, as it would be necessary to accommodate the future needed traffic signals. Furthermore, an existing southbound ramp for SR-99 to Golden State Boulevard is in the same vicinity that would take on the relatively low traffic volumes at the southbound ramp at Herndon Avenue. Baseline traffic volumes have been adjusted in the TIS and Phase 1 Sub-Phasing Analysis (Appendix L of DEIR) for the southbound ramp removal.

A7a-4 Caltrans's recommendation in Comment A7a-4, to reconfigure the existing width of Herndon Avenue between Parkway Drive and the SR-99 northbound off-ramp (under the SR-99 mainline), has been assumed to be an Opening Day improvement for Phase 1B. This improvement has been analyzed in the Phase 1 Sub-Phasing Analysis (Appendix L of DEIR). The Recirculated DEIR determined that impacts to this intersection would be less than significant for the Opening Day of Phase 1A, as this intersection is included on the Nexus Study of the City of Fresno's TSMI program, and payment of this fee by the project applicant would be deemed as full mitigation per the *Anderson First* case. As assumed in the Recirculated DEIR, prior to the issuance of the certificate of occupancy for Phase 1B development, the project applicant would be required to signalize the intersection and widen Herndon Avenue to two westbound lanes and one eastbound lane.

A7a-5 Based on their subsequent comment letters (A7b and RA8), Caltrans now concurs that opening day improvements for the northbound SR-99 offramp should consist of widening this offramp to accommodate a single left turn and dual right turn lanes. This improvement is included as mitigation for Phase 1A and is listed in Table 5.13-14 of the Recirculated DEIR as requirement Phase 1A-3.

A7a-6 The improvements to Parkway Drive and its intersections with Herndon Avenue and Grantland Avenue – SR-99 southbound on-ramp will be Opening Day improvements for Phase 1B. The widening of southbound Parkway Drive to two lanes will be completed at that time to accommodate the westbound left turning traffic at Parkway Drive/Herndon Avenue. As listed in their October 14, 2010, comment letter (see letter RA8), Caltrans concurs with the westbound Herndon/Parkway Avenue intersection configuration to accommodate dual lefts and a single right turn. As noted, Caltrans has recognized a requirement for a shift in Parkway Avenue to the east onto State right-of way to accommodate two southbound receiving lanes and northbound right turn lane.

Although the volumes forecast on northbound Parkway Drive indicate the need for two northbound lanes, a single northbound lane ending with a through lane and a dedicated right turn lane at its intersection with Herndon Avenue would likely be built since only one eastbound through lane (to receive the northbound right turning traffic) can be accommodated on Herndon Avenue at the SR-99 mainline underpass.

It is also important to note that the 2025 (buildout) volumes on Herndon Avenue are forecast to be less than the Phases 1 and 2 Opening Years because the traffic model assumed that Veterans Boulevard and its northbound and southbound ramps would be in place in the buildout 2025 condition. This would result in a significant shift in traffic demand from Herndon Avenue to the future Veterans Boulevard.

A7a-7 Comment acknowledged. Also, see response to Comment A7a-6 above.

A7a-8 Comments acknowledged. Encroachment permits will be obtained for any work planned in the state right-of-way. The City of Fresno will continue the current practice of collaborating with Caltrans.

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LETTER A7b – State of California Department of Transportation (2 pages)

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

DEPARTMENT OF TRANSPORTATION
1352 WEST OLIVE AVENUE
P. O. BOX 12616
FRESNO, CA 93778-2616
PHONE (559) 445-5868
FAX (559) 488-4088
TTY (559) 488-4066

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July 7, 2010

2131-IGR/CEQA
6-FRE-99-30.9
EL PASEO TIS

Mr. Mike Sanchez
City of Fresno Development Department
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

Dear Mr. Sanchez:

It is understood that due to the current economic climate, the El Paseo development is proposing to significantly reduce the initial phases from its original proposed phasing plan. The ultimate development would remain the same; it's just the initial square footage that has been scaled back. Based on our last correspondence, questions arose from the City regarding the widening of the State Route (SR) 99 northbound off-ramp to Herndon Avenue and deferring the signalization of the Herndon Avenue/Parkway Drive intersection. Nevertheless, based on previous reviews of the traffic study, Caltrans feels that the following opening-day improvements will still be required with the new proposed phasing. In order to adequately address existing and projected operational deficiencies at this interchange, both the northbound exit-ramp intersection and the intersection of Herndon Avenue and Parkway Drive need to be signalized and synchronized. Signalizing only one of these intersections would likely result with continued congestion. A7b-1

- Signalize the intersection of the SR 99 northbound exit-ramp to Herndon Avenue. It is assumed that this work would also include the proposed widening of the exit-ramp to a single left-turn lane and two right-turn lanes. Caltrans had previously identified the need for three right-turn lanes, however we will consider two right-turn lanes acceptable only because the City anticipates that the SR 99/Veterens Boulevard interchange will be constructed in the near future. A7b-2

- Signalize the intersection of Herndon Avenue and Parkway Drive. Signal items should be placed so as to accommodate future dual left-turn lanes from westbound Herndon Avenue to southbound Parkway Drive. Adequate space should also be provided to widen southbound Parkway Drive to two through lanes. Caltrans originally indicated the need for dual left-turn lanes from westbound Herndon Avenue to southbound Parkway Drive to be in place opening day of the project. Caltrans is willing to defer the dual left-turn lanes if the City and developer are willing to require mitigation monitoring to determine when the dual left-turn lanes and receiving lanes on Parkway Drive are needed. A7b-3

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Mr. Mike Sanchez
July 7, 2010
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- Remove the SR 99 southbound exit-ramp to Herndon/Grantland Avenues. The actual demolition of the ramp could be phased; however, it is still recommended that the exit-ramp should be closed to traffic prior to the two proposed signals becoming operational. A7b-4

It is Caltrans intent that this letter addresses the questions the City had regarding the SR 99 northbound off-ramp to Herndon Avenue and the need to signalize Herndon Avenue/Parkway Drive intersection. If you have any questions, please call me at (559) 445-5868. A7b-5

Sincerely,

MICHAEL NAVARRO
Office of Transportation Planning
District 6

C: Mr. Scott Mozier, City of Fresno Public Works Department
Mr. Bryan Jones, City of Fresno Public Works Department
Mr. Tony Boren, Council of Fresno County Governments

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A7b. Response to Comments from State of California Department of Transportation, dated July 7, 2010.

A7b-1 Based upon their subsequent comment letter on the Recirculated Draft EIR (see letter RA8), Caltrans finds the proposed mitigation and Phase 1 improvement subphasing, as summarized as follows, to be acceptable. For the Opening Day improvements for Phase 1A, the project applicant will signalize the SR-99 northbound off-ramp/Herndon Avenue intersection, widen the northbound off-ramp to include a second right turn lane, and remove (demolish) the SR-99 southbound off-ramp at Herndon Avenue. Per direction of the City Traffic Engineer and discussions with Caltrans's Deputy Directors in the development of the project's Conditions of Approval, the signalization of Parkway Drive/Herndon Avenue would occur in Phase 1B, along with widening of the Herndon Avenue underpass to two westbound lanes and one eastbound lane. This improvement has been analyzed in the *Phase 1 Sub-Phasing Analysis* (Appendix L of DEIR). The Recirculated DEIR determined that impacts to this intersection would be less than significant for the Opening Day of Phase 1A, as this intersection is included on the Nexus Study of the City of Fresno's TSMI program, and payment of this fee by the project applicant would be deemed as full mitigation per the *Anderson First* case.

A7b-2 Comment acknowledged. The future configuration of the SR-99 northbound off-ramp to have one left turn lane and two right turn lanes is consistent with the results of the TIS and the *Phase 1 Sub-Phasing Traffic Analysis*. This improvement is also consistent with Caltran's updated comment letter of October 14, 2010.

A7b-3 The Recirculated DEIR has assumed improvements to the Parkway Drive/Herndon Avenue intersection as an Opening Day improvement for Phase 1B based on discussions with Caltrans's Deputy Directors. The Phase 1B timing for these improvements is consistent with the Phase 1 *Sub-Phasing Analysis.* Per Caltrans's October 14, 2010 review of the Recirculated Draft EIR, they now concur with this phasing. The Recirculated DEIR determined that impacts to this intersection would be less than significant for the Opening Day of Phase 1A, as this intersection is included on the Nexus Study of the City of Fresno's TSMI program, and payment of this fee by the project applicant would be deemed as full mitigation per the *Anderson First* case. As assumed in the Recirculated DEIR, prior to the issuance of the certificate of occupancy for Phase 1B development, the project applicant would be required to signalize the intersection and widen Herndon Avenue to two westbound lanes and one eastbound lane.

A7b-4 Comment acknowledged. Removal of the SR-99 southbound off-ramp at Herndon Avenue is conditioned to be completed by the Opening Day of Phase 1A.

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LETTER A8 – Central Unified School District (3 pages)

CENTRAL UNIFIED SCHOOL DISTRICT
4605 North Polk Avenue · Fresno, CA 93722
Phone: (559) 274-4700 · Fax: (559) 271-8200

BOARD OF TRUSTEES
Cindy Berube
Terry Cox
Judith Geringer
Diana Milla
William Duane Peverill
Phil Rusconi
George Wilson, Jr.

SUPERINTENDENT
Michael A. Berg

June 21, 2010

Mike Sanchez
Planning Manager
City of Fresno
Planning & Development Department
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

Subject: El Paseo Draft EIR (SCH#2008011003)

Dear Mr. Sanchez:

The purpose of this letter is to provide comments on the Draft EIR for the El Paseo Project. Development of the 238-acre project site would result approximately 2.7 million square feet of retail, office, hotel, restaurant and theater uses to be developed in five phases over a nine year period. The first phase consists of the development of 906,788 square feet of retail development on 74.38 acres.

This proposal represents a substantial change in the planned land uses for the area. The current land use designations of light industrial (147 acres) and medium density residential (47 acres) would be changed entirely to commercial uses. While the project will have less of a direct impact on the District with respect to student generation due to the elimination of residential use, the project will generate a large number of employees. Children of employees living in the District will need to be housed in District school facilities. As allowed by law, the District charges a fee of $0.47 per square foot for commercial and industrial development. This fee is adjusted periodically, in accordance with law. The project will be required to pay the fee in place at the time the fee is paid. A8-1

The western edge of District's Rio Vista Middle School is located on the north side of Palo Alto Avenue less than 200 feet east of the project site. River Bluff Elementary School is located immediately east of Rio Vista Middle School. (The schools are labeled incorrectly on Figure 4-1). The project will generate a large amount of traffic in the area of the schools. Consequently, the District is concerned with traffic safety in relation to the schools, as well as increased air pollution and noise generated by increased traffic and project construction activities. A8-2

Full development of the project will generate a total of 95,614 ADT, with 3,281 trips in the morning peak hour and 8,068 trips in the evening peak hour. Phase 1 alone will generate 37,906 average daily trips (ADT), with 1,025 trips in the morning peak hour and 3,081 trips in the evening peak hour. A major entrance to Phase 1 is located at the intersection of Palo Alto and Bryan Avenues, very close to Rio Vista Middle School. A8-3

District Administration
Laurel Ashlock, Ed.D., Asst. Supt., Chief Academic Officer · James H. Bauler, Asst. Supt., Chief Business Officer
Chris Williams, Assistant Superintendent, Human Resources · Valerie Johnson, Administrator, Special Education and Support Services
Caran Resciniti, Administrator, Curriculum and Instruction · Kevin Wagner, Administrator, Human Resources and Child Welfare and Attendance

Mike Sanchez
June 21, 2010
Page 2

Traffic will substantially increase on Palo Alto Avenue in front of the schools and in the general vicinity where students are walking and bicycling to school. Although a crossing guard will be provided at the intersection of Palo Alto and Bryan Avenues until a signal is installed, we believe that the increase of traffic in the general area will reduce the overall safety and welfare of our students. A8-3 cont'd.

Schools are considered sensitive receptors in relation to sources of air pollution. The DEIR indicates that a health risk assessment (HRA) was prepared to determine the health risk to nearby schools from project operational diesel truck traffic and charbroilers. The HRA found that the risk posed to the schools was less than significant. The HRA, however, did not address construction equipment emissions. The DEIR indicates that construction activities will involve a large amount of heavy equipment (see list below). This equipment used in grading and construction activities will cause the emission of substantial particulates and diesel exhaust, which is a toxic air contaminant. Please provide information to demonstrate that project construction activities will not pose a significant health risk to students and employees at District schools. A8-4

Grading Phase
Scrapers 6
Rubber-Tired Dozers 1
Rip Cat 1
Water Trucks 3
Blade 1
Pull-behind Sheep Foot 1

Utilities and Street Improvements (Trenching)
Tractor/Loader/Backhoes 2
Excavators 1
Water Truck 1
Rubber-Tired Dozers 1
Sheep Foot 1

Paving
Paving Machine 1
Roller 3
Skip Loaders 2

Construction Phase
Forklifts – all-terrain 2-3
Forklifts – standard, propane-powered 1
Scissor lifts 6
Boom lifts 6
Crane 1
Generators – portable 5
Generators – stationary, diesel 1

Source: DEIR Table 3-3

Mike Sanchez
June 21, 2010
Page 3

In addition, even with the implementation of mitigation measures, project-related construction emissions would still exceed the SJVAPCD's significance thresholds for VOC and PM10, and operation of the project would result in emissions in excess of the SJVAPCD's regional emissions thresholds for long-term operation for VOC, NOx, and PM10. Consequently, the project will degrade the overall air quality in the area to the detriment of children and the public in general. A8-5

The Noise section of the DEIR indicates that significant increases in the ambient noise environment due to increased traffic were identified for numerous roadway segments, including Palo Alto Avenue between Bryan and Hayes Avenues. This roadway segment is adjacent to Rio Vista Middle School and River Bluff Elementary School and would have a detrimental effect on the noise environment at the school facilities. A8-6

The potential effects of construction noise are also significant. The Noise section indicated that maximum noise levels for construction of Phase 1 will range from 81 to 89 dB at River Bluff Elementary School, depending on activity, and from 65 to 73 dB at Rio Vista Middle School, depending on activity. Such noise levels would be disruptive to classroom and playground activities and would be occurring during the school day for a period of years. (Note: It appears that River Bluff Elementary School and Rio Vista Middle School should be switched on the construction noise tables, as Rio Vista Middle School is the closest school to the project site.) A8-7

Thank you for the opportunity to comment. Please let me know if you have any questions regarding this letter.

Sincerely,

Hilbert Contreras
Director of Operational Services

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A8. Response to Comments from Central Unified School District, dated June 21, 2010.

A8-1 Comment acknowledged. Pursuant to Senate Bill 50 (SB 50), development projects within the City of Fresno are required to pay established school impact fees in at the time of building permit issuance.

A8-2 Comment acknowledged. Noise and air quality impacts related to traffic generated by the project are evaluated in Sections 5.3 and 5.10 of the Draft Environmental Impact Report (DEIR). In addition, project-related traffic impacts are evaluated in Section 5.13 of the DEIR and have been revised in the Recirculated DEIR. The DEIR and Recirculated DEIR have identified mitigation measures to reduce air quality, noise, and traffic impacts related to the project.

In addition, the commenter also identified the mislabeling of River Bluff Elementary School and Rio Vista Middle School on Figure 4-1. The corrected figure is included in Chapter 3.6, *DEIR Revised and New Figures*, of this FEIR.

A8-3 For Phase 1A of the project, the project applicant would be required to install two residential street traffic circles between Hayes Avenue and Bryan Avenue at the major access points to the residential subdivision on the south side of Palo Alto Avenue. This would calm vehicular traffic and prevent cut-through traffic on Palo Alto Avenue which runs along Rio Vista Middle School and River Bluff Elementary School. This discussion has been expanded in Chapter 3 of the Fresno El Paseo Recirculated DEIR. In addition, Phase 1C would be conditioned to install a traffic signal at Bryan Avenue/Palo Alto Avenue. This traffic signal would include pedestrian phases to accommodate pedestrians from the adjacent schools and residential subdivisions crossing Bryan Avenue and Palo Alto Avenue. The installation of the traffic circles on Palo Alto Avenue and a traffic signal at Bryan Avenue/Palo Alto Avenue would reduce impacts to pedestrians.

A8-4 Health risk assessments (HRAs) are not typically conducted for construction activities because construction is short term in nature and cancer risk factors assume a continuous exposure over a 70-year lifetime. Therefore, a determination of carcinogenic risk is not appropriate for construction activities. However, a discussion of potential short-term, acute health impacts from construction activities follows. The primary toxic air contaminant (TAC) associated with construction activities is diesel particulate matter (DPM). The Office of Environmental Health Hazard Assessment (OEHHA) has not established any short-term or subacute exposure limits for DPM; they only have established DPM limits for chronic (carcinogenic) risk. DPM is a component of particulate matter (PM_{10} and $PM_{2.5}$), which was addressed as construction-related emissions in the air quality section. The air quality analysis shows that with the implementation of mitigation measures, emissions from construction activities would be below the San Joaquin Valley Air Pollution Control District (SJVAPCD) significance thresholds for volatile organic compounds (VOC) and PM_{10}. Therefore, the project construction activities would not pose a significant health risk to students and staff at the nearby district schools.

A8-5 As shown in Table 5.3-11 of the DEIR, *Project-Related Regional Construction Emissions, Mitigated*, project-related construction emissions with incorporation of mitigation measures would not exceed the SJVAPCD's significance thresholds.

However, the commenter is correct in stating that even with implementation of mitigation measures, project-related operation-related emissions would still exceed the VOC, NO_X, and PM_{10} emissions thresholds. Per CEQA Guidelines Section 15091, the City of Fresno as the lead agency and decision maker would be required to prepare a written finding stating this and also prepare in writing a statement of overriding considerations per CEQA Guideline Section 15093 if the City approves the project.

A8-6 The commenter is correct in stating that the DEIR identifies a significant noise impact at the roadway segment of Palo Alto Avenue between Bryan and Hayes Avenue with implementation of the project. Per CEQA Guidelines Section 15091, the City of Fresno as the lead agency and decision maker would be required to prepare a written finding stating this and also prepare in writing a statement of overriding considerations per CEQA Guidelines Section 15093 if the City approves the project.

A8-7 Comment acknowledged. References to the locations of Rio Vista Middle School and River Bluff Elementary School and the noise and vibration levels at these schools have been corrected in Chapter 3, *Revisions to the Draft and Recirculated EIR.*

LETTER A9 – State of California Public Utilities Commission (4 pages)

STATE OF CALIFORNIA Arnold Schwarzenegger, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

June 21, 2010

Mike Sanchez
Project Manager
City of Fresno
2600 Fresno Street
Fresno, CA 93721

Re: Notice of Completion, Draft Environmental Impact Report (DEIR)
El Paseo Master Plan
SCH# 2008011003

Dear Mr. Sanchez:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers. A9-1

The DEIR Environmental Analysis, Chapter 5, Transportation and Traffic section did not specifically consider safety issues to the two existing at-grade railroad crossings (Herndon Avenue, Carnegie Avenue) within the project vicinity. Further, the Executive Summary excludes any reference or identifies project impacts with mitigation measures or analysis of either at-grade railroad crossing. A9-2

There is a Rail Safety Study dated March 2008 which is part of the environmental document; however it is outdated and contains inaccurate assumptions and methodologies for the construction of the Herndon Avenue grade separation construction in 2017 without an identified funding mechanism. A9-3

The potential for trespass over the railroad easement indicates there currently is direct access to the railroad track and right-of-way along the entire length of the proposed development. There are no fences or barriers to prevent adults or children from trespassing and the railroad track at this location. The study further states the "installation of fencing and/or barriers along either side of the proposed development should alleviate the current problem with trespass on this section of the railroad right-of-way"; however there is no recommendation in the documents (DEIR or Rail Safety Study) as to this being a mitigation measure. A9-4

Mike Sanchez

Project Manager
El Paseo Master Plan
SCH # 2008011003
June 21, 2010
Page 2 of 4

The 2008 Traffic Impact Study (DKS, 2008) addressed the traffic queues and states "The results indicated that under current conditions, traffic queues will extend across the tracks at both intersections. Under baseline future conditions (without inclusion of traffic from the proposed project), the queue lengths would increase significantly over time."

"When traffic associated with Fresno El Paseo project is considered, the queue lengths at Herndon Avenue and Carnegie Avenue would increase by approximately 50% to 65% over baseline conditions in the year 2010 and 2012. With Grade separation of the Herndon Avenue crossing in 2017 and completion of phases 1 through 4, traffic queues would occur only at the Carnegie Avenue crossing with increase of 29% to 77% over baseline conditions for the years 2017 to 2025." Further, the study states "However, the overall accident probability for the corridor (both Herndon and Carnegie Avenue crossings) would decrease from a maximum probability of 13.3% in 2012 to a maximum probability of 3.6% in 2017, due to grade separation at Herndon Avenue".

A9-5

In the findings and Conclusions of the study it states "There are current plans to install an underpass at the Herndon Avenue crossing and an overpass at Veterans Boulevard in 2017, which will allow access to the El Paseo Fresno Project on both sides of Golden State Boulevard and eliminates the potential for highway-rail accidents at these locations."

However, missing from this analysis is the identified funding mechanism for construction of the Herndon Avenue Grade separation and no alternative analysis without this grade separation or the Veterans Boulevard Interchange. Also lacking is this projects fair share toward the grade separation in any of the Fee programs within the DEIR as well as any opening day or phased project improvements. Another significant omission in the study is the right-of-way necessary for the grade separation at Herndon Avenue which is project related and needs to be shown on the site plan as well. The Project phase 1 is adjacent to Herndon Avenue east of the crossing and will impact the ultimate right-of-way needed for the grade separation. These missing elements are considered significant and fatal flaws of the study by the CPUC.

Lastly, the study recommends that improvements to the Herndon Avenue and Carnegie Avenue crossings and adjacent intersection be considered, however the DEIR Executive Summary and Chapter 5 Environmental Analysis, Transportation and Traffic fail to reference any of these recommendations or reference the Rail Safety Study.

A9-6

The City of Fresno has been awarded Section 130 funding for safety related improvements to the Herndon Avenue at-grade railroad crossing, however they are not included in the DEIR or Rail Safety Study. It is recommended that this information be included along with the proposed construction date to update the project traffic-rail data (2007-2008).

A9-7

Mike Sanchez
Project Manager

2

El Paseo Master Plan
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June 21, 2010
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Additional measures to reduce adverse impacts to rail safety need to be included in the FEIR. General categories of such measures include:

- Installation of grade separations at crossings, i.e., physically separating roads and railroad track by constructing overpasses or underpasses including right-of-way
- Improvements to warning devices at existing highway-rail crossing
- Installation of additional warning signage
- Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption
- Installation of median separation to prevent vehicles from driving around railroad crossing gates
- Prohibition of parking within 100 feet of crossings to improve the visibility of warning devices and approaching trains
- Installation of pedestrian-specific warning devices and channelization and sidewalks
- Construction of pull out lanes for buses and vehicles transporting hazardous materials
- Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- Elimination of driveways near crossings
- Increased enforcement of traffic laws at crossings
- Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings

Commission approval is required to modify an existing highway-rail crossing or to construct a new crossing. A9-8

Please provide a revised and or amended Rail Safety Study and Traffic Impact Study that addresses the above significant concerns to the at-grade railroad crossings and inclusion of the most recent High Speed Train alignment along this railroad track and project vicinity. There could be new and significant information available from the High Speed Rail Authority that could affect the proposed site plan and or location of permanent structures. A9-9

It is noted that the environmental documents (FEIR) will also be required by the Commission for final CEQA approval and compliance with all General Order requirements as they apply to this project. It is important that CPUC staff be involved in the environmental and entitlement process.

Thank you for your consideration of these comments. Please contact Marvin Kennix, Utilities Engineer, at (916) 928-3809 or email at mlk@cpuc.ca.gov for questions regarding the crossing modification process and General Order requirements by the Commission. A9-10

Mike Sanchez
Project Manger
El Paseo Master Plan

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SCH #2008011003
June 21, 2010
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We request notification of all future Planning Commission and City Council meetings scheduled for this project. If you have any questions in this matter, please contact me at (415) 713-0092 or email at ms2@cpuc.ca.gov.

Sincerely,

Moses Stites
Rail Corridor Safety Specialist
Consumer Protection and Safety Division
Rail Transit and Crossings Branch
180 Promenade Circle, Suite 115
Sacramento, CA 95834-2939

4

A9. Response to Comments from State of California Public Utilities Commission, dated June 21, 2010.

A9-1 Comment noted. Any improvements to at-grade crossings will be coordinated through the CPUC.

A9-2 Although safety issues related to the Herndon Avenue and Carnegie Avenue at-grade crossings were evaluated in the Rail Safety Study (RSS), DEIR, Appendix H, the commenter is correct in noting that DEIR Section 5.13, *Transportation and Traffic*, did not include the safety analysis. This discussion has been included in the Recirculated DEIR. Please refer to Chapter 1, *Executive Summary Table*, and Section 5.13, *Transportation and Traffic*, of the Recirculated DEIR. The discussion includes an updated analysis as included in an addendum to the RSS (see Recirculated DEIR, Appendix H) and updated information regarding at-grade crossing improvements currently underway at the Herndon Avenue/Golden State location (scheduled for completion October 2010). Based on the analysis, project-related impacts would not be significant, and mitigation measures are not proposed.

A9-3 An addendum to the RSS has been prepared that provides the highway-rail crossing accident rates at the Herndon Avenue and Carnegie Avenue crossings for each development phase. These rates represent the probability of a highway-rail crossing accident occurrence without the Herndon Avenue grade separation. This updated information has been incorporated into the Recirculated DEIR. Please refer to Chapter 1, *Executive Summary Table*, Section 5.13, *Transportation and Traffic*, and Appendix H of the Recirculated DEIR. As concluded in the updated analysis, project-related safety impacts at the Herndon Avenue crossing would not be significant and mitigation measures are not proposed.

A9-4 The commenter is correct in noting that the DEIR did not include recommendations for installation of fencing and/or barriers along the project boundary that borders the railroad right-of-way. New Mitigation Measures 13-29 and 13-55, which would ensure the installation of a wrought-iron fence along the entire project site boundary that borders the UPRR right-of-way, were included in the Recirculated DEIR. These measures have been refined as part of the Final EIR to potentially allow other fencing material per the review and approval of the City's Traffic Engineer. Also included in Chapter 3, Revisions to the Draft and Recirculated EIR, the revised mitigation measures are:

13-29 Prior to Phase 1A occupancy, the Project Applicant shall install a fence separating the project land uses from the railroad tracks. The fence shall be a wrought-iron fence or other metal fence, such as a black powder-coated chain-link fence, approved by the City Traffic Engineer to separate El Paseo Phase 1 project from the railroad tracks.

13-55 Prior to occupancy of subsequent Master Plan phases, the Project Applicant shall install either a wrought-iron fence or other type of metal fence approved by the City of Fresno Traffic Engineer, such as a black powder-coated chain-link fence, along the entire length of the property line of each of the subsequent phases adjacent to the UPRR right-of-way.

A9-5 The Herndon Avenue grade-separation improvement is a listed improvement project under the Fresno Major Street Improvement (FMSI) program and therefore has been assumed as a future improvement. However, the FMSI only provides partial funding for the grade separation improvement. Any funding included in the FMSI fee for the grade separation would only cover the local match for a grade separation grant and not the full funding or obligation to actually reimburse or construct the grade separation. The DEIR and Traffic Impact Study (TIS) both acknowledge that funding availability and construction schedules for the Herndon Avenue grade-separation are uncertain. The Program EIR has been prepared at a project level for Phase 1 of the project and a programmatic level for the remaining Phases 2 through 5. Based on the traffic analysis, the Herndon Avenue grade separation is not required to mitigate Phase 1, but will be required prior to occupancy of Phase 3 and subsequent phases. Mitigation Measures 13-30 and 13-54 as included in the Recirculated DEIR assure that the appropriate project fair share contribution required for roadway improvements will be identified for future development phases. Also, the project site and vehicular access along Herndon Avenue have been designed to accommodate the footprint of the future UPRR grade separation project. In the short term, even without the grade separation project, Herndon Avenue will be constructed to six lanes up to the existing at-grade UPRR crossing.

An addendum to the RSS has been prepared that provides the highway-rail crossing accident rates at the Herndon Avenue and Carnegie Avenue crossings. These rates represent the probability of a highway-rail crossing accident occurrence without the Herndon Avenue grade separation. This discussion has been included in the Recirculated DEIR. Please refer to Section 1, *Executive Summary Table*, Chapter 5.13, *Transportation and Traffic*, and Appendix H of the Recirculated DEIR.

A9-6 A highway-railroad accident analysis including the Herndon Avenue and Carnegie Avenue crossings has been included in the Recirculated DEIR. It was determined that impacts would be less than significant, as the risk of a highway-railroad accident would be low, and therefore no mitigation measures would be necessary. Please refer to Chapter 1, *Executive Summary Table*, Section 5.13, *Transportation and Traffic*, and Appendix H of the Recirculated DEIR.

A9-7 The City of Fresno has not received Section 130 funding for safety-related improvements to the Herndon at-grade railroad crossing as part of the ongoing Herndon Avenue/Golden State Boulevard project. This comment has been forwarded to the appropriate City personnel.

A9-8 Please see response to Comment A9-7 above. Additionally, construction of the Herndon Avenue/Golden State project is currently underway, and the at-grade crossing improvements are anticipated to be completed by the end of 2010. The planned Herndon Avenue/Golden State roadway improvement project includes installation of a new median and new gate crossing arms at the Herndon Avenue crossing. The median on both sides of the railroad crossing will prevent vehicles from circumventing the gate crossing arms.

A9-9 Please refer to response to Comment A9-5 regarding updates to the RSS including at-grade railroad crossing analysis. Updated information regarding alignment alternatives for the high-speed rail is provided in response to this comment in

Chapter 3, *Revisions to the Draft and Recirculated EIR,* of this Final EIR. A preliminary alternatives analysis report was released April 2010. Alternatives A1 and A2 would be identical for the HSR alignment adjacent to the project site. As concluded in the Draft EIR, Section 5.9, *Land Use and Planning,* the currently proposed alignment in the project site vicinity would be between the Golden State Boulevard and the UPRR tracks. It would not affect Phase 1 of the proposed project (for which the EIR is a project-level analysis). As currently proposed, the HSR tracks would be elevated starting near the Golden State Boulevard on/off ramps to SR-99 (near the Madera County/Fresno County boundary) and West Sierra Avenue. Draft EIRs for the HSR are scheduled to be completed between January and June 2011. The City and applicant will be following HSR planning and environmental review and will coordinate with the California High-Speed Rail Authority as appropriate for engineering level details of El Paseo Phase 1 and planning for future El Paseo phases.

A9-10 Comment noted. Per CEQA Guidelines Section 15088 (b), the City is required to "provide a written proposed response to the CPUC at least 10 days prior to certifying the EIR for this project." The City will provide the complete FEIR and updated appendices. The City and applicant shall comply with applicable General Orders and CEQA requirements.

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LETTER A10 – San Joaquin Valley Air Pollution Control District (2 pages)

06/21/2010 MON 16:33 FAX 559 230 6061 SJVAPCD 002/003

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

HEALTHY AIR LIVING™

June 21, 2010

Mike Sanchez
Planning Manager
City of Fresno
2600 Fresno Street, Third Floor
Fresno, CA 93721

Project: Draft Environmental Impact Report for the El Paseo Project (SCH#:2008011003)

District CEQA Reference No: 20071468

Dear Mr. Sanchez:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the El Paseo Project consisting of 238 acres of mixed-use development that includes the following: large retail marketplace, lifestyle center or town center project, low-rise office park and hotel, and light industrial technology business park. The project is located in the Bullard and West Community Plan Areas, in Fresno, CA. The District offers the following comments:

1. Project proponents may enter into a voluntary emissions reduction agreement (VERA) with the District to reduce project specific related impacts on air quality to a less than significant level. A VERA is an instrument by which the project proponent provides monies to the District to fund emission reduction projects that achieve the level of mitigation required by the lead agency. A VERA is implemented through the District's Strategy and Incentives Program. As part of the process, the District verifies emission reductions achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. The District also verifies that total emission reductions (generally the sum of ROG, NOx and PM10) achieved under a VERA equals the total emission reductions (sum of ROG, NOx and PM10) required by the lead agency when approving the project. It is the District's experience that implementation of a VERA is a feasible mitigation measure which effectively achieves the emission reductions required by a lead agency, including mitigation of project related impacts on air quality to a net zero level by supplying real and contemporaneous emissions reductions. A10-1

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725

06/21/2010 MON 16:34 FAX 559 230 6061 SJVAPCD 003/003

District CEQA Reference No. 20071468

2. Based on information provided to the District, the proposed project would equal or exceed 9,000 square feet of space not identified. Therefore, the District concludes that the proposed project is subject to District Rule 9510 (Indirect Source Review).

   District Rule 9510 is intended to mitigate a project's impact on air quality through project design elements or by payment of applicable off-site mitigation fees. Any applicant subject to District Rule 9510 is required to submit an Air Impact Assessment (AIA) application to the District no later than applying for final discretionary approval, and to pay any applicable off-site mitigation fees before issuance of the first building permit. If approval of the subject project constitutes the last discretionary approval by your agency, the District recommends that demonstration of compliance with District Rule 9510, including payment of all applicable fees before issuance of the first building permit, be made a condition of project approval. Information about how to comply with District Rule 9510 can be found online at: http://www.valleyair.org/ISR/ISRHome.htm. A10-2

3. The proposed project may be subject to District Rules and Regulations, including: Regulation VIII (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants). The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. A10-3

4. The District recommends that a copy of the District's comments be provided to the project proponent. A10-4

If you have any questions or require further information, please call Mark Montelongo, at (559) 230-5905.

Sincerely,

David Warner
Director of Permit Services

Mark Montelongo

for: Arnaud Marjollet
Permit Services Manager

DW: mm

Cc: File

A10. Response to Comments from San Joaquin Valley Air Pollution Control District, dated June 21, 2010.

A10-1 Comment acknowledged. The project applicant would comply with SJVAPCD's Rule 9510 and pay all required indirect source review (ISR0 fees. The opportunity to enter into a voluntary emission reduction agreement with the district has been forwarded to the project applicant for consideration.

A10-2 Comment acknowledged. The project applicant will comply with Rule 9510 and will pay the project's ISR fees according to requirements of this rule. The project applicant submitted payment for the air impact assessment application on June 30, 2008.

A10-3 Comment acknowledged. The project applicant will comply with all applicable SJVAPCD rules and regulations as listed in Section 5.3.5 of Section 5.3, *Air Quality*.

A10-4 Comment acknowledged. All comment letters have been forwarded to the project applicant.

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LETTER A11a – Fresno Metropolitan Flood Control District (8 pages)

DRAFT

File 170.903
310. "EH"
550.30 "EH"

June 21, 2010

Mr. Mike Sanchez, Planning Manager
City of Fresno
2600 Fresno Street, 3rd Floor
Fresno, CA 93721

Dear Mr. Sanchez,

Draft Environmental Impact Report (SCH# 2008011003)
Fresno El Paseo Master Plan Project
Bounded by Herndon Avenue on the north,
Bryan and Bullard Avenues on the east,
Carnegie Avenue on the south and SR-99 on the west.
Drainage Area "EH"

The Fresno Metropolitan Flood Control District ("FMFCD" or "District") has reviewed the subject Draft Environmental Impact Report (EIR) and finds that the District's comments, in a letter to the City dated March 11, 2008, have been incorporated in the report and are still applicable.

However, the following corrections need to be made and incorporated into the EIR prior to finalization:

Section 2. Introduction, Page 2-6, Table 2-1 NOP Comment Summary, point 5,

- "*The project will have higher land use densities than reflected in the original Master Plan so the District shall use drainage fees to accommodate improvements to the infrastructure to mitigate the greater impacts of the increased land use densities*". The comment should be rewritten as follows: The District's current Master Plan will be amended to accommodate the proposed development. The additional revenues derived from the amended drainage fees will finance the new design and associated A11a-1

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Fresno El Paseo Master Plan Project
Mr. Mike Sanchez
June 21, 2010
Page 2 of 8

construction of the storm drainage pipeline improvements required to mitigate the adverse impacts of the proposed land uses. A11a-1 cont'd

Section 2. Introduction, Page 2-6, Table 2-1 NOP Comment Summary, point 7,

- "A *Development Agreement can be used to offset the costs of these facilities through the drainage fees*". The comment should be rewritten as follows: The cost of construction of Master Plan facilities, excluding dedication of storm drainage easements, are eligible for drainage fee credit applied to the drainage fee of the drainage area served by these facilities. A Development Agreement shall be executed with the District to effect such credit. A11a-2

Section 3, Storm Drainage, Page 3-24,

This paragraph incorrectly states that "*Phases 2, 3, 4 and 5 of the project would drain into a storm drain the Fresno Metropolitan Flood Control District plans to construct through the project site under the future Veterans Boulevard....*". The paragraph should be revised as follows: The development of the subject project will require construction of Storm Drainage and Flood Control Master Plan facilities located within the right-of-way of adjacent streets or flood control easements dedicated to the District for said purpose. Specific construction requirements and required pipeline sizes and locations will be A11a-3

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Fresno El Paseo Master Plan Project
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addressed with future entitlements on all phases of the project that may or may not include street construction. A11a-3 cont'd

Section 5. Environmental Analysis – 5.8 Hydrology and Water Quality,

While the District has attempted to comment on statements within the EIR, Section 5 (see items below), it is limited in what statements within the EIR can be accepted without first reviewing the overall grading plan for the entire project and the corresponding hydrology and hydraulic calculations. A11a-4

- The March 19, 2008 technical report referenced on Page 5.8-1 must be reviewed by the District in conjunction with the grading plan prior to approval. A11a-5

- Drainage area boundaries shown in Table 5.8-1 and on Figures 5.8-1, 5.8-3 and 5.8-4 do not reflect those of the existing Master Plan. Shifts in drainage areas will only be allowed on a limited basis and corresponding calculations must be reviewed and approved prior to acceptance. A11a-6

- Page 5.8-7, Drainage from Upstream of the Project Site, Paragraph 1: The Basin "EH" design capacity should be revised to 252.5 acre-feet. A11a-7

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Fresno El Paseo Master Plan Project
Mr. Mike Sanchez
June 21, 2010
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- Table 5.8-2, Discharge Point A shall be revised to indicate a 48 inch diameter pipe is required under the project site rather than the 42 inch indicated. A11a-8

- Page 5.8-7 Paragraph 2 shall be revised to: The facilities shown on the District's March 11, 2008 letter, Exhibit No. 1 are to be constructed by the project. Pipe sizes have been adjusted to accommodate the project. The additional revenues received from the drainage fees will finance the design and construction of the adjusted pipe sizes made to mitigate the impacts of the proposed land uses. A11a-9

- Phase 1, Proposed Drainage Map, Figure 5.8-3: The Q_{100} overflow and outlet structure; no calculations or design has been provided to determine if the size that is being called out is adequate. This pipe will require submittal of the site grading plan and appropriate calculations to ensure compliance with major storm criteria of the District. A11a-10

- Page 5.8-20 Impart 5.8-2, Paragraph 1; the statement that the difference in runoff volume between the 2-year and 100-year storm events for Phase I (as it relates to Table 5.8-5) can be stored within the parking area will need to be substantiated by submitting a grading plan for FMFCD review and approval. A11a-11

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Fresno El Paseo Master Plan Project
Mr. Mike Sanchez
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- Page 5.8-20, Paragraph 1 and Figure 5.8-3; it is unclear where the major storm path will continue once it outlets the 'overflow conduit' in the parking lot near Weber Avenue, however, existing topo indicates runoff should follow the west property and break out to Herndon Avenue. Supporting calculations for the conduit's capacity are required prior to FMFCD's approval of the size of the conduit. Should the overland path for the 'offsite overflow' indicated on Figure 5.8-4 be used as an alternative flow path, the grading plan and supporting flow calculations will need to be reviewed prior to approval. Figure 5.8-4 does not show the 'overflow conduit' as indicated in the analysis, but rather it is shown in Figure 5.8-3. A11a-12

- Page 5.8-20, Paragraph 4: the current Basin "EH" design has not been modified or updated to handle the additional runoff from this site. The basin floor is currently at the maximum depth of 30' (incorrectly shown as 28' in Table 5.8-8), based on FMFCD's basin design standards and, therefore, can not be lowered an additional 2.5 feet as stated in Paragraph 1, Page 5.8-21 and indicated in Table 5.8-6. Additional storage will need to be provided by the project thru dedication of 30' along the southeast side of the basin. The developer will be given drainage fee credit for the land dedication equal to a reasonable land value as determined by the District. The cost of relocating the existing fence to incorporate the additional land will be at the developer's expense. Excavation of A11a-13

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the additional will be provided by FMFCD. Calculations supporting the 100-Year Peak Flow Rates in Table 5.8-7 will need to be provided prior to approval. A11a-13 cont'd

- Appendix I will be reviewed in detail at the time the grading plan is submitted. A11a-14

- Page 5.8-7, Table 5.8-2, this table references its source as Fuscoe Engineering 2008. The Fuscoe Study 2008 should be submitted to the District for verification of all volume calculations. A11a-15

- All tables indicating Peak Flow Rates, Discharge Point Volumes for 100 yr Peak Flow Rates, and Increase or Decrease Volumes called out with reference to the Fuscoe Engineering Study 2008 must be verified. The District will need to review and approve the study and its findings prior to acceptance of the data provided in the Draft EIR. A11a-16

- Page 5.8-21 Paragraph 1, indicates that Basin "EH" would be expanded and excavated to accommodate the completed project conditions. The District recognizes that the storage volume for Basin "EH" has been compromised by the Project's proposed land use, however, at this time neither an expansion nor an excavation commitment has been secured. The statement that the Basin will be over excavated A11a-17

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Fresno El Paseo Master Plan Project
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an additional 2.5′ below current grade will not be permitted by the District and is not an acceptable solution. Please refer to comments above that require dedication of land to mitigate the increased runoff from the proposed land uses. A11a-17 cont'd

- No grading plan or engineering calculations have been submitted to address passage or storage of the major storm flow through or around the proposed project. The District will need to review and approve the final improvement plans for all development (i.e. grading, street improvement and storm drain) within the Fresno El Paseo Master Plan Project to insure consistency with the approved Storm Drainage and Flood Control Master Plan. A11a-18

As noted from the comments herein, the Draft EIR has failed to adequately address and substantiate storm and major flow conditions of the site in accordance with the adopted FMFCD Master Plan. As such, the District reserves the right to make comments regarding any subsequent documents provided for the Final EIR. The project must provide assurances that the site will drain in accordance with the adopted Master Plan and address the shortfall in capacity within the Basin. A11a-19

Thank you for the opportunity to comment. Please keep our office informed on the development of this project. If you should you have any questions or comments, please

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Fresno El Paseo Master Plan Project
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contact the District at (559) 456-3292.

Sincerely,

Mitzi Molina
Engineer II

MMM/lrl

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A11a. Response to Comments from Fresno Metropolitan Flood Control District, dated June 21, 2010.

A11a-1 Table 2-1 as referenced in this comment summarized the points made in letters received in response to the Notice of Preparation. In response to this comment, the text has been revised to read verbatim from the FMFCD's NOP comment letter dated March 11, 2008, and included in DEIR Appendix A (please see Chapter 3.0 of this Final EIR).

A11a-2 Please refer to response A11a-1. The text changes for this comment have also been made in Chapter 3 of this Final EIR.

A11a-3 The DEIR is a project-level environmental review for Phase 1 of the project and a program-level analysis for Phases 2 through 5. As such, the drainage plan for future project phases, including Phases 2, 3, 4, and 5, as referenced in the subject text, is conceptual. The text has been revised as requested in this comment to be less specific about design in details for the future phases. Please refer to Chapter 3, *Revisions to the Draft and Recirculated EIR.*

A11a-4 Upon receipt of this comment letter, the project applicant and project civil engineer coordinated with FMFCD representatives to provide additional project information, including the Hydrology and Water Quality Report (Fuscoe Engineering, March 10, 2008) and supporting hydrology and hydraulic calculations. The FMFCD subsequently prepared a follow-up comment letter (dated August 3, 2010) clarifying their position on drainage issues and supplementing their original comment letter. The subsequent letter, included as Letter A11b in this FEIR, acknowledges that review of the technical report and supporting information assisted them in more thoroughly evaluating the data presented in the DEIR. The letter also notes, however, that the comments regarding Section 5.8 in their June 21, 2010, letter remain valid and modifications will be necessary to fully comply with the Master Plan. The letter concludes with the following statement:

> The District hereby concludes that sufficient information has been provided to substantiate the project's ability to meet storm and major flow conditions and be developed in conformance with the adopted Master Plan. All improvement plans will be subject to review and approval by the District to insure consistency with the requirements of said Master Plan.

Subsequent to this original letter, therefore, the district has had the opportunity to review the hydrology and hydraulic calculations. An overall grading plan for the entire project, however, is still pending. As noted in the subsequent letter, however, sufficient information has been made available for the district to substantiate the project's ability to conform to the adopted Master Plan. As noted in the specific responses below, the City recognizes that the district has approval authority over the project's drainage improvement plans and that modifications will likely be required upon final engineering for each project phase.

A11a-5 As noted in Response A11a-4, subsequent to this comment, the district reviewed the March 19, 2008, Hydrology and Water Quality Report. The City and project applicant

acknowledge that prior to drainage plan approval, the district will need to review this study in conjunction with a final grading plan.

A11a-6 Comment acknowledged. The City and applicant recognize that only limited changes to the Master Drainage Plan drainage areas will be allowed upon final engineering of the El Paseo drainage improvement plans.

A11a-7 The requested text revision has been made and is included in Chapter 3, *Revisions to the Draft and Recirculated EIR.*

A11a-8 The requested text revision has been made and is included in Chapter 3.0, *Revisions to the Draft and Recirculated EIR.*

A11a-9 As referenced in response to Comment A11a-3, the DEIR text has been revised to include the following:

> The development of the subject project will require construction of Storm Drainage and Flood Control Master Plan facilities located within the right-of-way of adjacent streets or flood control easements dedicated to the District for said purpose. Specific construction requirement and required pipeline sizes and locations will be addressed with future entitlements on all phases of the project….
>
> The applicant acknowledges that refinements and modifications to the drainage plan will be necessary upon final engineering and agrees to comply with the Master Plan as determined by the District.

A11a-10 Please refer to response A11a-4.

A11a-11 Comment acknowledged. As noted in response to Comment A11a-4, subsequent to this comment, the district reviewed the hydrologic and hydraulic calculations. The City and applicant recognize that refined calculations will be reviewed in conjunction with the grading plan during final engineering for each project phase.

A11a-12 It is acknowledged that supporting calculations will be required for final sizing of the overflow conduit referenced in this comment. Similarly, if the overland path through the main parking lot is used as an alternative flow path, supporting calculations in conjunction with the grading plan will need to be reviewed by the district prior to final approval. Also, as noted by this commenter, the overflow conduit is shown in figure 5.8-3 and not as referenced in figure 5.8-4. The referenced paragraph has been revised to read as follows. The revised paragraph is also included in Chapter 3, *Revisions to the Draft and Recirculated EIR.*

> As shown above in Table 5.8-5, the difference in runoff volume between 2-year and 100-year storm events for Phase 1 would be 2.46 acre-feet. This volume can be feasibly stored in the parking lot area for Phase 1 by temporary ponding of the sump area within the parking lot. This methodology is acceptable to the Flood Control District. The offsite 100-year overflows from upstream of the Phase 1 area can be feasibly conveyed overland through the main parking lot area from approximately the

intersection of Palo Alto Avenue and Bryan Avenue to a point on Herndon Avenue that is southwest of the Bryan Avenue intersection. This overflow discharge point is consistent with the Flood Control District's Master Plan. See Figure 5.8-4, *Phase 1: Area Flooded during 100-year Storm by Flows from Offsite after Project Completion.*

A11a-13 Based on the district's review of the proposed drainage plan and EIR, it is understood that Basin "EH" is currently at its maximum design depth of 30 feet and that Table 5.8.8, *Proposed Update to Basin EH Design,* is inaccurate. This table has been updated and included in Chapter 3, *Revisions to the Draft and Recirculated EIR.* Additional capacity will be required for this basin for ultimate development of the El Paseo Master Plan. Additional capacity, however, is not required for Phase 1, for which the EIR serves as a project-level analysis. Final engineering plans for the Drainage Master Plan will require review and approval by the district. In addition to the district's requested dedication of property to the southeast of the basin by the project proponent, design details for future project phases need to consider the City's plans for widening Golden State Boulevard. The district acquired the basin with the knowledge that Golden State Boulevard would be a major street requiring at least 45 feet of street dedication. Final plans also need to consider a potential proposal by the High-Speed Rail Authority to shift this roadway to accommodate the HSR between the railroad and Golden State Boulevard. As referenced in the district's subsequent comment letter, however (A11b-2), modifications to the El Paseo Drainage Plan to fully comply with the adopted Master Plan are "not considered to be substantial and it is recognized that they could be accomplished during the plan preparation and development review phase of the project."

It is acknowledged that the district uses drainage fees for the purpose of providing drainage services. Per this comment, the developer would be given drainage fee credit for the land dedication equal to a reasonable land value as determined by the district, and the cost of relocating the existing fence to incorporate the additional land would be at the developer's expense. Calculations supporting the 100-year peak flow rates in Table 5.8-7 as requested in this comment have been provided to the district.

A11a-14 Appendix I is the Hydrology and Water Quality Report. In Comment 1 of the District's comment letter A11b, the District acknowledges receiving and reviewing the report.

A11a-15 See Response A11a-14. Subsequent to this comment, the district reviewed the Hydrology and Water Quality Report and supporting calculations.

A11a-16 See response to comment A11a-14.

A11a-17 See response to comment A11a-13.

A11a-18 See response to comment A11a-4.

A11a-19 Comment acknowledged. Please refer to response to comments A11a-4 and A11a-13.

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LETTER A11b – Fresno Metropolitan Flood Control District (2 pages)

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

File 170.903
310. "EH"
550.30 "EH"

August 3, 2010

Mr. Mike Sanchez, Planning Manager
City of Fresno
2600 Fresno Street, 3rd Floor
Fresno, CA 93721

Dear Mr. Sanchez,

Draft Environmental Impact Report (DEIR) (SCH# 2008011003)
Fresno El Paseo Master Plan Project
Bounded by Herndon Avenue on the north,
Bryan and Bullard Avenues on the east,
Carnegie Avenue on the south and SR-99 on the west
Drainage Area "EH"

The Fresno Metropolitan Flood Control District ("District") reviewed the subject Draft Environmental Impact Report (DEIR) and provided comments in a letter dated June 21, 2010. Subsequent to this letter, additional information has been submitted to the District, including the Fuscoe Engineering Study 2008 that was referenced in the DEIR and District comments. This information has allowed the District to more thoroughly evaluate statements and data contained within Section 5.8 Hydrology and Water Quality of the DEIR. The District, hereby, supplements its prior letter with the following additional comments. A11b-1

The comments within the June 21, 2010 letter, in regards to Section 5.8, still remain valid. The District has reviewed the Fuscoe Report, which has clarified some of the questions and data presented in the DEIR. While the Report gives backup information as to how quantities were determined, the hydrology computations within the report still show discrepancies with the adopted Master Plan, and hence modifications are necessary to fully comply with the Master Plan. However, the modifications are not considered to be substantial and it is recognized that they could be accomplished during the plan preparation and development review phase of the project. The project design will be required to make any adjustments necessary to conform to the Master Plan and mitigate storm and major flows within the project. A11b-2

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Mr. Mike Sanchez
Fresno El Paseo Master Plan Project
August 3, 2010
Page 2

The District hereby concludes that sufficient information has been provided to substantiate the projects ability to meet storm and major flow conditions and be developed in conformance with the adopted Master Plan. All improvement plans will be subject to review and approval by the District to insure consistency with the requirements of said Master Plan. A11b-3

Thank you for the opportunity to provide these additional comments. Please keep our office informed on the development of this project. If you should have any questions regarding these comments, please contact the District at (559) 456-3292.

Sincerely,

Mitzi Molina
Engineer II

MMM/lrl

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A11b Response to Comments from Fresno Metropolitan Flood Control District, dated August 3, 2010.

A11b-1 Comment acknowledged.

A11b-2 It is acknowledged that the comments in the district's June 21, 2010, letter (FEIR Letter A11a) remain valid. A formal response has been provided for each comment in that letter. The district's review of the technical study and drainage plan are also acknowledged along with the conclusion that modifications to achieve consistency with the district's Master Plan can be accomplished. The City and project applicant recognize that the district has approval authority over the project's drainage improvement plans and that modifications will likely be required upon final engineering for each project phase.

A11b-3 This comment acknowledges the feasibility of the proposed project to comply with the storm and major flow conditions specified in the Master Plan. As noted above, the City and project applicant acknowledge that the district has approval authority of the final plans for each project phase.

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LETTER R1 – Suzanne Lanfranco (9 pages)

June 21, 2010
Mike Sanchez
2600 Fresno St.
Fresno, Ca 93721

Dear Mike,

The enclosed document is in question to the development next to our homes off of Herndon/Hayes and Bryan. We are strongly against this project and have had the EIR reviewed and there are many concerns that our legal team sees. We want all issues addressed and put in public documents for review. I am also requesting any other changes to the EIR and Comments to be sent to me.

6126 W. Los Altos Fresno, C a 93722
271-4709
Cell 260-0029

Thank You,

Suzanne Lanfranco

CC Borges
City Council
County Sups.

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Planning Division
Planning & Development Dept.
CITY OF FRESNO

June 21, 2010

Mr. Mike Sanchez
Planning Manager
2600 Fresno Street
City of Fresno
Fresno, CA 93721

Subject: El Paseo Master Plan\Draft Environmental Impact Report

Dear Mr. Sanchez,

I submit the following comments to be entered into the public and administrative record for this project.

According to the project description, the 238 acre project would be implemented in five phases and would occur over approximately nine years. The DEIR addresses Phase 1 at a Project level and the remaining Phases at a Program Level pursuant to CEQA Guidelines sections 1561 and 15168. The Phase 1 "Marketplace at El Paseo" 74.38 acre site would consist of a power center retail center development with up to 906,788 square feet of retail space, including smaller outparcel restaurant and retail uses. The remaining phases (2-5) 163.62 acres of the El Paseo project are conceptual only; precise building pads, square footage, and tenant mix would be defined prior upon final assessment of market demand.

Table 1-2 Summary of Environmental Impacts

Pages 1-39 and 1-40 of Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation, Section 5.13 Transportation/Traffic, 5.13-2: Project-related trip generation would impact levels of service for the existing area roadway system, Phase 1 (Marketplace at El Paseo), Scenario 1- Phase 1A Mitigation Measures 13-3,13-4 *fails* to identify the dollar amount in Traffic Signal Mitigation (fee) (TSMI) and Fresno Major Street Improvement (fee) (FMSI) prior to issuance of building permit for phase 1A. A dollar amount needs to be calculated for accountability and future mitigation monitoring for project compliance with local jurisdictions. R1-1

Pages 1-41 and 1-42, Scenario 2, Phases 1B and 1C, Mitigation Measures *fail* to identify a dollar amount for the project's fair share contribution to mitigation measures 13-6, 13-7 and 13-8. Mitigation Measure 13-8 states at the end of the paragraph "The payment of fees for improvements included in the FMSI fee program is deemed as full mitigation". This is inaccurate and misleading as assumptions in the traffic study for the Veterans Boulevard interchange project are not programmed with funding although in Tier 1 by the FCTA/COFCG per the measure "C" extension. There needs to another scenario without this assumption otherwise the conclusions are invalid and inconsistent with CEQA in the DEIR. R1-2

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Page 1-42, According to scenario 2, phases 1B and 1C, mitigation measure 13-8 states "No mitigation measure is proposed for the following intersection: Palm Avenue/Herndon Avenue, Not on City's Nexus Study for (TSMI) fees; no feasible improvements available as there is no available right-of-way for additional physical improvements. What efforts have been made by the project proponent to purchase additional right-of-way and at what cost? R1-3

CEQA does not provide for exclusions or exemptions from mitigating project impacts if not in a local jurisdictions fee program or not a part of the Cities Nexus Study. What are the mitigation measures and estimated costs of improvements? If this project is excluded from mitigating for its impacts to above intersections, who will be borne with the responsibility of the costs if not by this project? There are many intersections that are between Palm and Bryan Avenue on Herndon Avenue with only Palm Avenue identified east of Milburn Avenue. A project of regional significance needs to identify all other major intersections missing (Brawley, Valentine, Marks, Van Ness, Fruit, Ingram, Maroa and Blackstone Avenue) and including SR 41 at Herndon Avenue, since Madera County residents from the eastern portion of Madera County will travel to this "power retail center". R1-4

Page 1-42, Scenario 3, Phases 1D and 1E, mitigation measure 13-9 *fails* to provide an actual dollar amount and stipulates that payment of fees is deemed as full mitigation. An estimated dollar amount needs to be included for this scenario. What provisions are in place in the event that the traffic assumptions (Veterans Boulevard Interchange) are not realized, then the "deemed as full mitigation" would be inaccurate and misleading and significantly affect the proposed Development Agreement for this project between the City and the project proponent. Provisions need to be in place through out this EIR for disclosure and the protection of Fresno taxpayers. R1-5

Page 1-43, Scenario 4, Phase 1F, Mitigation Measure 13-10 *fails* to include dollar amount for fair share calculation for improvements. R1-6

Master Plan Scenario, Under the heading of Level of significance after mitigation, Significant and unavoidable phases 2A and 2B, Palm Avenue/Herndon Avenue, Brawley Avenue/Shaw Avenue, SR-99 southbound ramps/Shaw Avenue, SR-99 southbound ramps/Ashlan Avenue. What is the level of significance and why is it unavoidable by this power center project? R1-7

Mitigation measure 13-25, Project applicant shall prepare an update of the traffic impact study for each of the subsequent development phases (phases 2 through 5) of the Master Plan to confirm conditions and related cumulative growth assumptions. This needs be revised to require a **NEW** traffic Impact Study since the base information will be over 2 years old and there will be new and significant information according to CEQA guidelines to provide current and accurate information. R1-8

Pages 1-44 through 1-46, Phase 2A and 2B, mitigation measures 13-25, 13-26, 13-27, 13-29 *fails* to identify the dollar amount for the mitigation measures. R1-9

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Under the heading of Level of significance after mitigation, Significant and unavoidable phases 3 and 4, Palm Avenue/Herndon avenue, Bryan avenue/Veterans Boulevard, Golden State Mike Boulevard/Veterans Boulevard, SR-99southbound ramps/Ashlan Avenue, SR-99 northbound ramps/Ashlan Avenue. Phase 5, Bryan Avenue/Veterans Boulevard, Golden State Boulevard/ Veterans Boulevard, SR-99 northbound ramps/Veterans Boulevard. What is the level of significance and why is it unavoidable by this "power retail center" project? R1-10

Page 1-47 and 1-48, No mitigation measures are proposed for the following intersections under phase 3 and 4: Palm Avenue/Herndon Avenue, Bryan Avenue/Veterans Boulevard, Golden State Boulevard/Veterans Boulevard. R1-11

Page 1-48 and 1-49, Phase 5, Mitigation Measures 13-36, 13-37, 13-38 *fails* to include the dollar amount of the costs for the improvements based on the fair share calculation and actual trip distribution for the project. No mitigation measures under phase 5 for the following intersections: Bryan Avenue/Veterans Boulevard, Golden State Boulevard/Veterans Boulevard, SR-99 northbound ramps/Veterans Boulevard. The reason stated for this lack of mitigation is "Not on City's Nexus Study for (TSMI) fees: no feasible improvements available; intersection would be built out to its ultimate General Plan configuration." CEQA does not provide exclusions or exemptions from mitigating project impacts if not in a local jurisdictions fee program or not a part of the Cities Nexus study. What are the mitigation measures and estimated cost of needed improvements? If this project is excluded from mitigating for its impacts to the above intersections, who will be borne with the responsibility of these costs if not by this project? R1-12

Page 1-49, Phase 1 (Marketplace at El Paseo), Scenario 1, Phase 1A, Mitigation Measure 13-12, Project applicant shall the Fresno Major Street Improvement (fee) (FMSI) and *fails* to identify actual costs of improvements and projects fair share based on project impacts for all traffic scenarios with project, approved projects, cumulative and buildout. R1-13

Page 1-50, Scenario 2, Phases 1B and 1C, Mitigation Measure 13-14 and 13-15, Project applicant shall pay Fresno Major Street Improvement fees and *fails* to identify actual costs of improvements and projects fair share based on project impacts for all traffic scenarios with project, approved projects, cumulative and buildout. Mitigation Measure 13-16, Project applicant shall pay Traffic Signal Mitigation Impact fees and fails to identify actual costs of improvements and projects fair share based on project impacts for all traffic scenarios as previously stated. R1-14

Page 1-51, Scenario 3, Phase 1D and 1E, Mitigation Measures 13-17, 13-18 and 13-20, Project applicant shall pay Fresno major Street Improvement fees and fails to identify actual costs of improvements and projects fair share based on project impacts for all traffic scenarios as stated previously. R1-15

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City of Fresno
El Paseo DEIR
June , 2010
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Mitigation Measure 13-19, Project applicant shall pay Traffic Signal Mitigation Impact fees and *fails* to identify actual costs of improvements and projects fair share based on projects impacts for all traffic scenarios as previously stated. R1-16

Page 1-52, Scenario 4, Phase 1F, Mitigation Measures 13-21, Project Applicant shall pay Fresno Major Street Improvement fees and 13-22, Project applicant shall pay Traffic Signal Mitigation Impact fees fail to identify actual costs of improvements and projects fair share based on projects impacts for all traffic scenarios as previously stated. R1-17

Page 1-52, Under Master Plan (Fresno El Paseo), Under Mitigation Measures-Apply same mitigation measures as found in mitigation measure 13-25, Project applicant shall prepare an update of the traffic impact study for each of the subsequent development phases (phases 2 through 5) of the Master Plan to confirm conditions and related growth assumptions. This needs to be revised to require a **NEW** traffic impact study since the base information will be over 2 years old and there will be new and significant information according to CEQA guidelines for current and accurate information. R1-18

Page 1-52, Phases 2A and 2B, Mitigation Measures 13-39, Project applicant shall pay the Regional Transportation Mitigation fee and Fresno Major Street Improvement fees, and 13-40, project applicant shall pay Fresno Major Improvement fees. These *fail* to identify actual costs of improvements and projects fair share based on projects impacts for all traffic scenarios as previously stated. R1-19

Under the heading Level of Significance after Mitigation, Significant and unavoidable for phases 3 and 4 lists the following intersections/segments/structures; Shaw Avenue: SR-99 southbound ramps to SR-99 northbound ramps, Shaw Avenue: Golden State Boulevard to Brawley Avenue, Shaw Avenue: Brawley Avenue to Marks Avenue, Palm Avenue: Herndon Avenue to Bullard Avenue, Ashlan Avenue: SR-99 southbound ramps to SR-99 northbound ramps. Phase 5, Significant and unavoidable lists the following intersections/segments/structures; Shaw Avenue: Brawley Avenue to Marks Avenue and Ashlan Avenue: SR-99 southbound ramps to SR-99 northbound ramps. A project of Regional Significance and marketed as a "power retail center" needs to appropriately mitigate for its impacts to all affected intersections, roadway segments and structures according to CEQA, otherwise who will borne with the costs and responsibilities for these improvements ? What are the actual improvements necessary and what is this projects fair share costs based on the traffic impact study for all traffic scenarios? R1-20

Page 1-54, Phases 3 and 4, Mitigation Measure 13-42, Project applicant shall pay the Regional Transportation Mitigation Fee and Fresno Major Street Improvement fees. Herndon Avenue, Parkway Drive to SR-99 northbound off-ramp; No feasible improvements available: roadway R1-21

segment would be improved to ultimate right-of-way in phase 1B (two westbound lanes and one eastbound lane); no additional right-of-way to widen eastbound direction. This fails to identify actual costs of improvements and the projects fair share based on projects impacts for all traffic scenarios as previously stated. Of significant concern, the Herndon Avenue bridge structure at this Interchange and the fact it was not analyzed for Project impacts and fair share contribution for improvements by this Regional project, however, the roadway underneath the structure was analyzed. Who will be responsible for the Herndon Avenue structure improvements and when will they be completed since all emphasis is on the Veterans Boulevard Interchange per the traffic impact study assumptions without confirmation of funding and actual construction year. R1-21 cont'd.

Page 1-55, Mitigation Measure 13-43, Project Applicant shall pay Fresno Major Street Improvement fees for six major intersections and or roadway segments. This *fails* to identify actual costs of improvements and the projects fair share based on project impacts for all traffic scenarios as previously stated. There are five other major intersections and or roadway segments that are included in this mitigation measure; however it is inaccurate and misleading, as it needs to be under No mitigation measures being proposed by the project proponent. The DEIR needs to disclose; what are the costs of these improvements and what is the fair share calculation for the project beyond the standard language of "No feasible improvements available: roadway segment would be built to its ultimate General Plan configuration." R1-22

Page 1-56, Mitigation Measure 13-43, No mitigation measures are proposed for the following roadway segments: There are five listed here and States "Not on the Cities Nexus Study for (FMSI) fees; no feasible improvements available to widen existing bridge structure or this segment would be built to its ultimate General Plan configuration. This *fails* to identify the actual costs for the improvements and the projects fair share contribution based on project impacts for all traffic scenarios as previously stated. Additionally, CEQA does not allow for exclusions or exemptions from mitigating project impacts if not in a local jurisdictions fee program or not a part of the Cities Nexus study. What are the mitigation measures and estimated costs of improvements? If this project is excluded from mitigating for its impacts to the above intersections, who will be borne with the responsibility of these costs, if not by this project? R1-23

Page 1-56, Phase 5, Mitigation Measure 13-44, Project Applicant shall pay Fresno Major Street Improvement fees, Herndon Avenue, Parkway Drive to SR-99 northbound off-ramp, this segment would be built to its ultimate General Plan configuration. This *fails* to identify the actual costs for the improvements and the projects fair share contribution based on project impacts for all traffic scenarios as previously stated. Of significant concern is the Herndon Avenue Bridge structure at this interchange and the fact that it was not analyzed for project impacts and fair share contribution R1-24

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June [illegible], 2010
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for improvements by this regionally significant project; however the roadway segment underneath the structure was analyzed. Who will be responsible for the Herndon Avenue structure improvements and when will they be completed since all the emphasis is on the Veterans Boulevard Interchange per the traffic impact study assumptions? R1-24 cont'd.

Page 1-56 and 1-57, Mitigation Measure 13-45, Project Applicant shall pay Fresno Major Street Improvement fees, Of the nine intersections and or roadway segments, only two are identified for mitigation, the remaining seven state "No feasible improvements available; roadway segment would be built to its ultimate General Plan configuration." This *fails* to identify the actual costs for the improvements and the projects fair share contribution based on the traffic scenarios as previously stated. R1-25

Page 1-57, Mitigation Measure 13-45, No Mitigation measures are proposed for the following roadway segments. Shaw Avenue, Golden State Boulevard to Brawley Avenue; Shaw Avenue, Brawley Avenue to Marks Avenue; and Ashlan Avenue, SR-99 southbound ramps to SR-99 northbound ramps. The reasons stated for No mitigation are as follows: "Not in the Cities Nexus study for (FMSI) fees, no feasible improvements available to widen existing bridge structure or this segment would be built to its ultimate General Plan configuration." This *fails* to identify the actual costs for the improvements and the projects fair share contribution based on project impacts for all traffic scenarios previously stated. Additionally CEQA does not provide exclusions or exemptions from mitigating project impacts if not in a local jurisdictions fee program or not a part of the Cities Nexus Study. What are the mitigation measures and estimated costs of improvements? If this project is excluded from mitigating for its impacts to the above intersections/roadway segments/Bridge structures, who will be borne with the responsibility of theses costs, if not by this project? R1-26

Page 1-58, All Phase 1 (Marketplace El Paseo) Subphases, All subphases of phase 1 shall pay their fair share contribution toward improvements to Caltrans facilities. The fair share contribution shall be calculated per the Regional Transportation Mitigation Fee (RTMF). The total fair share contribution for phase 1 is only $1,777,304. The Level of Significance after mitigation is stated as "Less than significant", which is inaccurate and misleading to the public and elected officials. There are numerous Caltrans facilities that have not been adequately addressed in the DEIR much less mitigated as required by CEQA. The state facilities purposely omitted in the DEIR include: Herndon Avenue Bridge structure, Ashlan Avenue Bridge structure, Shaw Avenue Bridge structure and associated ramps at each interchange. The estimated costs for these improvements are in the $100's of millions of dollars, and when compared to the proposed $1.7 million dollar fair share contribution to Caltrans, it is significantly inadequate and substantially under funded for a project of this magnitude with <u>significant</u> Regional traffic impacts. R1-27

Mike Sanchez
City of Fresno
El Paseo
June 21, 2010
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Page 1-58, Master Plan (Fresno El Paseo), Apply same measures as found in Mitigation Measures 13-23 and 13-25. The total Regional Transportation Mitigation Fee fair share contribution for the Master Plan is $2,800,841. This amount is not specific as to what facilities this money will be applied to and if in addition to Phase 1 (Marketplace at El Paseo). R1-28

It is recommended that the total project funding for each of the other two categories (Fresno Major Street Improvement (FMSI) and Traffic Signal Mitigation Impact (TSMI) be provided in addition to the above Regional Transportation Mitigation Fee (RTMF) as they are in Chapter 5 of the Environmental Analysis/Transportation and Traffic. This will provide full disclosure and transparency for project accountability for future follow-up and or transfer of ownership and debt service obligations as part of the project conditions of approval and entitlements. The Development Agreement will also need to include this information; therefore it needs to be as uncomplicated and simple as possible. This will be necessary for the mitigation monitoring report in the FEIR; otherwise it will remain incomplete and inconsistent with the CEQA guidelines. R1-29

The Executive Summary needs to be prepared in a format that will be easy to follow and understanding each phase, specific scenario, mitigation measure, non mitigation measures and applicable category of applicable FEE as stated above. The current structure does not provide this lay out and is very difficult to follow in any sequence of order. R1-30

Please note that the above stated comments also apply to Chapter 5 of the Environmental Analysis, Transportation and Traffic since this information was derived from the traffic analysis, assumptions and methodologies. R1-31

3. Project Description

Page 3-4, Paragraph 5 under safe and convenient pedestrian access, there is no mention of sidewalks connecting the project to the nearby local restaurants and along Herndon Avenue and accommodating the visitors of the hotels along Golden State Boulevard. This is a significant oversight and does not complement the project off site requirements in addressing safety for pedestrians and will be a City of Fresno public health and safety issue. R1-32

Figure 3-5 shows the Marketplace El Paseo, however it does not delineate the at-grade railroad crossing located at Herndon Avenue and Golden State Boulevard. This is a significant oversight and omission since there is no provision for future right-of-way along the frontage of this project for a Grade separation either over or under the existing track alignment. This needs to be a requirement of the City in order to preserve the necessary right-of-way for the foot print of such a R1-33

Mike Sanchez
City of Fresno
El Paseo
June 21, 2010
Page 8 of

grade separation. There are no existing sidewalks at this crossing and will be detrimental to the safety of pedestrians to and from the project site. Additionally, there is no delineation for the High Speed Train since the Fresno alignment is along the Southern Pacific alignment for this corridor just east of the existing tracks adjacent to this project location. This needs to be identified for full disclosure and transparency during the environmental review for this proposed project. R1-33 cont'd.

Page 3-22, Development Agreement, although it is between the City and the project proponent there is certain language that is too general and open ended which reads: " but not limited to:" This needs to be removed, otherwise anything goes under this agreement. R1-34

Page 3-23, Eminent Domain, The last sentence of the paragraph reads "While negotiations are still pending with this property owner, the City may consider employing the powers of eminent domain for the acquisition of the subject property for public purposes." This would be contrary and against the intent of eminent domain regulations since the public good is not stated here versus the appearance of self serving for the good of the proposed project to move forward and not necessarily the general public. R1-35

4. Environmental Setting

Page 4-13, Table 4-1 Approved and Pending Cumulative Projects only includes the City of Fresno projects. This is not comprehensive enough for an adequate cumulative analysis since the County of Fresno and Madera County are not included in this data. This project is of Regional significance and will draw from outside the City of Fresno and needs to have the supporting information to assess the potential impacts within its market sphere of influence and regional trips. R1-36

It is recommended that the DEIR be recirculated according to CEQA, since this will generate new and significant information from this comment letter. This will afford proper disclosure of project impacts and review of mitigation measures to address the level of significance so the general public and City of Fresno will not be left with a debt service for off site infra structure improvements by this regionally significant project as is the current case without substantial changes to the DEIR. R1-37

Sincerely,

Stephanie Sanfrancisco
271-4709
260-0029

Law Firm Representative

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R1. Response to Comments from Suzanne Lanfranco, dated June 21, 2010.

R1-1 The DEIR and Recirculated DEIR fully disclose the applicable transportation improvement fees for the proposed project. The documents also disclose the fee program standard for the California Environmental Quality Act (CEQA). Please refer to DEIR page 5.13-11 and the discussion of the *Anderson First Coalition v. City of Anderson* court case. Both the DEIR and Recirculated DEIR clearly describe the Fresno Major Street Improvement (FMSI), traffic signal mitigation impact (TSMI) and Regional Transportation Mitigation Fee (RTMF) fee programs. The basis and existing fee structure and applicable formulas are provided. The fee programs are subject to periodic review and update. The fees for the project as per the current structure, however, are provided as an approximation for full disclosure to the public.

Based on the current structure, Phase 1 would be required to pay the following: $1,786,132 toward the TSMI, $3,346,262 toward FMSI, and $1,777,304 toward the RTMF. The Master Plan (Phases 2 through 5) would pay $2,719,249 toward the TSMI, $8,515,809 toward the FMSI, and $2,800,841 toward the RTMF. Please refer to Chapter 1, *Executive Summary Table*, Section 5.13, *Transportation and Traffic*, and Appendix L of the Recirculated DEIR.

R1-2 Please see response to Comment R1-1 regarding the project's fair share contribution. Regarding Mitigation Measure 13-8, payment of the FMSI fee would be deemed as full mitigation as it would satisfy the *Anderson First* case requirements that fair share mitigation fee measure must 1) identify the fee amount to be paid; 2) commit to paying the remaining reasonable costs for fair share of the cost of required improvements; and 3) make these fees part of a reasonable, enforceable plan or program that is sufficiently tied to the actual mitigation of the traffic impacts.

R1-3 Based on discussions with the City Traffic Engineer, there are no feasible improvements that can be constructed at Palm Avenue/Herndon Drive because this intersection is currently built-out to its General Plan designation. Further improvements made to this intersection would be inconsistent with the General Plan. Therefore, inquiry into acquisition of additional right-of-way at this location was not performed as it is not necessary.

R1-4 The traffic impact study (TIS) and DEIR have accounted for all of the project's impacts to the study area and have provided adequate mitigation measures. For study area intersections and roadways that would have significant and unavoidable impacts, per CEQA Guideline Section 15091, the City of Fresno as the lead agency and decision maker would be required to prepare a written finding stating this and also prepare in writing a statement of overriding considerations per CEQA Guideline Section 15093 if the City approves the project. The study area determined for the traffic analysis was based on project trip assignment model runs from the Fresno COG model, which includes regional cross-traffic from Madera County (and other adjacent counties). The study intersections were the intersections of two major cross-streets (designated Arterials, Expressways, and freeway ramps), to which the proposed project would add 50 or more peak hour trips, as well as adjacent collector roads that would have direct access to the project site. The study area was approved by the City Traffic Engineer and met the requirements of the City's TIS Guidelines. The traffic distributions for all phases of the Master Plan are based on

select zone trip assignments from the Fresno COG travel demand model. The Fresno COG travel demand model is the City-approved source for trip distribution patterns for projects within the City.

R1-5 Please see response to Comment R1-1 regarding the project's fair share contribution and Response A2-1 regarding phasing of Veterans Avenue interchange improvements.

R1-6 Please see Response R1-1.

R1-7 The project's contribution to the Palm Avenue/Herndon Avenue and Brawley Avenue/Shaw Avenue intersections would trigger a significant impact per the City's TIS Guidelines (for intersections within the City's jurisdiction). There are no feasible mitigation measures as these sections are already built out to their ultimate General Plan configurations. The project's contribution to the SR-99 southbound ramps/Shaw Avenue and SR-99 southbound/Ashland Avenue intersections would trigger a significant impact per Caltrans guidelines (for intersections within Caltrans's jurisdiction). Mitigation Measure 13-34 (as listed in the Recirculated DEIR) would require the project applicant to pay Combined Share fees. However, because improvements are not specifically scheduled and because they are out of the control of the lead agency, the City of Fresno, impacts at these two intersections would remain significant and unavoidable. Please refer to Chapter 1, *Executive Summary Table*, Section 5.13, *Transportation and Traffic*, and Appendix L of the Recirculated DEIR.

R1-8 This mitigation measure has been revised to require that a traffic impact study is prepared for each subsequent development phases in a manner similar to the Phase 1 traffic analysis and has been renumbered as Mitigation Measure 13-30 in the Recirculated DEIR as follows:

13-30 Project Applicant shall prepare a traffic impact study for each of the subsequent development phases (Phases 2 through 5) of the Master Plan to confirm conditions and related cumulative growth assumptions. The traffic impact study shall be prepared in a manner similar to the level of the Phase 1 traffic analysis (including its subphases). These updates shall be prepared consistent with the City of Fresno Traffic Impact Study Guidelines and shall incorporate any fee requirements from the City's TSMI and FMSI programs, the Fresno County RTMF program, and applicable Caltrans requirements. In addition, the traffic analyses shall provide updated information on the status of local and regional capital traffic improvements, and analyze background traffic conditions accordingly.

Prior to the issuance of building permits for the respective phase, the Project Applicant shall demonstrate that none of the following conditions would result from implementation of the project phase:

- Triggers an intersection operating at acceptable LOS (LOS D or better) to operate at unacceptable levels of service.

- Triggers an intersection operating at unacceptable LOS (LOS E) to operate at LOS F.
- Increases the average delay by five or more seconds for an intersection that is already operating at unacceptable LOS.
- An unsignalized intersection found to operate at unsatisfactory LOS (LOS E or lower) requires preparation of a traffic signal warrant to determine whether signalization of the intersection would be warranted.

Also, please see response to Comment A2-1.

R1-9 Please see response to Comment R1-1.

R1-10 Phases 3 and 4 traffic impacts and mitigation measures have been updated in the Recirculated DEIR. Development of Phases 3 and 4 would result in traffic impacts at the Palm Avenue/Herndon Avenue, SR-99 southbound ramps/Ashlan Avenue, and SR-99 northbound ramps/Ashlan Avenue intersections that are significant and unavoidable after mitigation. There are no available mitigation measures for the Palm Herndon Avenue intersection as it is already built out to its ultimate General Plan configuration. Mitigation Measures 13-38 and 13-39 would require payment of Combined Share fees for improvements at the SR-99 southbound ramps/Ashlan Avenue and SR-99 northbound ramps/Ashlan Avenue intersections. However, these fees would not satisfy the *Anderson First* case outlined in Comment R1-2. Please refer to Chapter 1, *Executive Summary Table*, Section 5.13, *Transportation and Traffic*, and Appendix L of the Recirculated DEIR.

R1-11 The intersections listed in Comment R1-11 will have already been constructed to their ultimate General Plan configuration. The future intersection of Bryan Avenue/Veterans Boulevard was also analyzed per its ultimate General Plan configuration. Therefore, no feasible mitigation measures were recommended.

R1-12 Please see response to Comment R1-1 regarding the project's fair share contribution. Phase 5 traffic impacts and mitigation measures were updated in the Recirculated DEIR. Mitigation Measure 13-42 would require the project applicant to pay the project's fair contribution towards the FMSI. Mitigation Measure 13-44 would require the project applicant to pay the project's fair share into the RTMF.

R1-13 It is not within the scope of the Recirculated DEIR to include calculations for the exact and final cost estimates for needed improvements. Estimated costs of improvements are publicly available in the Nexus Studies of the FMSI, TSMI, and RTMF programs. Additionally, more specific and final costs estimates of improvements are and would be available through the applicable capital improvement programs. As required under the *Anderson First* case outlined on page 5.13-11 for the Recirculated DEIR, the fair share contribution toward the TSMI, FMSI, and RTMF programs that the project would be required to pay has been identified in the Recirculated DEIR. Please see Response R1-1 regarding the project's fair share contribution.

R1-14 Please see Responses R1-1 and R1-13.

R1-15 Please see Responses R1-1 and R1-13.

R1-16 Please see Responses R1-1 and R1-13.

R1-17 Please see Responses R1-1 and R1-13.

R1-18 Please see response to Comment R1-8. Mitigation Measures 13-30 and 13-54 were revised in the Recirculated DEIR to include performance standards to assure that development resulting in significant impacts cannot occur until appropriate improvements are in place to provide acceptable levels of service. Please refer to Chapter 1, *Executive Summary Table,* and Section 5.13, *Transportation and Traffic,* of the Recirculated DEIR.

R1-19 Please see Responses R1-1 and R1-13.

R1-20 Phases 3, 4, and 5 traffic impacts and mitigation measures were updated in the Recirculated DEIR. Mitigation Measure 13-48 would require the project applicant to pay FMSI fees. All the roadway segments listed by the commenter are included in the FMSI Nexus Study except: Shaw Avenue from Golden State Boulevard to Brawley Avenue, Shaw Avenue from Brawley Avenue to Marks Avenue, and Palm Avenue from Herndon Avenue to Bullard Avenue. These segments are not currently on the Nexus Studies of any of the City's established funding programs and they are already built out to their General Plan configurations and were indentified in the Recirculated DEIR as significant and unavoidable. Per CEQA Guideline Section 15091, the City of Fresno as the lead agency and decision maker would be required to prepare a written finding stating this and also prepare in writing a statement of overriding considerations per CEQA Guideline Section 15093 if the City approves the project.

Mitigation 13-51 would require the project applicant to pay the project's fair share towards the FMSI of which the segment of Ashlan Avenue from SR-99 southbound ramps to SR-99 northbound ramps are included on the Nexus Study. Please refer to Chapter 1, *Executive Summary Table,* and Section 5.13, *Transportation and Traffic,* of the Recirculated DEIR.

R1-21 Please see Responses R1-1 and R1-13. There are currently no plans to improve the capacity of the bridge structure of SR-99 over Herndon Avenue. The construction of the Veterans Boulevard interchange would shift a significant amount of traffic volume from the SR-99/Herndon Avenue interchange. Therefore, construction of Veterans Boulevard and its interchange with SR-99 would also improve LOS and operations at the SR-99/Herndon Avenue interchange with its planned improvements (signalization at northbound off-ramp and at Parkway Drive/Herndon Avenue, and widening of Herndon Avenue to two westbound lanes and one eastbound lane). These improvements would be funded by the City's TSMI/FMSI programs.

R1-22 Please see Response R1-1 regarding the project's fair share contribution and response to Comment R1-13 regarding costs of improvements. Additionally, where otherwise noted, payment of the City's fee program(s) is the mitigation measure.

Based on the structure of the City mitigation fee programs, the project's fair share contribution is based on the number of project daily trips added (TSMI) and the number of acreage that would be developed (FMSI). Collection of these fees will not be used directly to construct improvements. Payment is the project's fair share contribution based on the City-wide Nexus Studies for the TSMI and FMSI fee programs to construct the improvements. If the project applicant constructs the actual improvements for facilities that are included on the City's mitigation fee program Nexus Studies, the construction of the improvements can be credited toward and reimbursable from the TSMI and FMSI impact fees. Please refer to Chapter 1, *Executive Summary Table*, Section 5.13, *Transportation and Traffic*, and Appendix L of the Recirculated DEIR.

R1-23 Please see response to Comment R1-1 regarding the project's fair share contribution, response to Comment R1-13 regarding costs of improvements, and Comment R1-20 regarding the mitigation measure proposed for the roadway segments.

R1-24 Regarding the segment of Herndon Avenue from Parkway Drive to SR-99 southbound off-ramp, please see response to Comment R1-21. Regarding the comment pertaining to the Herndon Avenue bridge structure at SR-99, please see response to Comment R1-21.

R1-25 Please see Response R1-22.

R1-26 Please see Response R1-20.

R1-27 Traffic impacts and required mitigation measures were updated in the Recirculated DEIR. The purpose of the RTMF is to ensure that there is a uniform fee program to assess projects in order to mitigate the cumulative indirect regional impacts on high-priority state roadways in Fresno County. RTMF fair share contributions are collected to ensure funding for projects on the RTP Tier 1 list and in the Fresno-Madera County Freeway Interchange Deficiency Study (FIDS). However, it is not intended for the RTMF program to fully fund projects on the Regional Transportation Plan (RTP). It is one of the multiple funding sources that make up the Measure "C" Extension, with the other funding sources being the Measure "C" Sales Tax and State Transportation Improvement Program (STIP). Within the Recirculated DEIR, facilities that are funded by RTMF are determined to be significant and unavoidable, as the RTMF program would only provide a partial funding for needed improvements. Please refer to Section 5.13, *Transportation and Traffic*, and Appendix L of the Recirculated DEIR. Regarding the comment pertaining to the Herndon Avenue bridge structure at SR-99, please see response to Comment R1-21. For the other Caltrans bridge structures at Shaw Avenue and Ashlan Avenue, the project would pay its combined-share fees.

R1-28 Please see Response R1-1 regarding the project's fair share contribution toward the RTMF for Phase 1 and the Master Plan (Phases 2 through 5). In addition, please see response to Comment R1-27.

R1-29 This comment has been addressed in Chapter 3 of the Fresno El Paseo Recirculated DEIR.

R1-30 Comment acknowledged. The Executive Summary Table has been updated in the Recirculated DEIR based on the changes made to Section 5.13, *Transportation and Traffic*. The Executive Summary table follows the structure of Chapter 5.13 by examining the Phase 1 and the Master Plan for each impact. The mitigation measures in the Executive Summary table correspond with the mitigation measures in Section 5.13.

R1-31 Comment acknowledged.

R1-32 Please refer to response to comment A5-9 regarding City plans, requirements, and funding for pedestrian and bicyclist facilities.

R1-33 Please see response to Comment A5-7.

R1-34 The Development Agreement for El Paseo Marketplace (Phase 1 of the proposed project) is one of several discretionary approvals required for the El Paseo project (see DEIR, Section 3.4, *Intended Uses of the EIR).* While a public document, it is crafted in a manner that allows some flexibility while still protecting the interests of the City of Fresno. The specific language of the Development Agreement, however, is beyond the scope of CEQA and the EIR. This comment will be forwarded to decision makers for their consideration.

R1-35 The possible use of eminent domain to obtain the Lambetecchio property (APN 504-091-13) is no longer necessary as the project applicant has this parcel under contract to allow development of Phase 1. Therefore, the DEIR discussion reference to possible eminent domain has been deleted as documented in Chapter 3, *Revisions to the Draft and Recirculated EIR,* of this Final EIR

R1-36 The traffic modeling prepared for all phases of the proposed project includes traffic from future interregional trips outside of Fresno County, as calculated in the regional ambient growth in the Fresno COG travel demand model. This method would account for traffic growth outside of Fresno County. The traffic forecast methodology for Phases 1 and 2 incorporates very conservative estimations of regional ambient growth plus traffic from the assumed development of 70+ cumulative projects within the project study area, added to the existing traffic volumes (see Table 5.13-6 and Figure 5.13-6).

R1-37 Comment acknowledged. A Recirculated DEIR was prepared and circulated for public review in response to transportation issues raised in comment letters received on the Draft EIR, including this letter. The Recirculated DEIR corrects erroneous information in the Draft EIR with respect to transportation improvement funding programs and supplements information and mitigation as necessary.

LETTER RA1 – Fresno County Department of Agriculture (1 page)

From: Rinder, Fred [mailto:FRinder@co.fresno.ca.us]
Sent: Friday, September 03, 2010 4:34 PM
To: Mike Sanchez
Cc: Hafner, Carol
Subject: DEIR for the Fresno El Paseo Project

Mike –

The Fresno County Department of Agriculture has no objection or comment to the DEIR for the Fresno El Paseo Project (SCH#2008011003). RA1-1

Fred Rinder
Deputy Ag Commissioner
Fresno County Department of Agriculture
Wildlife Damage Management
Pest Management
Weed & Vertebrate Control
F&V Standardization/Egg Quality
1730 S Maple Ave
Fresno, CA 93702
559-456-7510

Comfort zones are most often expanded through discomfort.

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RA1. Response to Comments from Fresno County Department of Agriculture, dated September 3, 2010.

RA1-1 Comment acknowledged.

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LETTER RA2 – Yosemite International Airport (1 page)

From: Daniel Yrigollen
Sent: Tuesday, September 07, 2010 11:04 AM
To: Mike Sanchez
Subject: Recirculated Draft EIR for the Fresno El Paseo Project

Mike,

The Airports Department has reviewed the recirculated draft EIR and has no additional comments. RA2-1

Daniel Yrigollen
Airports Projects Supervisor

Phone: 559-621-4526
Cell: 559-696-6630
FAX: 559-498-5549

Airports Department
4995 E. Clinton Way
Fresno, CA 93727

FRESNO YOSEMITE
INTERNATIONAL AIRPORT

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RA2. Response to Comments from Yosemite International Airport, dated September 7, 2010.

RA2-1 Comment acknowledged.

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LETTER RA3 – County of Fresno Department of Public Health (1 page)

County of Fresno
Department of Public Health
Edward L. Moreno, M.D., M.P.H., Director-Health Officer

September 27, 2010

999999999
LU0014578
PE 2602

Mike Sanchez, Planning Manager
City of Fresno
2600 Fresno Street, Third Floor
Fresno, CA 93721

Dear Mr. Sanchez:

PROJECT: Fresno El Paseo Project Recirculated DEIR

The Fresno County Department of Public Health, Environmental Health Division has reviewed the Recirculated DEIR and concurs with the information contained therein and has no comments to offer at this time. RA3-1

If I can be of further assistance, please contact me at (559) 445-3271.

Sincerely,

Janet Gardner

Digitally signed by Janet Gardner
DN: cn=Janet Gardner, o=Environmental Health Division, ou=Fresno County Public Health Department, email=jgardner@co.fresno.ca.us, c=US
Date: 2010.09.27 15:13:56 -07'00'

R.E.H.S., M.P.H.
Environmental Health Specialist III
Environmental Health Division

jg

Fresno El Paseo Project DEIR Comments

1221 Fulton Mall / P.O. Box 11867 / Fresno, California 93775 / (559) 445-3357 / FAX (559) 445-3379
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RA3. Response to Comments from County of Fresno Department of Public Health, dated September 27, 2010.

RA3-1 Comment acknowledged.

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LETTER RA4 – San Joaquin Valley Air Pollution Control District (1 page)

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

HEALTHY AIR LIVING

October 4, 2010

Mike Sanchez
Planning Manager
City of Fresno
2600 Fresno Street, Third Floor
Fresno, CA 93721

Project: Recirculated Draft Environmental Impact Report for the El Paseo Project (SCH#:2008011003)

District CEQA Reference No: 20100708

Dear Mr. Sanchez:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above consisting of 238 acres of mixed-use development that includes the following: large retail marketplace, lifestyle center or town center project, low-rise office park and hotel, and light industrial technology business park. The project is located in the Bullard and West Community Plan Areas, in Fresno, CA. The District has previously commented on this project and has no additional comments at this time. RA4-1

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 Patia Siong at (559) 230-5930. RA4-2

Sincerely,

David Warner
Director of Permit Services

for Arnaud Marjollet
Permit Services Manager

DW:ps
cc: File

Seyed Sadredin
Executive Director/Air Pollution Control Officer

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

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

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

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RA4. Response to Comments from San Joaquin Valley Air Pollution Control District, dated October 4, 2010.

RA4-1 Comment acknowledged. Please refer to Responses to Draft EIR comment letter A10, which address the District's prior comments to the DEIR.

RA4-2 Comment acknowledged.

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LETTER RA5 – State of California Public Utilities Commission (1 page)

STATE OF CALIFORNIA Arnold Schwarzenegger, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

October 4, 2010

Mike Sanchez
City of Fresno
2600 Fresno Street
Fresno, CA 93721

Re: Notice of Completion-Draft Environmental Impact Report (DEIR)
El Paseo Master Plan-Recirculated
SCH# 2008011003

Dear Mr. Sanchez:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian movement at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, rail personnel, and rail passengers. RA5-1

The CPUC concurs with the Rail Safety Study that proposes construction of a wrought iron fence along the western property line for phase 1 of the proposed development. The CPUC recommends that future traffic impact studies include the Bullard Avenue and Carnegie Avenue at-grade railroad crossings to determine if mitigation measures would be required of future project phases. RA5-2

Please include the above CPUC recommendations in the mitigation monitoring section of the FEIR

Thank you for your consideration of these comments. If you have any questions on this matter, please call me at (415) 713-0092 or email at ms2@cpuc.ca.gov .

Sincerely,

Moses Stites

Moses Stites
Rail Corridor Safety Specialist
Consumer Protection and Safety Division
Rail Transit and Crossings Branch
180 Promenade Circle, Suite 115
Sacramento, CA 95834-2936

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RA5. Response to Comments from State of California Public Utilities Commission, dated October 4, 2010.

RA5-1 Comment acknowledged. As noted, the Recirculated DEIR added a public safety mitigation measure to ensure that a fence is erected between the proposed project and UPRR right-of-way to prevent pedestrians from crossing the tracks midtrack to get to El Paseo. Subsequent to the Recirculated DEIR, this mitigation measure has been refined to potentially allow other fencing material per the review and approval of the City's Traffic Engineer. As included in Chapter 3.0, *Revisions to the Draft and Recirculated EIR,* the revised mitigation measure for Phase 1 reads as follows:

13-29 Prior to Phase 1A occupancy, the Project Applicant shall install a fence separating the project land uses from the railroad tracks. The fence shall be a wrought-iron fence or other metal fence, such as a black powder-coated chain-link fence, approved by the City Traffic Engineer to separate El Paseo Phase 1 project from the railroad tracks.

A similar measure to assure fencing along the entire project boundary upon development of the Master Plan is included as follows:

13-55 Prior to occupancy of subsequent Master Plan phases, the Project Applicant shall install either a wrought-iron fence or other type of metal fence approved by the City of Fresno Traffic Engineer, such as a black powder-coated chain-link fence, along the entire length of the property line of each of the subsequent phases adjacent to the UPRR right-of-way.

RA5-2 Based on the analysis in the Rail Safety Study as documented in the Recirculated DEIR, project-related impacts at the Bullard/Carnegie Avenue at-grade crossing in regard to highway-railroad accidents would be less than significant for Phase 1 as well as buildout of the Master Plan. Future project phases, however, will be subject for CEQA review and input from public agencies, including the California Public Utilities Commission. The City will continue to coordinate with the PUC and determine the potential requirement for further analysis of the Bullard/Carnegie Avenue at-grade railroad crossing at the time of future discretionary approvals.

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LETTER RA6 – Native American Heritage Commission (5 pages)

STATE OF CALIFORNIA Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net

September 9, 2010

Mr. Mike Sanchez, Planning Manager
City of Fresno
2600 Fresno Street, Third Floor
Fresno, cA 93721

Re: SCH#2008011003 CEQA Notice of Completion; re-circulated draft Environmental Impact Report (DEIR) for the **Fresno El Paseo Master Plan Project** located on a 238-acre site to be completed in five phases, in the City of Fresno; Fresno County, California.

Dear Mr. Sanchez:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. (Also see *Environmental Protection Information Center v. Johnson (1985) 170 Cal App. 3rd 604).* The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amendment effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ...objects of historic or aesthetic significance. The lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. State law also addresses Native American Religious Expression in Public Resources Code §5097.9.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural Resources **were not identified** within one-half mile radius of the 'area of potential effect (APE).' Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the culturally affiliated tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes. RA6-1

Furthermore the NAHC recommends that you contact the California Historic Resources Information System (CHRIS) of the Office of Historic Preservation (OHP), for archaeological data. (916) 653-7278.

Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the NAHC list ,should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f]*et se),* 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes.* Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). RA6-1 cont'd.

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance' may also be protected the under Section 304 of the NHPA or at the Secretary of the Interior' discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C, 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity. RA6-2

CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC RA6-3

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of

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any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony. RA6-3 cont'd.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation. RA6-4

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

Dave Singleton
Program Analyst

Attachment: List of Culturally Affiliated Native American Contacts

Cc: State Clearinghouse

3

Native American Contacts
Fresno County
September 9, 2010

Big Sandy Rancheria of Mono Indians
Liz Hutchins Kipp, Chairperson
P.O. Box 337 / 37302 Western Mono
Auberry , CA 93602
ck@bigsandyrancheria.
(559) 855-4003
(559) 855-4129 Fax

Choinumni Tribe; Choinumni/Mono
Lorrie Planas
2736 Palo Alto Choinumni
Clovis , CA 93611 Mono

North Fork Mono Tribe
Ron Goode, Chairperson
13396 Tollhouse Road Mono
Clovis , CA 93619
eagleeye@cuip.net
(559) 299-3729 Home

Table Mountain Rancheria
Bob Pennell, Cultural Resources Director
P.O. Box 410 Yokuts
Friant , CA 93626-0177
(559) 325-0351
(559) 217-9718 - cell
(559) 325-0394 FAX

Dumna Wo-Wah Tribal Goverment
Keith F. Turner, Tribal Contact
P.O. Box 306 Dumna/Foothill
Auberry , CA 93602 Mono
t'si-akimcorr@at.net
(559) 855-3128 Home
(559) 696-0191 (Cell)

Kings River Choinumni Farm Tribe
John Davis, Chairman
1064 Oxford Avenue Foothill Yokuts
Clovis , CA 93612-2211 Choinumni
559-324-9908

Sierra Nevada Native American Coalition
Lawrence Bill, Interim Chairperson
P.O. 125 Mono
Dunlap , CA 93621 Foothill Yokuts
(559) 338-2354 Choinumni

Dunlap Band of Mono Historical Preservation Soc
Mandy Marine, Board Chairperson
P.O Box 18 Mono
Dunlap , CA 93621
mandy_marine@hotmail.
com
559-274-1705
559-252-0198 - fax

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. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and fed eral NAGPRA. And 36 CFR Part 800.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed SCH#2008011003; cEQA Notice of Completion; Re-circulated draft Environmental Impact Report (RDEIR); for the Fresno El Paseo EIR Master Plan; located on a 238-acre site in the City of Fresno; Fresno County, California.

Native American Contacts
Fresno County
September 9, 2010

Dumna Wo-Wah Tribal Government
Jim Redmoon - Cultural Resources Representative
724 W. Fountain — Dumna/Foothill
Fresno , CA 93705 — Choinumni
darkstarmoondog@hayoo.
cell 559-824-0265 home 559
-243--9926

Frank Marquez
P.O. Box 565 — Mono
Friant , CA 93626 — Foothill Yokut
francomarquez@pmr.org
559-213-6543 - cell
559-822-3785

Chowchilla Tribe of Yokuts
Jerry Brown
10553 N. Rice Road — North Valley Yokuts
Fresno , CA 93720
559-434-3160

Cold Springs Rancheria of Mono Indians
Carol Bill - Tribal Administrator
PO Box 209 — Mono
Tollhouse , CA 93667
coldsprgstribe@netptc.net
(559) 855-5043

(559) 855-4445 - FAX

The Choinumni Tribe of Yokuts
Rosemary Smith, Chairperson
1505 Barstow — Choinumni
Clovis , CA 96311 — Foothill YoKut
monoclovis@yahoo.com
559-862-5757

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. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and fed eral NAGPRA. And 36 CFR Part 800.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed SCH#2008011003; cEQA Notice of Completion; Re-circulated draft Environmental Impact Report (RDEIR); for the Fresno El Paseo EIR Master Plan; located on a 238-acre site in the City of Fresno; Fresno County, California.

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RA6. Response to Comments from Native American Heritage Commission, dated September 9, 2010.

RA6-1 A cultural resources report for the proposed Fresno El Paseo project was prepared by Applied Earthworks, Inc. (January 2008). The complete cultural resources report is included as DEIR Appendix F. As part of the cultural resources investigation, Applied Earthworks completed a standard archaeological records check of cultural resources reports at the Southern San Joaquin Valley Information Center of the California Historical Resources Information System (Information Center) on the campus of California State University, Bakersfield. Furthermore, Applied Earthworks contacted the Native American Heritage Commission on November 27, 2007, to request a records search in the Commission's sacred lands file for a list of significant sites in the area. In accordance with the recommendations of the California Native American Heritage Commission, Applied Earthworks contacted individuals identified by the NAHC to obtain information of possible cultural resources in the area. Field surveys were also performed on November 29 and 30, 2007.

RA6-2 As described in DEIR Section 5.5, *Cultural Resources*, the records search and field survey did not identify the presence of prehistoric or historic archaeological resources that would warrant further documentation. The DEIR included mitigation measures in the event construction activities uncover sensitive archaeological and paleontological resources to ensure no significant adverse impacts would occur (see Mitigation Measures 5-1 and 5-2).

RA6-3 As described in Impact 5.5-4 of the DEIR, no known human burial sites are located on the project site. However, mitigation has been included to address the event that human remains were to be uncovered. The mitigation measure would require that all work in the vicinity of the project would be stopped and there would be no disturbance or relocation of the remains except in accordance with Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.

RA6-4 Comment acknowledged. As discussed, mitigation measures have been included to address the event that archaeological resources, paleontological resources, and/or human remains are found during construction of the project.

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LETTER RA7 – State Clearinghouse (2 pages)

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

Arnold Schwarzenegger
Governor

Cathleen Cox
Acting Director

October 5, 2010

Mike Sanchez
City of Fresno
2600 Fresno Street
Fresno, CA 93721-3604

Subject: El Paseo Master Plan
SCH#: 2008011003

Dear Mike Sanchez:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on October 4, 2010, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly. RA7-1

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation." RA7-2

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. RA7-3

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH#	2008011003
Project Title	El Paseo Master Plan
Lead Agency	Fresno, City of
Type	EIR Draft EIR
Description	NOTES: Recirculated EIR Development, in five phases, of approximately 238 acres with retail, office, hospitality, and entertainment uses. Phase I of the proposed project will be analyzed at a project-level.

Lead Agency Contact

Name	Mike Sanchez		
Agency	City of Fresno		
Phone	559-621-8040	*Fax*	
email			
Address	2600 Fresno Street		
City	Fresno	*State* CA	*Zip* 93721-3604

Project Location

County	Fresno			
City	Fresno			
Region				
Lat / Long	36° .82' N / 119° .90' 40.99" W			
Cross Streets	Herndon Avenue and Bryant Street, Golden State			
Parcel No.				
Township	*Range*	*Section*	*Base*	

Proximity to:

Highways	SR-99
Airports	Sierra Sky Park
Railways	UPRR
Waterways	San Joaquin River
Schools	Rio Vista MS
Land Use	GP Des: Light Industrial and Medium Density Residential Zoning: AE-5 Agricultural Exclusive and Light Industrial/M1

Project Issues	Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Geologic/Seismic; Growth Inducing; Landuse; Noise; Population/Housing Balance; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Water Quality; Water Supply; Wetland/Riparian; Aesthetic/Visual
Reviewing Agencies	Resources Agency; Department of Conservation; Department of Fish and Game, Region 4; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 6; Regional Water Quality Control Bd., Region 5 (Fresno); Native American Heritage Commission; Public Utilities Commission

Date Received 08/19/2010 *Start of Review* 08/19/2010 *End of Review* 10/04/2010

Note: Blanks in data fields result from insufficient information provided by lead agency.

RA7. Response to Comments from State Clearinghouse, dated October 5, 2010.

RA7-1 Comment acknowledged.

RA7-2 Comment acknowledged.

RA7-3 Comment acknowledged. The City of Fresno or the project applicant shall contact the State Clearinghouse if the need arises.

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LETTER RA8 – State of California Department of Transportation (2 pages)

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

DEPARTMENT OF TRANSPORTATION
1352 WEST OLIVE AVENUE
P. O. BOX 12616
FRESNO, CA 93778-2616
PHONE (559) 445-5868
FAX (559) 488-4088
TTY (559) 488-4066

Flex your power!
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October 14, 2010

2131-IGR/CEQA
6-FRE-99-30.9
EL PASEO
Recirculated Draft Environmental
Impact Report (RDEIR)
SCH NO. 2008011003

Mr. Mike Sanchez
City of Fresno Development Department
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

Dear Mr. Sanchez:

This letter supersedes Caltrans' previous two comment letters on the El Paseo project.

Caltrans has reviewed the Recirculated Draft Fresno El Paseo Environmental Impact Report ("RDEIR") that included revisions to Section 5.13 addressing Transportation and Traffic. These revisions included the sub-phasing improvement requirements for certain Caltrans facilities set forth in the technical memorandum prepared for the El Paseo Environmental Impact Report dated July 31, 2009 and revised on December 8, 2009. The RDEIR identifies the needed improvements to mitigate project-related impacts to the State Route (SR) 99/Herndon Avenue interchange associated with each sub-phase. The sub-phasing is as follows:

Phase 1A (first 200,000 sf):

- Signalize SR 99 NB off-ramp/Herndon (interconnect with Golden State Boulevard/Herndon Avenue signal. (Requirement 1A-6)
- Widen SR 99 NB off-ramp/Herndon (single left and dual rights). (Requirement 1A-6)
- Remove SR 99 SB slip off-ramp/Herndon to Grantland. (Requirement 1A-7)

Phase 1B (up to 300,000 sf):

- Signalize Herndon/Parkway intersection. (Requirement 1B-1)
- Signalize Grantland/Parkway intersection. (Requirement 1B-1) (Note: interconnection of the above two intersections with Golden State Boulevard/Herndon Avenue and SR 99 NB off-ramp/Herndon signals through the City-wide ITS program is included with the signalization of the Herndon/Parkway and Grantland/Parkway intersections.)
- Widen Herndon to 2 WB lanes, 1 EB lane (Parkway to SR 99 NB ramps). (Requirement 1B-3)
- WB lane configuration for Herndon/Parkway Avenue intersection (dual lefts, single right). The Parkway alignment has been identified as shifting to the east onto State right-of-way to accommodate the two southbound receiving lanes and northbound

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Mr. Mike Sanchez
October 14, 2010
Page 2

right-turn lane to minimize utility costs. The use of the State right-of-way is subject to any required environmental clearance and mitigation to impacts (Requirement 1B-2)

- NB lane configuration for Herndon/Parkway intersection (single thru, single right). (Requirement 1B-2)
- Widen SB SR 99 on-ramp with ramp metering. (Requirement 1B-2)

Phase 1C (up to 400,000 sf): None at the SR 99/Herndon Avenue interchange.

Phase 1D (up to 500,000 sf): None at the SR 99/Herndon Avenue interchange.

Phase 1E (up to 600,000 sf): None at the SR 99/Herndon Avenue interchange.

Phase 1F (remaining 300,000+ sf): None at the SR 99/Herndon Avenue interchange.

Based upon the additional phasing information in the RDEIR showing the proposed sub-phases, Caltrans finds the proposed mitigation to be acceptable to mitigate the proposed project impacts to the SR 99/Herndon interchange. RA8-1

It is the expectation of Caltrans that the City of Fresno will continue the current practices of collaborating with Caltrans to monitor the traffic of freeway off-ramps and major local streets outside State right-of-way. Should the need arise to address any unanticipated operational issues that impact freeway operations, the two agencies would collaboratively identify signal timing solutions or, if needed, a new capital improvement project and work together to identify additional funding and prioritization with respect to other needs within the Fresno-Clovis metropolitan area freeway system. If necessary, Caltrans will work with the City of Fresno to adjust signal timing to minimize any potential conflicts involving high-speed traffic on the freeway mainline, as is the current practice with all interchanges throughout the City. RA8-2

If you have any questions, please call me at (559) 445-5868.

Sincerely,

Joanne Striebil for:

MICHAEL NAVARRO
Office of Transportation Planning
District 6

C: Mr. Scott Mozier, City of Fresno Public Works Department
Mr. Bryan Jones, City of Fresno Public Works Department
Mr. Tony Boren, Council of Fresno County Governments

"Caltrans improves mobility across California"

RA8. Response to Comments from the State of California Department of Transportation, dated October 14, 2010.

RA8-1 Comment acknowledged. The City and project applicant concur with the Phase 1 subphasing requirements as detailed in this letter.

RA8-2 Comment acknowledged. The City will continue the current practice of collaborating with Caltrans to monitor freeway ramps and major local streets outside the state right-of-way to address operational issues and work together to identify funding and prioritize improvements.

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3. Revisions to the Draft and Recirculated EIR

3.1 INTRODUCTION

This section contains revisions to the DEIR and Recirculated DEIR based upon (1) additional or revised information required to prepare a response to a specific comment; (2) applicable updated information that was not available at the time of DEIR and Recirculated DEIR publication; and/or (3) typographical errors. This section also includes additional mitigation measures to fully respond to commenter concerns as well as provide additional clarification to mitigation requirements included in the DEIR and Recirculated DEIR. The provision of these additional mitigation measures does not alter any impact significance conclusions as disclosed in the DEIR and Recirculated DEIR. Changes made to the DEIR and Recirculated DEIR are identified here in ~~strikeout text~~ to indicate deletions and in <u>underlined text</u> to signify additions.

3.2 DEIR REVISIONS IN RESPONSE TO WRITTEN COMMENTS

The following text has been revised in response to comments received on the DEIR.

<u>Page 1-6, Section 1.5, Summary of Project Alternatives.</u> The following text change has been made in response to Comment No. A3-1, from the Madera County Resource Management Agency.

The CEQA Guidelines (~~Section~~ §15126<u>.6</u>~~[(a)]~~) state that an EIR must address "a range of reasonable alternatives for the project, or to the location of the project, which could feasibly attain the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives."

<u>Page 1-32, Table 1-2, Summary of Environmental Impacts, Mitigation Measure and Levels of Significance After Mitigation.</u> The following text change has been made in response to Comment No. A3-2, from the Madera County Resource Management Agency.

10-4 Material delivery, soil haul trucks, and equipment servicing, shall be restricted to <u>7</u> AM to 10 PM, as set forth in the City of Fresno Municipal Code, Section10-109.

<u>Page 1-34, Table 1-2, Summary of Environmental Impacts, Mitigation Measure and Levels of Significance After Mitigation.</u> The following text change has been made in response to Comment No. A3-3, from the Madera County Resource Management Agency.

10-6 The property owner shall restrict regularly scheduled truck deliveries to the ~~daytime~~ hours of 7 AM to 10 PM. Property owners shall notify tenants of commercial/retail buildings of this requirement.

Page 2-6, Table 2-1, NOP Comment Summary. The following requested text changes are made in response to Comments A11a-1 and A11a-2 from the Fresno Metropolitan Flood Control District.

Table 2-1
NOP Comment Summary

Commenting Agency/Person	*Comment Type*	*Comment Summary*	*Issue Addressed in:*
Fresno Metropolitan Flood Control District (03/11/08)	Stormwater	• The project lies within the District's Drainage Area "EH." • The project shall pay drainage fees pursuant to the Drainage Fee Ordinance as part of the Storm Drainage and Flood Control Master Plan prior to final map approval/issuance of building permits. • Drainage from the project site shall be directed away from the basin as shown on Exhibit No. 1 (attached to letter). • Site grading must be approved by the District. • The District's current Master Plan will be amended to accommodate the proposed development. The additional revenues derived from the amended drainage fees will finance the new design and associated construction of the storm drainage pipeline improvements required to mitigate the adverse impacts of the proposed land uses. ~~project will have higher land use densities than reflected in the original Master Plan so the District shall use drainage fees to accommodate improvements to the infrastructure to mitigate the greater impacts of the increased land use densities.~~ • Major stormwater shall flow through the site from Palo Alto and Bryan Avenues to Herndon Avenue by use of an easement dedicated to the District. • Storm Drainage and Flood Control Master Plan facilities will need to be built. The cost of construction of Master Plan facilities, excluding dedication of storm drainage easements, are eligible for drainage fee credit applied to the drainage fee of the drainage area served by these facilities. A Development Agreement shall be executed with the District to effect such credit. ~~can be used to offset the costs of these facilities through the drainage fees.~~	Section 5.8, *Hydrology and Water Quality*

Page 3-24, Section 3, *Storm Drainage.* The following requested text changes are made in response to Comment No. A11a-3 from the Fresno Metropolitan Flood Control District.

Storm Drainage

Runoff from Phase 1 of the proposed project would drain into two existing storm drains: one extends underneath Herndon Avenue adjacent to the northwestern project site boundary, while the second passes underneath the project site. ~~Phases 2, 3, 4, and 5 of the project would drain into a storm drain~~

~~that the Fresno Metropolitan Flood Control District plans to construct through the project site under the future Veterans Boulevard, and then northwestward alongside SR 99.~~ The development of the subject project will require construction of Storm Drainage and Flood Control Master Plan facilities within the right-of-way of adjacent streets or flood control easements dedicated to the Fresno Metropolitan Flood Control District for said purpose. Specific construction requirements and required pipeline sizes and locations will be addressed with future entitlements on all phases of the project that may or may not include street construction. The two existing storm drains discharge into Basin EH adjacent to the northwest side of the site of Phase 2B of the project, and the planned storm drain would also discharge into Basin EH, as shown in Figure 3-9, *Proposed Project Drainage Map*.

Page 4-3, Figure 4-1, Photo Location Map and Photographs of Site and Surrounding Area. This figure has been modified in response to Comment No. A8-2, from the Central Unified School District to show the correct locations of Rio Vista Middle School and River Bluff Elementary School.

Please see revised Figure 4-1 in Section 3.6, *DEIR Revised and New Figures*, of this FEIR.

Page 4-13, The following text change has been made in response to Comment No. A3-1 from the Madera County Resource Management Agency.

The CEQA Guidelines (Section 15130 (b)(1)) state that the information utilized in an analysis of cumulative impacts should come from one of two sources, either:

A) ~~1)~~ A list of past, present and probable future projects producing related cumulative impacts, including, if necessary, those projects outside the control of the agency; or

B) ~~2)~~ A summary of projections contained in an adopted general plan or related planning document designed to evaluate regional or area-wide conditions.

Page 5.8-7, Section 5.8.1 *Environmental Setting*. The following text change has been made in response to Comment No. A11a-7 from the Fresno Metropolitan Flood Control District.

Basin EH has a design capacity of ~~248~~ 252.5 acre-feet and a surface area of approximately 13.8 acres (Molina 2010).

Page 5.8-7, Table 5.8-2, *Discharge Points into Basin EH.* The following text change has been made in response to Comment No. A11a-8 from the Fresno Metropolitan Flood Control District.

Table 5.8-2
Discharge Points into Basin EH

Discharge Point	*Storm Drain Discharging at Point*	*Drainage Area, acres*	*2-Year Peak Flow Rate, cubic feet per second(cfs)*
Existing			
C (East)	Drain extending underneath Palo Alto Avenue: 24 inches diameter under project site, and 36 inches diameter at discharge.	116.4	40.8
B (North)	Drain extending underneath Herndon Avenue and Golden State Boulevard: 36 inches diameter adjacent to north site boundary, and 54 inches diameter at discharge.	286.2	61.7
Planned by Fresno Metropolitan Flood Control District			
A (South)	Drain would extend through project site under future Veterans Boulevard, then northwestward along the east side of SR-99. Drain would be ~~42~~ 48 inches diameter under project site and 60 inches diameter at discharge.	468.0	86.6

Source: Fuscoe Engineering 2008.

Page 5.8-20, Section 5.8,3, *Environmental Impacts*. The following text has been revised to respond to Comment A11a-12 from the Fresno Metropolitan Flood Control District.

As shown above in Table 5.8-5, the difference in runoff volume between 2-year and 100-year storm events for Phase 1 would be 2.46 acre-feet. This volume can be feasibly stored in the parking lot area for Phase 1 by temporary ponding of the sump areas within the parking lot. This methodology is acceptable to the Flood Control District. The offsite 100-year overflows from upstream of the Phase 1 area can be feasibly conveyed ~~in a relief drain that traverses the site from the northeast end to the southwest end in an underground storm drain conduit; the location of this conduit is shown on~~ overland through the main parking lot area from approximately the intersection of Palo Alto Avenue and Bryan Avenue to a point on Herndon Avenue that is southwest of the Bryan Avenue Intersection. This overflow discharge point is consistent with the Flood Control District's Master Plan. See Figure 5.8-4, *Phase I: Area Flooded during 100-Year Storm by Flows from Offsite after Project Completion*. T~~he relief drain would outlet at the surface at the southwest property line with appropriate velocity controls via surface conveyance.~~

Page 5.8-21, Table 5.8-8, *Proposed Update to Basin EH Design.* The following text has been revised to respond to Comment A11a-13 from the Fresno Metropolitan Flood Control District.

Table 5.8-8
Proposed Update to Basin EH Design

	Existing Design [1]	*Proposed Update*	*Increase/(Decrease)*
Storage Requirement, Acre-Feet	248.0	262.2	14.2
Capacity, Acre-Feet	252.5	267.1	14.6
Depth, Feet	30'	30'	0

[1] Storm Drainage Master Plan, Fresno Metropolitan Flood Control District, revised December 5, 2007; referenced in Fuscoe 2008.

Page 5.9-19, Section 5.9,3, *Land Use and Planning, Environmental Impacts*. The following text has been provided to update and supplement the discussion on high-speed rail in response to Comment A9-9 from the California Public Utilities Commission.

High Speed Rail

The California High Speed Rail Authority (CHSRA) was established in 1996 to plan, design, and ultimately construct and operate a state-of-the-art high speed train system stretching from Sacramento to San Diego, and between San Francisco, San Jose, and Oakland. The CHSRA consists of nine members (five appointed by the governor, two appointed by the Senate Rules Committee, and two appointed by the speaker of the Assembly) and is responsible for implementing a statewide high-speed train system in California.

By 2000, CHSRA had developed investment-grade forecasts of ridership, revenue, cost, and benefits of the system. In 2004, CHSRA and the Federal Railroad Administration issued a Draft Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS). Over 2,000 comments were received and reviewed, and preferred corridors and stations were determined for the majority of the line, from the Central Valley through Los Angeles to San Diego, as well as inside much of the Bay Area. The EIR/EIS was certified in November 2005. Several alignment alternatives were included in the EIR/EIS.

The City of Fresno completed a Downtown Transportation and Infrastructure Study (DTIS) in October 2007, which discussed the prospect of both high-speed rail (HSR) and railroad consolidation. The study reiterated the fact that the City does not have control over decisions concerning the implementation of either of these projects, and that neither project is currently funded, thereby making these projects, according to the DTIS study, "major unknowns at this point in time."

A $9.95 billion dollar bond measure on the November 2008 ballot, referred to as Proposition 1A, passed with 52.6 percent of the vote. The measure calls for $9 billion to be allocated for implementing the high-speed rail system, and $950 million to be used for improvements to other rail services that connect to the high-speed train service. The monies are to be raised through general obligation bonds that are paid off over a 30-year period.

The Fresno to Merced portion of the HSR project is currently in the design and environmental analysis phase. The CHSRA released a Draft Scoping Report in January 2010 and a Preliminary Alternatives Analysis Report in April 2010. There are two alignments currently being considered for the Merced-to-Fresno segment of the HSR, which includes the El Paseo project area. The preferred alignment is A2, the

UPRR/SR-99 alignment, which provides the shortest route and best travel time. However, this route parallels the Union Pacific right-of-way and UPRR has opposed this alignment because it would reduce its accessibility to rail spurs and current or future customers. The other alignment, A1, is called the BNSF alternative, which was the preferred alternative in the Statewide Program EIR/EIS in 2005. It is the longest route but follows existing railroad corridors and has the cooperation of BNSF.

The Alternative A1 and A2 alignments in the Madera and Fresno vicinity are shown in Figures 5.9-3 and 5.9-4, respectively, in Section 3.6, *Revised and New Figures* of this FEIR. Both of these routes are identical next to the El Paseo project site (see Figures 5.9-5 to 5.9-7, Alternative A1). Coming from Merced, the HDR alignment would be located north of the UPRR right-of-way, then cross over to the south side of the UPRR right-of-way near N. Devan Avenue in Herndon. The alignment would continue to parallel the UPRR right-of-way adjacent to Golden State Boulevard. The HSR tracks would be elevated starting near the Golden State Boulevard on/off ramps to SR-99 until reaching West Sierra Avenue. Most of the HSR track in the project site vicinity would be raised approximately 50 to 60 feet from grade. The elevated portion would have a 60-foot right-of-way and the rest of the HSR alignment would be at grade with a 100-foot right-of-way. Typical cross-section for the "at-grade" and "aerial guideway" configurations are shown in Section 3.4, Figures 5.9-8 and 5.9-9, respectively.

~~Final preferred alignments have not been determined at this time; however it appears that a likely alignment would be located between Golden State Boulevard and SR-99, not effecting Phase 1 of the proposed project. Should the preferred alignment run east of Golden State Boulevard, it is probable that Phase 1 of the proposed project would only be slightly affected in the loading areas behind the retail structures. Most of the HSR track will be raised approximately 50-60 feet from grade.~~

Page 5.10-8, Section 5.10, *Noise*. The following text change has been made in response to Comment No. A8-7 from the Central Unified School District.

Sensitive Receptors

Certain land uses are particularly sensitive to noise and vibration. These uses include residential, school, and open space/recreation areas where quiet environments are necessary for enjoyment, public health, and safety. Sensitive receptors in the vicinity of the project site include:

- ***~~River Bluff Elementary School.~~*** ***Rio Vista Middle School.*** Approximately 150 feet from Phase 1; 1,300 feet from Phases 2A and 2B; 2,075 feet from Phase 3; 1,925 feet from Phase 4; and 2,690 feet from Phase 5.

- ***~~Rio Vista Middle School.~~*** ***River Bluff Elementary School.*** Approximately 1,000 feet from Phase 1; 1,300 feet from Phase 2A; 2,000 feet from Phase 2B; 1,615 feet from Phase 3; 1,385 feet from Phase 4; and 2,000 feet from Phase 5.

Page 5.10-15, Section 5.10, *Noise*. The following text in Table 5.10-10 has been revised in response to Comment No. A8-7 from the Central Unified School District.

Table 5.10-10
Maximum Construction Noise Levels at Noise-Sensitive Uses, Phase 1

Sensitive Receptor Location	Maximum Construction Noise Levels (dBA) by Construction Phase			
	Mass Grading	Utilities	Paving	Building Construction
Phase 1				
~~River Bluff Elementary School~~ Rio Vista Middle School	89	81	82	85
~~Rio Vista Middle School~~ River Bluff Elementary School	73	65	66	69
Hampton Renaissance	99	91	92	95
Residences to East	69	61	62	65
Residences to West	70	62	63	66
Residences to North	99	91	92	95

Source: FTA 2006. Based on construction equipment in use provided by the construction contractor.
Note: Noise levels from construction activities do not take into account attenuation provided by intervening structures.

Page 5.10-16, Section 5.10, *Noise*. The following text in Table 5.10-11 and Table 5.10-12 has been revised in response to Comment No. A8-7 from the Central Unified School District.

Table 5.10-11
Maximum Construction Noise Levels at Noise-Sensitive Uses, Phases 2A and 2B

Sensitive Receptor Location	Maximum Construction Noise Levels (dBA) by Construction Phase			
	Mass Grading	Utilities	Paving	Building Construction
~~River Bluff Elementary School~~ Rio Vista Middle School	73	65	66	70
~~Rio Vista Middle School~~ River Bluff Elementary School	72	64	65	68
Hampton Renaissance	99	91	92	95
Residences to East	77	69	71	74
Residences to West	87	79	80	83
Residences to North	70	62	63	66

Source: FTA 2006. Based on construction equipment in use provided by the construction contractor.
Note: Noise levels from construction activities do not take into account attenuation provided by intervening structures.

Table 5.10-11
Maximum Construction Noise Levels at Noise-Sensitive Uses, Phases 2A and 2B

Sensitive Receptor Location	Maximum Construction Noise Levels (dBA) by Construction Phase			
	Mass Grading	Utilities	Paving	Building Construction
~~River Bluff Elementary School~~ Rio Vista Middle School	73	65	66	70
~~Rio Vista Middle School~~ River Bluff Elementary School	72	64	65	68
Hampton Renaissance	99	91	92	95
Residences to East	77	69	71	74
Residences to West	87	79	80	83
Residences to North	70	62	63	66

Source: FTA 2006. Based on construction equipment in use provided by the construction contractor.
Note: Noise levels from construction activities do not take into account attenuation provided by intervening structures.

Page 5.10-17, Section 5.10, *Noise*. The following text in Table 5.10-13 and Table 5.10-14 has been revised in response to Comment No. A8-7, from the Central Unified School District.

Table 5.10-13
Maximum Construction Noise Levels at Noise-Sensitive Uses, Phase 5

Sensitive Receptor Location	Maximum Construction Noise Levels (dBA) by Construction Phase			
	Mass Grading	Utilities	Paving	Building Construction
~~River Bluff Elementary School~~ Rio Vista Middle School	64	56	57	60
~~Rio Vista Middle School~~ River Bluff Elementary School	67	59	60	63
Hampton Renaissance	73	65	66	70
Residences to East	99	91	92	95
Residences to West	65	56	58	61
Residences to North	59	51	52	55

Source: FTA 2006. Based on construction equipment in use provided by the construction contractor.
Note: Noise levels from construction activities do not take into account attenuation provided by intervening structures.

Table 5.10-14
Average Construction Noise Levels at Noise-Sensitive Uses, Phase 1

Sensitive Receptor Location	Average Construction Noise Levels (dBA) by Construction Phase			
	Mass Grading	Utilities	Paving	Building Construction
~~River Bluff Elementary School~~ Rio Vista Middle School	76	68	69	72
~~Rio Vista Middle School~~ River Bluff Elementary School	69	61	62	65
Hampton Renaissance	78	70	71	74
Residences to East	63	55	56	59
Residences to West	67	59	60	63
Residences to North	70	62	63	66

Source: FTA 2006. Based on construction equipment in use provided by the construction contractor.
Note: Noise levels from construction activities do not take into account attenuation provided by intervening structures.

Page 5.10-18, Section 5.10, *Noise*. The following text in Table 5.10-15 and Table 5.10-16 has been revised in response to Comment No. A8-7 from the Central Unified School District.

Table 5.10-15
Average Construction Noise Levels at Noise-Sensitive Uses, Phases 2A and 2B

Sensitive Receptor Location	Average Construction Noise Levels (dBA) by Construction Phase			
	Mass Grading	Utilities	Paving	Building Construction
~~River Bluff Elementary School~~ Rio Vista Middle School	69	61	62	65
~~Rio Vista Middle School~~ River Bluff Elementary School	69	61	62	65
Hampton Renaissance	77	69	71	74
Residences to East	71	63	64	67
Residences to West	76	68	69	72
Residences to North	65	57	59	62

Source: FTA 2006. Based on construction equipment in use provided by the construction contractor.
Note: Noise levels from construction activities do not take into account attenuation provided by intervening structures.

Table 5.10-16
Average Construction Noise Levels at Noise-Sensitive Uses, Phases 3 and 4

Sensitive Receptor Location	Average Construction Noise Levels (dBA) by Construction Phase			
	Mass Grading	Utilities	Paving	Building Construction
~~River Bluff Elementary School~~ Rio Vista Middle School	67	59	60	63
~~Rio Vista Middle School~~ River Bluff Elementary School	69	61	63	66
Hampton Renaissance	78	69	71	74
Residences to East	84	76	78	81
Residences to West	67	59	61	64
Residences to North	62	54	55	58

Source: FTA 2006. Based on construction equipment in use provided by the construction contractor.
Note: Noise levels from construction activities do not take into account attenuation provided by intervening structures.

Page 5.10-19, Section 5.10, *Noise*. The following text in Table 5.10-17 has been revised in response to Comment No. A8-7 from the Central Unified School District.

Table 5.10-17
Average Construction Noise Levels at Noise-Sensitive Uses, Phase 5

Sensitive Receptor Location	Average Construction Noise Levels (dBA) by Construction Phase			
	Mass Grading	Utilities	Paving	Building Construction
~~River Bluff Elementary School~~ Rio Vista Middle School	63	55	56	59
~~Rio Vista Middle School~~ River Bluff Elementary School	65	57	58	61
Hampton Renaissance	70	62	63	66
Residences to East	89	81	82	85
Residences to West	63	55	56	59
Residences to North	58	50	51	54

Source: FTA 2006. Based on construction equipment in use provided by the construction contractor.
Note: Noise levels from construction activities do not take into account attenuation provided by intervening structures.

Page 5.10-20, Section 5.10, *Noise*. The following text change has been made in response to Comment No. A8-7 from the Central Unified School District.

Vibration Annoyance

Levels of vibration produced by construction equipment are evaluated against the FTA's significance threshold for vibration annoyance of 78 VdB for residential structures during the daytime and 84 VdB for schools. As stated previously, adjacent commercial and industrial uses are not considered vibration-sensitive uses. Vibration levels are based on maximum levels of vibration from construction activities to vibration-sensitive receptors at the ~~River Bluff Elementary School~~ Rio Vista Middle School (154 feet), ~~Rio~~

~~Vista Middle School~~ River Bluff Elementary School (1,308 feet), Hampton Renaissance residential community (within 50 feet), residences to the east (within 50 feet), William Saroyan Elementary School (692 feet), residences to the west (192 feet), and residences to the north (within 50 feet).

Page 5.10-21, Section 5.10, *Noise*. The following text in Table 5.10-18 has been revised in response to Comment No. A8-7 from the Central Unified School District.

Table 5.10-18
Vibration Annoyance from Construction Equipment at Vibration-Sensitive Uses (VdB)

Location	Selected Construction Equipment			
	Large Bulldozer	Small Bulldozer	Jackhammer	Loaded Trucks
~~River Bluff Elementary School~~ Rio Vista Middle School				
Vibration Level (VdB)	71	42	63	70
Significance Threshold (VdB)	84	84	84	84
Exceeds Significance Threshold	No	No	No	No
~~Rio Vista Middle School~~ River Bluff Elementary School				
Vibration Level (VdB)	71	42	63	70
Significance Threshold (VdB)	84	84	84	84
Exceeds Significance Threshold	No	No	No	No
Hampton Renaissance				
Vibration Level (VdB)	**81**	52	73	**80**
Significance Threshold (VdB)	78	78	78	78
Exceeds Significance Threshold	**Yes**	No	No	**Yes**
Residences to East				
Vibration Level (VdB)	**81**	52	73	**80**
Significance Threshold (VdB)	78	78	78	78
Exceeds Significance Threshold	**Yes**	No	No	**Yes**
William Saroyan Elementary School				
Vibration Level (VdB)	58	29	50	57
Significance Threshold (VdB)	84	84	84	84
Exceeds Significance Threshold	No	No	No	No
Residences to West				
Vibration Level (VdB)	69	40	61	68
Significance Threshold (VdB)	78	78	78	78
Exceeds Significance Threshold	No	No	No	No
Residences to North				
Vibration Level (VdB)	**81**	52	73	**80**
Significance Threshold (VdB)	78	78	78	78
Exceeds Significance Threshold	**Yes**	No	No	**Yes**

Source: Based on methodology from FTA 2006.
Notes: Vibration levels based on vibration levels from selected construction equipment from measured data. FTA vibration threshold for frequent events is 84 VdB for offices and nonsensitive areas and 78 VdB for residential areas during the daytime for vibration that can be felt.

Page 5.13-71, Section 5.13.4, *Cumulative Impacts*. The following text change has been made in response to Comment No. A3-18 from the County of Madera Resource Management Agency Planning Department.

The impact analysis included in Section 5.13.~~3~~4 includes the analysis of traffic conditions for cumulative conditions with and without the project.

Section 5.13.7, *Mitigation Measures*. The following mitigation measure is added in response to the Fresno Irrigation District's Comment No. A4-2.

Mitigation Measure No. 13-25a:

The project applicant and City shall coordinate with the Fresno Irrigation District regarding road and intersection improvements in the vicinity of Parkway Drive that could potentially affect FID's pipeline crossing. Final plans shall be reviewed and approved by FID prior to construction of improvements in this vicinity.

3.3 RECIRCULATED DEIR REVISIONS IN RESPONSE TO WRITTEN COMMENTS

The following text has been revised in response to comments received on the Recirculated DEIR.

Page 5.13-9, Chapter 5.13, *Transportation and Traffic*. The following text change has been made in response to Comment No. A5-5 from Central Unified School District.

~~The final design for improvements to the~~ Planned improvements to the Golden State Boulevard/Herndon Avenue intersection, which ~~(including~~ include street widening, lane addition, and traffic signal modifications~~) is complete, and construction of these improvements is anticipated to start in Spring 2010~~ are currently underway.

3.4 CORRECTIONS AND ADDITIONS TO THE DEIR

The following revision has been made to correct text, tables, and/or figures in the DEIR.

Pages 1-16 and 1-17, Table 1-2, Summary of Environmental Impacts, Mitigation Measure and Levels of Significance After Mitigation. The following text change has been made to correct the significance determination for Phase 1 and Master Plan in the Level of Significant After Mitigation column of this table to be consistent with the determination in Chapter 5.3 and Chapter 6 that Impact 5.3-4 would result in a significant and unavoidable impact.

5.3-4: Long-term operation would generate emissions that exceed the San Joaquin Valley Air Pollution Control District's threshold criteria and would contribute to the nonattainment designation of the San Joaquin Valley Air Basin for ozone and coarse inhalable particulate matter.

~~Less than Significant~~ **Significant and Unavoidable**

Page 3-3. The following text has been made to correct the number of lots referenced for the Vesting Tentative Tract Parcel Map.

The related rezoning application also involves approximately 74.38 acres and requests a change in zone district from AE-5/UGM (Exclusive Agricultural – Five Acres/Urban Growth Management) to C-3/UGM (Regional Shopping Center/Urban Growth Management). Conditional Use Permit No. C-08-172 requests the development of approximately 906,788 square feet of retail commercial uses. The project proponents have also filed a Vesting Tentative Parcel Map with ~~20~~ 21 lots for Phase 1, Marketplace at El Paseo.

Page 3-11, Figure 3-4, Master Site Plan. This figure has been modified to correct the Phase 1 Site Boundary to delineate the entire Marketplace area. The corrected Phase 1 Site Boundary is applicable to all figures of the DEIR and Recirculated DEIR.

Please see revised Figure 3-4 in Chapter 3.6, *DEIR Revised and New Figures*, of this FEIR.

Page 3-13, Figure 3-5, Marketplace El Paseo. This figure has been revised to show the Marketplace El Paseo site plan. The Marketplace El Paseo site plan shown in this figure is applicable to all figures of the DEIR and Recirculated DEIR.

Please see revised Figure 3-5 in Chapter 3.6, *DEIR Revised and New Figures*, of this FEIR.

Page 3-23, Eminent Domain. This discussion has been deleted as the project applicant has the Lambetecchio (APN 504-091-13) property under contract to allow development of Phase 1, and therefore the possible use of eminent domain to acquire this property is no longer necessary.

~~**Eminent Domain**~~

~~The project applicant has obtained authorization from many of the current property owners to facilitate development of Phase 1, Marketplace, of the proposed project. However, one of the properties, Lambetecchio (APN 504-091-13), has yet to authorize the project applicant to proceed forward with Phase 1, Marketplace, of the proposed project. While negotiations are still pending with this property owner, the City may consider employing the powers of eminent domain for the acquisition of the subject property for public purposes.~~

Page 5.3-22, Section 5.3.4 *Cumulative Impacts*. The following text change has been made to correct the cumulative impact conclusion for construction to be consistent with the findings in Table 5.3-11, which indicates that project-related construction emissions would not exceed any of the SJVAPCD emissions thresholds.

Construction

The SJVAB is in nonattainment for ozone and particulate matter (PM_{10} and $PM_{2.5}$). Construction of cumulative projects will further degrade the regional and local air quality. Air quality would be temporarily impacted during construction activities. Mitigation measures specified for the proposed project would assist in mitigating these cumulative impacts and can be applied to all similar cumulative projects. ~~However, even with the i~~Implementation of mitigation measures~~,~~ would reduce project-related construction emissions ~~would still exceed~~ to below the SJVAPCD's significance thresholds for VOC and

PM_{10}~~, and cumulative emissions would result in greater exceedances~~. Therefore, the project's contribution to cumulative air quality impacts would be less than significant.

3.5 CORRECTIONS AND ADDITIONS TO THE RECIRCULATED DEIR

The following revision has been made to correct text, tables, and/or figures in the Recirculated DEIR.

Pages 2-8 and 2-9, Table 1-2, Summary of Environmental Impacts, Mitigation Measure and Levels of Significance After Mitigation. The following text change has been made to correct the significance determination for Phase 1 and Master Plan in the Level of Significant After Mitigation column of this table to be consistent with the determination in Chapter 5.3 of the DEIR and Chapter 6 of the Recirculated DEIR that Impact 5.3-4 would result in a significant and unavoidable impact.

5.3-4: Long-term operation would generate emissions that exceed the San Joaquin Valley Air Pollution Control District's threshold criteria and would contribute to the nonattainment designation of the San Joaquin Valley Air Basin for ozone and coarse inhalable particulate matter.

~~Less than Significant~~ **Significant and Unavoidable**

Page 2-63, Table 1-2, Summary of Environmental Impacts, Mitigation Measure and Levels of Significance After Mitigation. The following text change has been made to further clarify Mitigation Measure 13-29 and to be consistent with the changes made in Chapter 3.6 of this FEIR.

13-29 Prior to Phase 1A occupancy, the Project Applicant shall install a ~~wrought iron fence along the entire length of the Phase 1 property line north and adjacent to the UPRR right of way~~ fence separating the project land uses from the railroad tracks. The fence shall be a wrought-iron fence or other metal fence, such as a black powder-coated chain-link fence, approved by the City Traffic Engineer to separate El Paseo Phase 1 project from the railroad tracks.

Page 2-63, Table 1-2, Summary of Environmental Impacts, Mitigation Measure and Levels of Significance After Mitigation. The following text change has been made to further clarify Mitigation Measure 13-55 and to be consistent with the changes made in Chapter 3.6 of this FEIR.

13-55 Prior to occupancy of subsequent Master Plan phases, the Project Applicant shall install either a wrought-iron fence or other type of metal fence approved by the City of Fresno Traffic Engineer, such as a black powder-coated chain-link fence, along the entire length of the property line of each of the subsequent phases adjacent to the UPRR right-of-way.

Page 5.13-77, Impact 5.13-9. The following text change has been made to clarify the type of fence that could be constructed as part of the Conditional Use Permit.

Phase 1 (Marketplace at El Paseo)

Railroad Right-of-Way Trespass

Currently, there is direct access to the railroad track and right-of-way along the entire length of the proposed development. There are no fences or barriers to prevent adults or children from trespassing and accessing the railroad track at this location. A site reconnaissance conducted on March 10, 2008 observed residents from the area northeast of the Herndon Avenue crossing proceeding across the track and either loitering on the track or in the railroad right-of-way. There were approximately 13 people seen within the right-of-way during the site reconnaissance. Vehicles traveling at high rates of speeds within the railroad right-of-way were also observed. With project development, the number of trespassers may increase in the future with people crossing the tracks and Golden State Boulevard to access businesses on both sides of Golden State Boulevard. As recommended by the Rail Safety Study, Appendix H, the Conditional Use Permit for the project is anticipated to include a requirement to construct either a wrought-iron fence or other type of metal fence approved by the City of Fresno Traffic Engineer such as a black powder-coated chain-link fence, along the western property line for Phase 1 of the development in accordance with the Fresno Municipal Code. To assure this improvement is implemented and monitored, this requirement is also included as an EIR mitigation measure.

3.6 REVISIONS TO RECIRCULATED DEIR MITIGATION MEASURES

The following revisions have been made to modify mitigation measures in the Recirculated DEIR.

Page 5.13-88, Mitigation Measure 13-29. The following text has been revised to further clarify the mitigation measure.

Impact 5.13-9: Railroad Trespass

13-29 Prior to Phase 1A occupancy, the Project Applicant shall install a ~~wrought iron fence along the entire length of the Phase 1 property line north and adjacent to the UPRR right of way~~ fence separating the project land uses from the railroad tracks. The fence installed shall be a wrought-iron fence or other metal fence, such as a black powder-coated chain-link fence, approved by the City Traffic Engineer to separate El Paseo Phase 1 project from the railroad tracks.

Page 5.13-102, Mitigation Measure 13-55. The following text has been revised to further clarify the mitigation measure.

Impact 5.13-9: Railroad Trespass

13-55 Prior to occupancy of subsequent Master Plan phases, the Project Applicant shall install either a wrought-iron fence or other type of metal fence approved by the City of Fresno Traffic Engineer, such as a black powder-coated chain-link fence, along the entire length of the property line of each of the subsequent phases adjacent to the UPRR right-of-way.

3.7 DEIR REVISED AND NEW FIGURES

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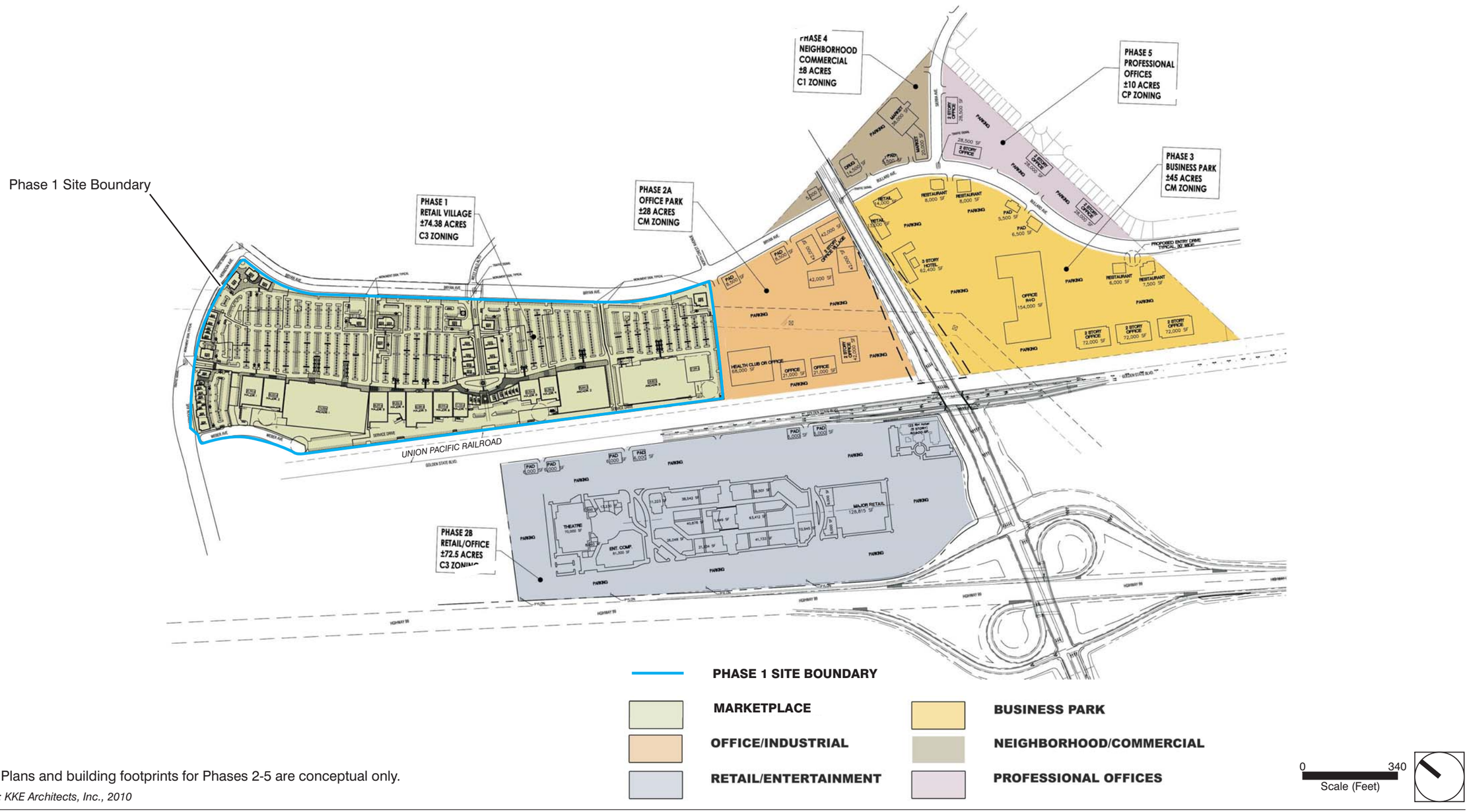
Master Site Plan



Note: Plans and building footprints for Phases 2-5 are conceptual only.

Source: KKE Architects, Inc., 2010

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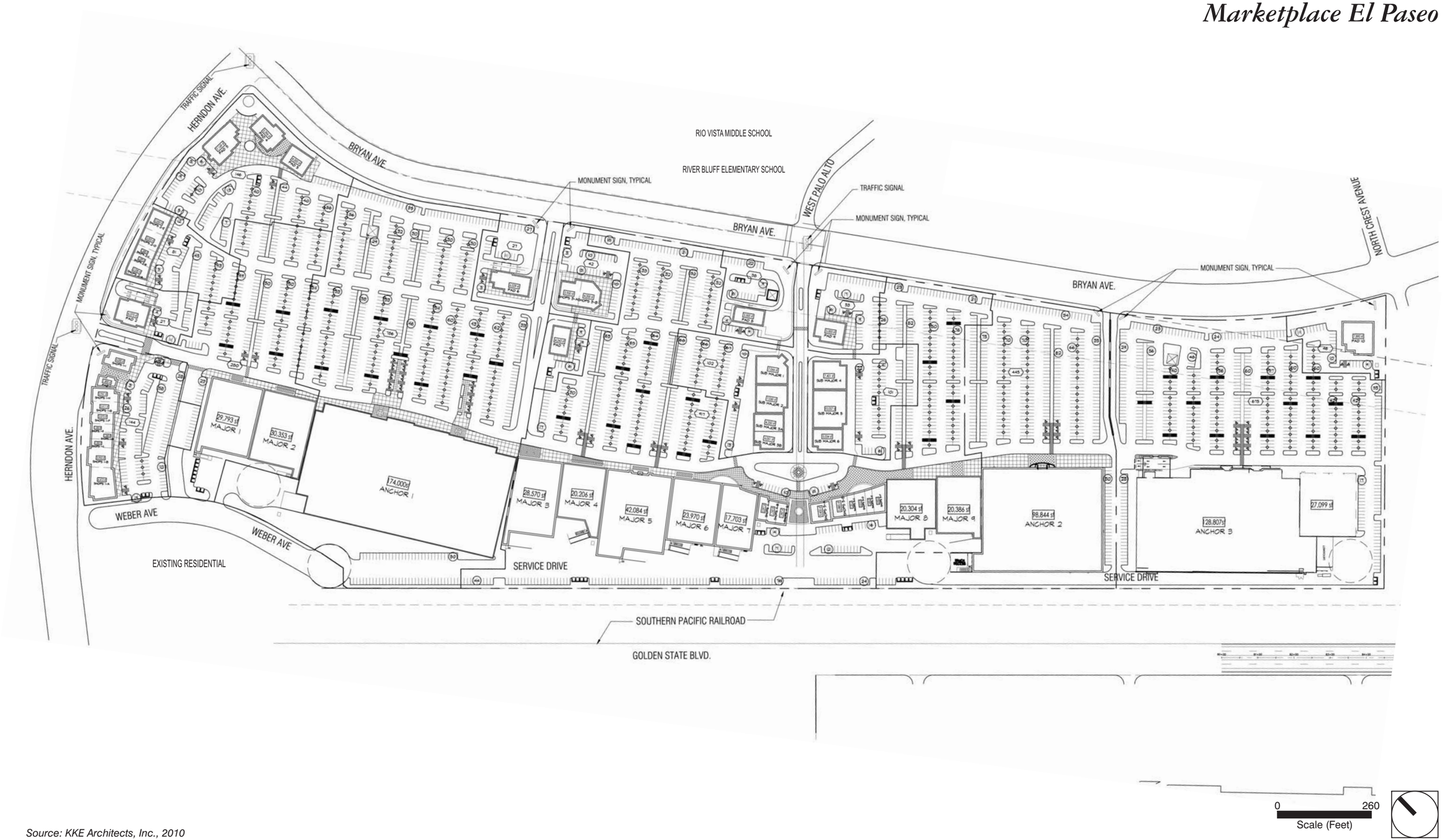
Marketplace El Paseo



Source: KKE Architects, Inc., 2010

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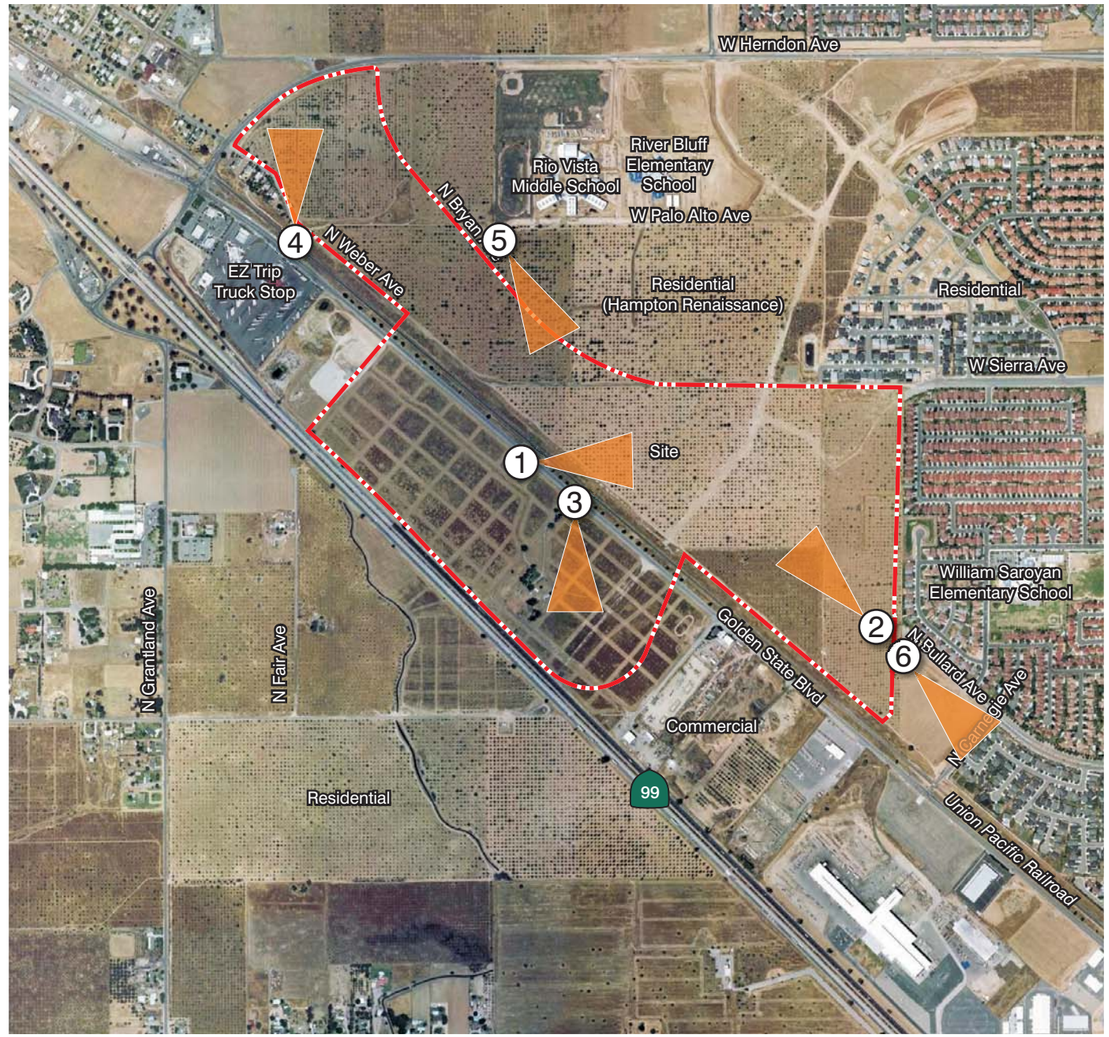
Photo Location Map and Photographs of Site and Surrounding Area

① Looking east across project site from Golden State Blvd.

② Looking northwest across project site from N. Bullard Ave.

③ Looking south across project site from Golden State Blvd.



④ Looking north at existing residential from Golden State Blvd.

⑤ Looking south at existing residential from W. Palo Alto Ave.

⑥ Looking southeast at existing residential from N. Bullard Ave.

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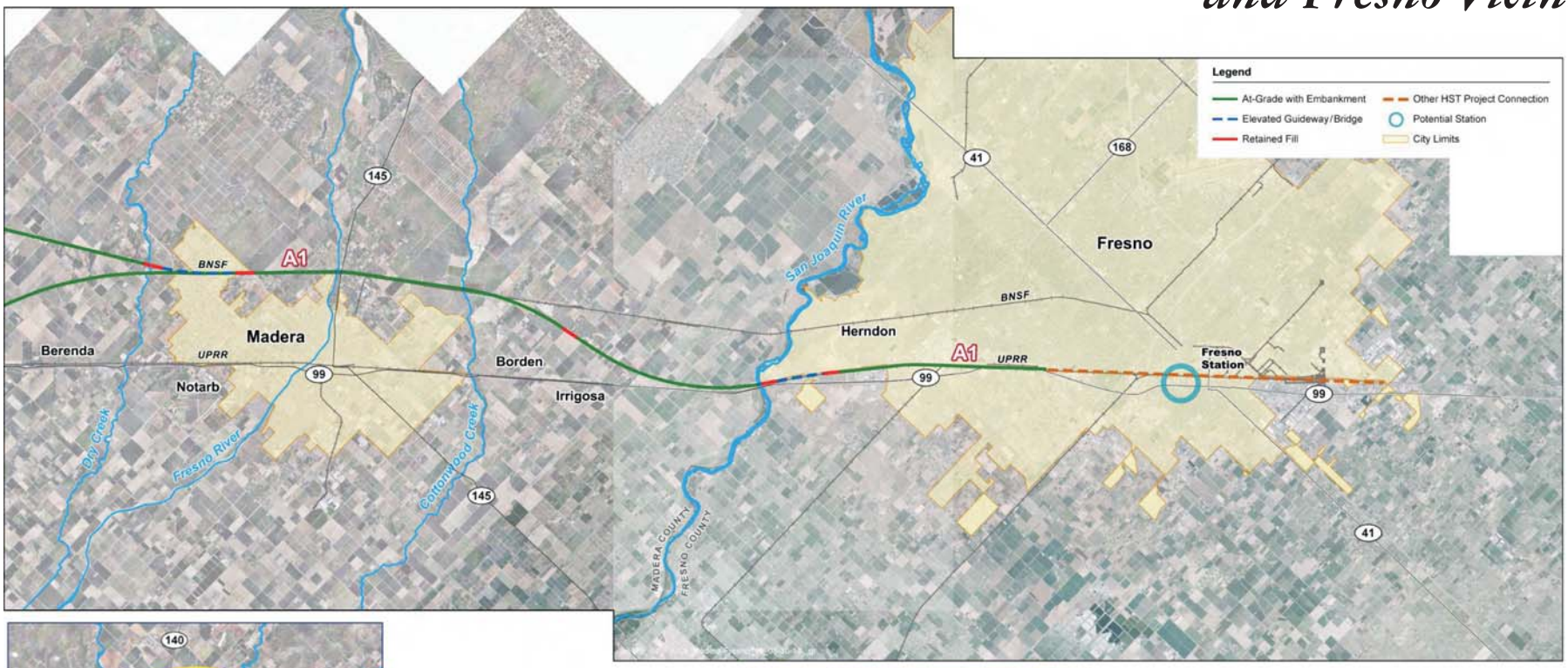
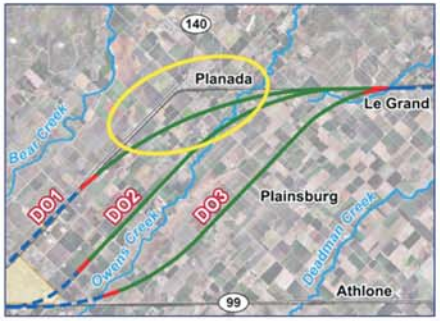
High Speed Rail Alignment Alternative A1 - BNSF, Madera and Fresno Vicinity





Design options avoid the community of Planada and may avoid Le Grand.

Design Option 1 would travel through residential neighborhood surrounding the existing Amtrak Depot.

0 22,400
Scale (Feet)

Source: CHSRA, Preliminary Alternatives Analysis Report, April 2010

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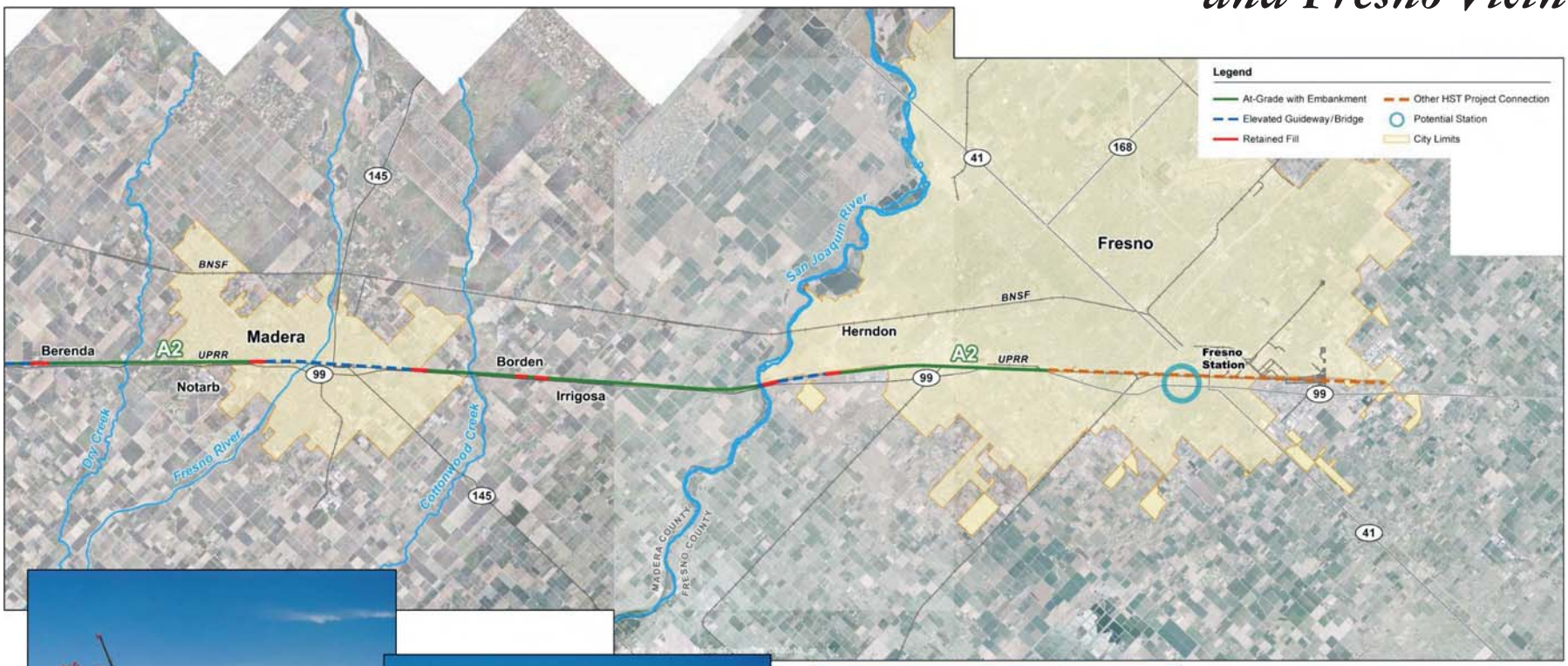
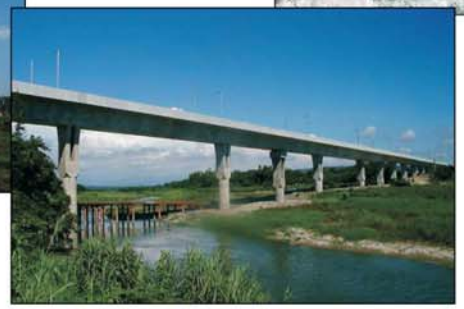
High Speed Rail Alignment Alternative A1 - UPRR/SR99, Madera and Fresno Vicinity



Example of segmental construction of a bridge over existing infrastructure and water features.



HST could cross over SR 99 using straddle bents, similar to this example located north of Merced.

0 22,400
Scale (Feet)

Source: CHSRA, Preliminary Alternatives Analysis Report, April 2010

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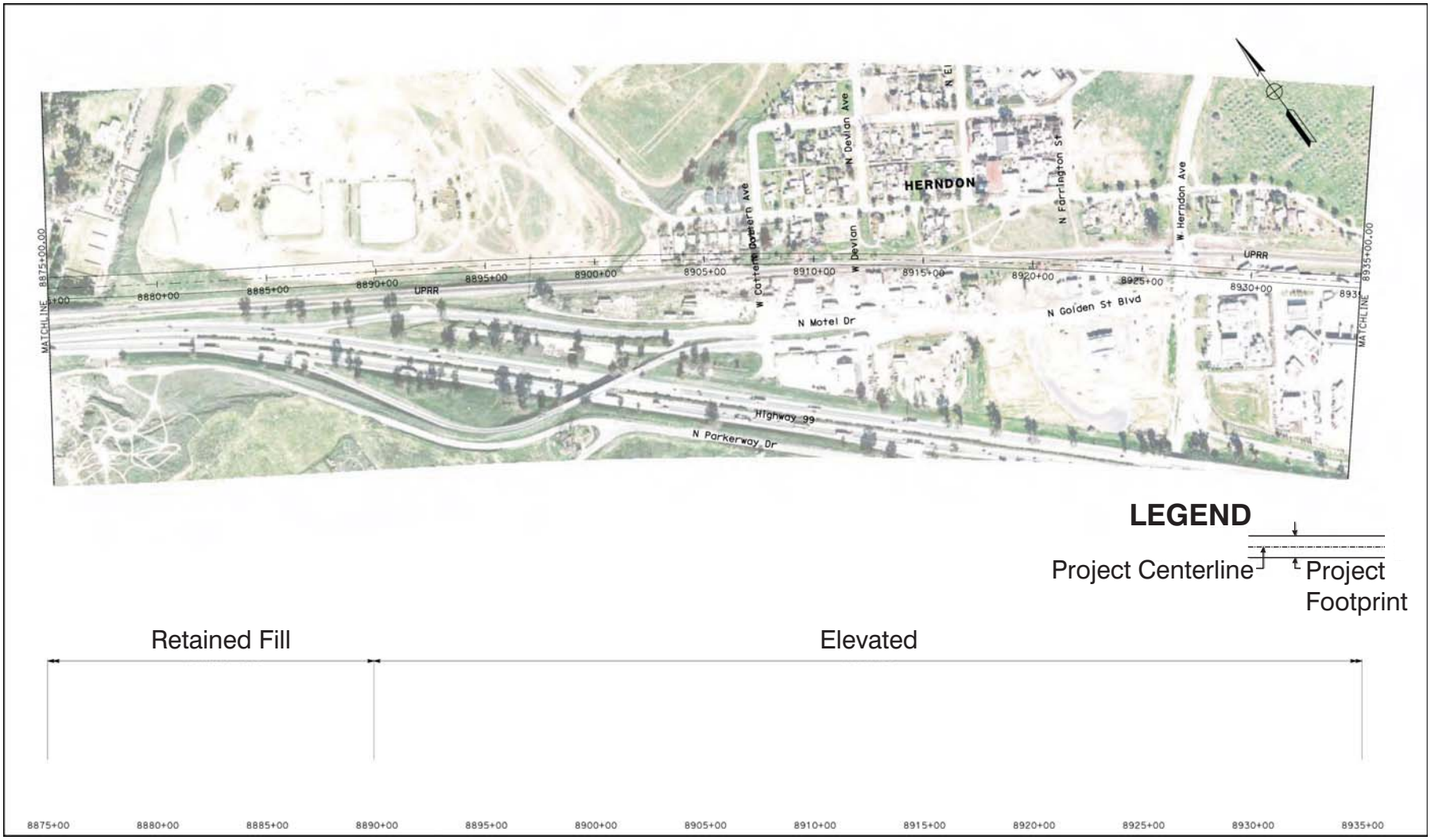
High Speed Rail Alignment Alternative A1 - El Paseo Project Vicinity, 1 of 3



Source: Preliminary Alternatives Analysis Report, Appendix E

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High Speed Rail Alignment Alternative A1 - El Paseo Project Vicinity, 2 of 3

0 700
Scale (Feet)

Source: Preliminary Alternatives Analysis Report, Appendix E

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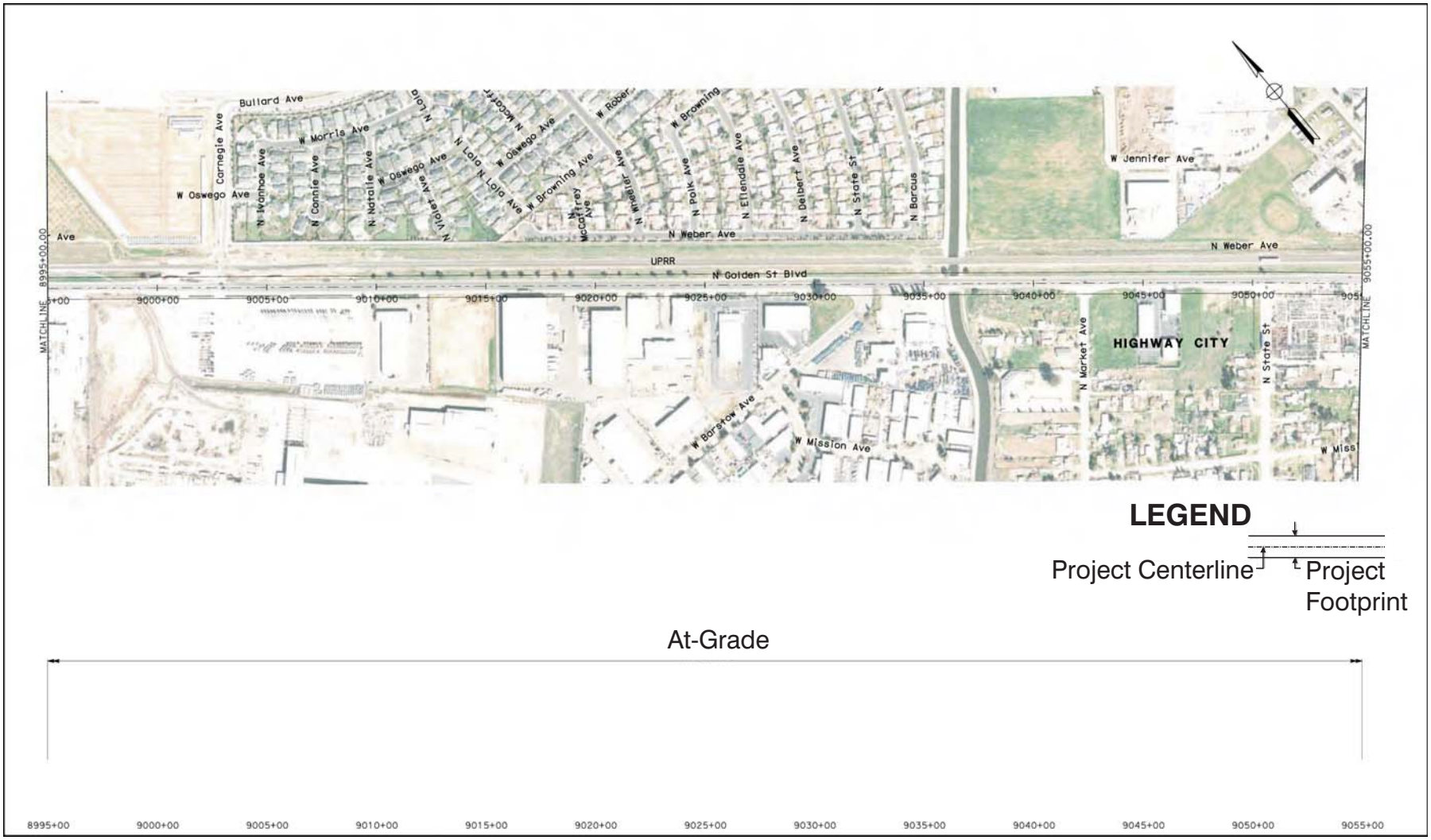
High Speed Rail Alignment Alternative A1 - El Paseo Project Vicinity, 3 of 3



Source: Preliminary Alternatives Analysis Report, Appendix E

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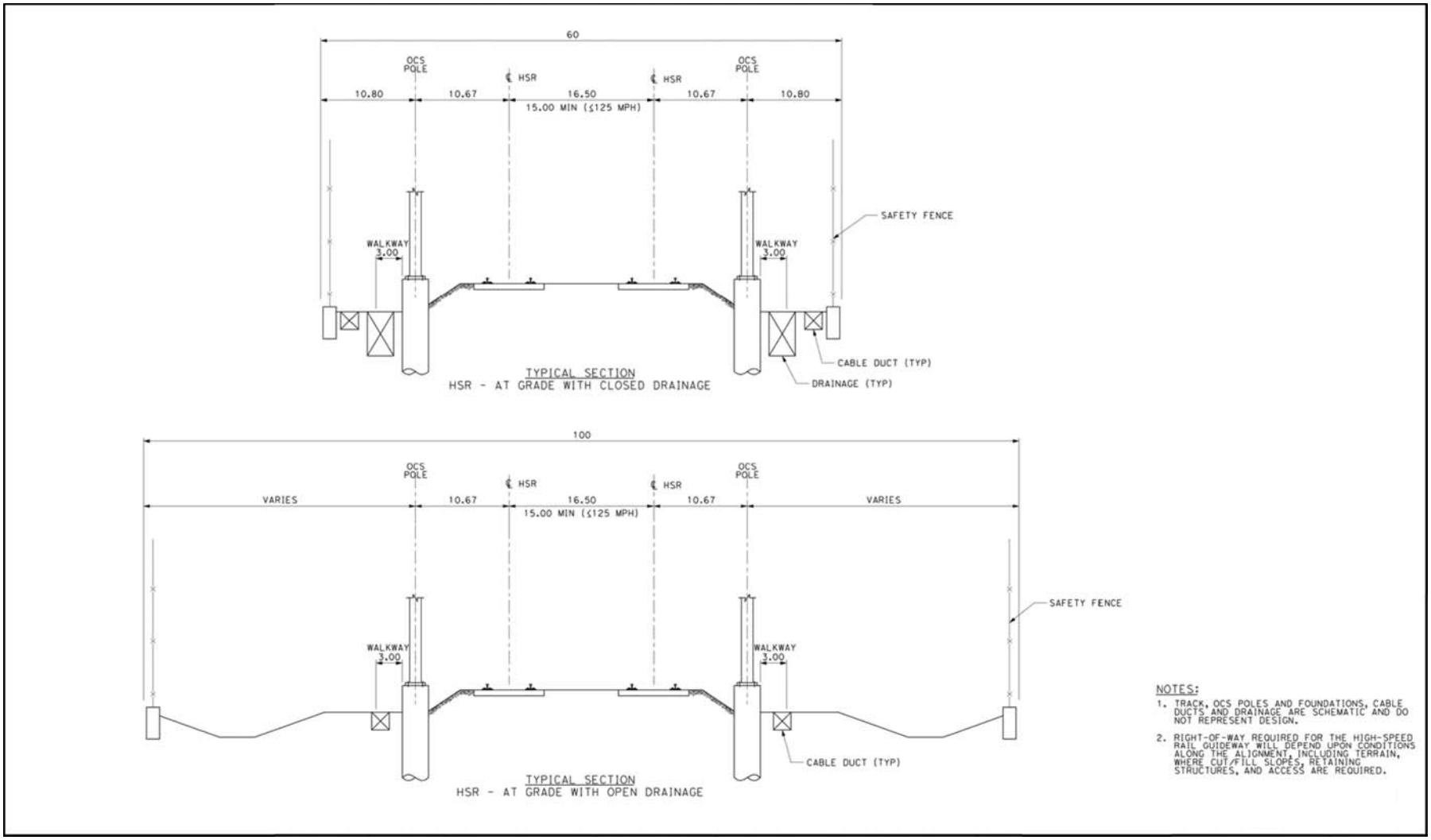
HSR Typical At-Grade Cross-Section



0 17.5
Scale (Feet)

Source: Preliminary Alternatives Analysis Report, Appendix E

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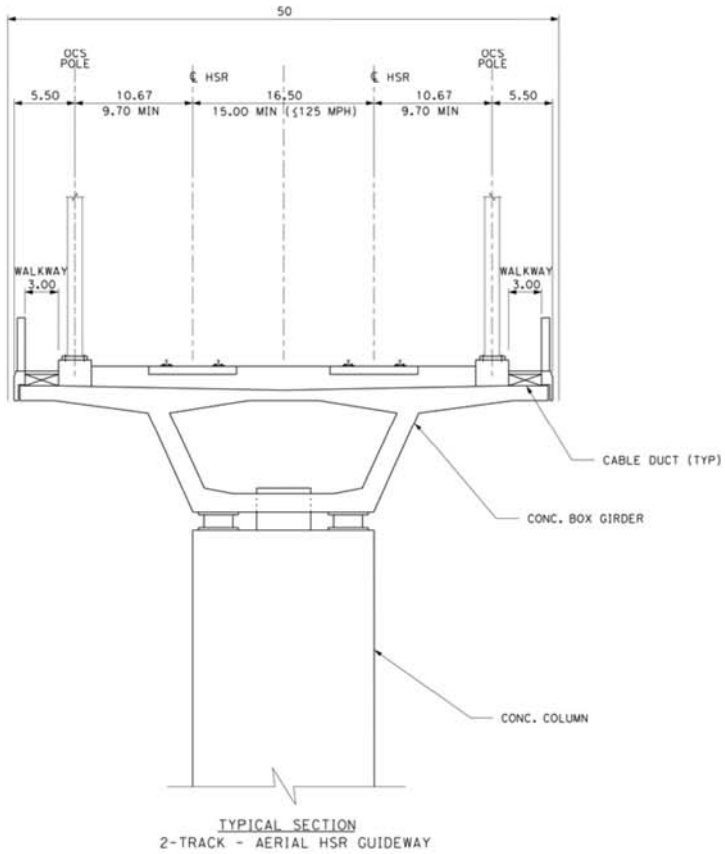
HSR Typical Aerial Gateway Cross-Section



NOTES:

1. TRACK, OCS POLES AND FOUNDATIONS, CABLE DUCTS AND DRAINAGE ARE SCHEMATIC AND DO NOT REPRESENT DESIGN.
2. RIGHT-OF-WAY REQUIRED FOR THE HIGH-SPEED RAIL GUIDEWAY WILL DEPEND UPON CONDITIONS ALONG THE ALIGNMENT, INCLUDING TERRAIN, WHERE CUT/FILL SLOPES, RETAINING STRUCTURES, AND ACCESS ARE REQUIRED.

0 17.5
Scale (Feet)

Source: Preliminary Alternatives Analysis Report, Appendix E

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