

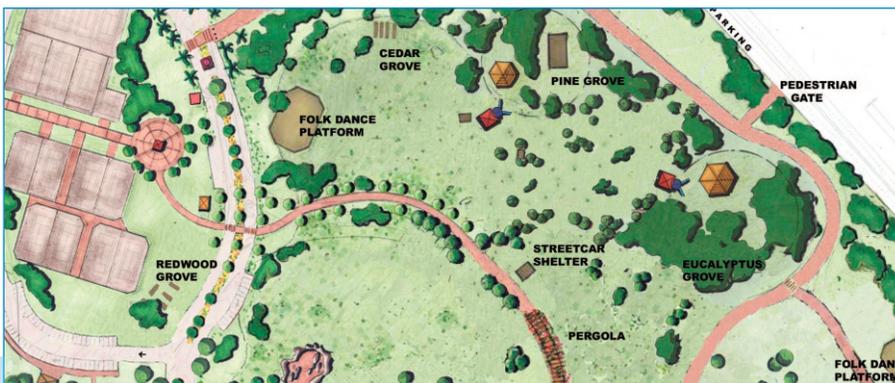
ROEDING REGIONAL PARK AND FRESNO CHAFFEE ZOO FACILITY MASTER PLANS

FINAL ENVIRONMENTAL IMPACT REPORT RESPONSE TO COMMENTS ON THE RECIRCULATED DRAFT ENVIRONMENTAL IMPACT REPORT SCH No.: 2008031002

Fresno Chaffee Zoo



Roeding Park



June 14, 2011

City of
FRESNO



**Final Environmental Impact Report
Response to Comments on the Recirculated Draft EIR
for
Roeding Regional Park and Fresno Chaffee Zoo
Facility Master Plans**

State Clearinghouse No. 2008031002

City of Fresno
Development and Resources Management Department
2600 Fresno Street
Fresno, California 93721-3604

Contact: Kevin Fabino, Planning Manager
(559) 621-8046

June 14, 2011

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SECTION 1: INTRODUCTION

On October 7, 2010, the Draft Environmental Impact Report (Draft EIR) for The Roeding Park and Fresno Chaffee Zoo Facility Master Plans Project (State Clearinghouse Number 2008031002) was circulated by the Lead Agency, the City of Fresno, for public comments. The comment review period ended November 24, 2010. Substantive comments were received on several issues addressed in the Draft EIR. A response to comments document entitled Final Environmental Impact Report - Response to Comments was prepared and available to the public on January 21, 2011. During review of the Response to Comments, new information and revisions were deemed necessary to be added to the EIR. The City of Fresno decided to re-issue the Notice of Preparation on March 4, 2011 for a 30-day review period to allow opportunity for public comment. On April 21, 2011, the City prepared a Recirculated Draft EIR (State Clearinghouse No. 2008031002) and distributed it to the public for a 45-day review from April 22, 2011 to June 6, 2011.

Although the revisions to the Draft EIR were focused on a few sections, the City of Fresno decided that the entire EIR would be distributed for public review. In addition, the City decided to include the responses to the comments that were received on the Draft EIR by including the comments and responses that were in the Final Environmental Impact Report – Response to Comments.

In accordance with Section 15088 of the California Environmental Quality Act (CEQA) Guidelines, the City of Fresno, as the lead agency, has evaluated the comments received on the Recirculated Draft EIR for Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans and has prepared written responses to the comments received. The responses to the comments and other documents, including technical appendices and other information contained within the environmental record, together with the Recirculated Draft EIR, constitute the Final EIR for use by the City of Fresno City Council in their review of Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans.

This document is organized into these sections:

- **Section 1** - Introduction.
- **Section 2** - List of Commentors.
- **Section 3** - Responses to Written Comments on the Recirculated Draft EIR: Addresses each written comment submitted to the City of Fresno.
- **Section 4** - Errata: Includes an addendum listing refinements and clarifications on the Recirculated Draft EIR, which have been incorporated.

Because of its length, the text of the Recirculated Draft EIR is not included with these written responses; however, it is included by reference in this Final EIR. None of the corrections or

clarifications to the Recirculated Draft EIR identified in this document constitutes “significant new information” pursuant to CEQA Guidelines Section 15088.5. As a result, a recirculation of the Recirculated Draft EIR is not required.

The Final EIR includes the following documents:

- Recirculated Draft EIR (provided under separate cover).
- Responses to Comments (contained in this Final EIR).
- Errata (contained in this Final EIR).
- Mitigation Monitoring and Reporting Program (provided under separate cover).

A summary of the revisions made to the previously circulated Draft EIR was included in the Summary Chapter of the Recirculated Draft EIR. To expand on that summary and further assist the decision makers as well as the public in their review of this Final EIR and Response to Comments Document, following is a comprehensive list of all revisions made since the preparation of the original Draft EIR. This comprehensive list is separated into two categories. The first category includes a restatement of the revisions of the original Draft EIR based on the revisions that were identified in Chapter 27 of the Recirculated Draft EIR. The second category includes the revisions to the Recirculated Draft EIR that are identified in this document.

1.1 - Revisions Provided in the Recirculated Draft EIR

1.1.1 - Summary (Chapter S)

Areas of Controversy/Issues To Be Resolved

This chapter was revised to include areas of controversy and issues to be resolved with the Master Plans Project.

Summary of Significant Environmental Impacts and Mitigation Measures

Table S-1- Executive Summary

The information in Table S-1 (i.e., the impact statement, mitigation measures, and level of significance after mitigation) was revised to reflect the revisions provided in the Recirculated Draft EIR.

1.1.2 - Introduction (Chapter 1)

This Chapter was revised to include information regarding the Revised NOP that was issued in March 2011. A summary of the environmental issues raised in the comment letters that were received on the Revised NOP are provided.

1.1.3 - Project Location and Description (Chapter 2)

Land and Water Conservation Fund

A discussion of federal funding that has been received by the City through the Land and Water Conservation Fund program was provided. The City acknowledged that they may need to complete an administrative approval process with the National Park Service through the California Department of Parks and Recreation. As part of the process, an environmental evaluation in accordance with the National Environmental Policy Act and a process in accordance with the California Environmental Quality Act may be required.

Intended Uses of the Environmental Impact Report

The Zoo Authority was added to the discussion regarding Responsible and Trustee Agencies because the Zoo Authority has discretionary approval authority over the disbursement of Measure Z sales tax revenue for the design and construction of the capital projects associated with the Master Plans Project.

1.1.4 - Cultural Resources (Chapter 4)

Introduction

The *Roeding Park Historic District Response to DEIR Comments* prepared by Page & Turnbull in January 2011 was added as an additional appendix within Appendix B, Cultural Resources Information.

Historic District and Contributing Features Analysis

A summary of an analysis of the potential historic district and the contributing features analysis from the *Roeding Park Historic District Response to DEIR Comments* was provided. The contributing features analysis demonstrated that none of the contributing features that would be affected by the Master Plans Project are individually eligible for listing on the National Register of Historic Places, the California Register of Historic Resources, or the Fresno Local Register of Historic Resources.

Impact 4.1: Impact Analysis

The four ponds were identified as representing a single contributing feature and the circulation pattern within Roeding Regional Park was identified as a contributing feature.

A clarification was provided regarding where the relocated trees from Umbrella and Palm Point groves would be placed.

Mitigation Measure 4.1(a)

This mitigation measure has been revised to clarify its intent to maintain the public recreational uses associated with the ponds by introducing a new pond feature near the Golden State Boulevard entrance. The new pond feature will be stocked with fish species.

Mitigation Measure 4.1(b)

This mitigation measure was added to address Chaffee Zoo’s proposed rehabilitation of the existing Pergola.

Mitigation Measure 4.1(c)

This mitigation measure was added to address Chaffee Zoo’s proposed structural analysis and that the Zoo would seek funding for the rehabilitation of the Lisenby Bandstand through grant applications.

Mitigation Measure 4.2

This mitigation measure was modified to include Historian American Building Survey (HABS) documentation for the relocated Fresno Chaffee Zoo Administration Office.

Mitigation Measure 4.8(a)

The mitigation measure was revised to clarify the timing for the development of the historic preservation guidelines, as well as clarify who shall prepare the guidelines.

Mitigation Measure 4.8(a): Mitigation Discussion

The discussion was revised to address Chaffee Zoo’s proposed structural analysis and that the Zoo would seek funding for the rehabilitation of the Lisenby Bandstand through grant applications.

Mitigation Measure 4.8(b)

The mitigation measure was revised to clarify the timing for the approval of landscape plans.

1.1.5 - Aesthetics (Chapter 5)

Introduction

The survey of trees within Roeding Regional Park was referenced as well as where the survey can be reviewed.

Mitigation Measure 5.2(a)

This mitigation measure was revised to include implementation of a landscape plan and landscape maintenance plan.

Sources

The collection of tables and exhibits prepared by Arbor Pro, Inc. that provide information about the existing trees within Roeding Regional Park were added as a source.

1.1.6 - Biological Resources (Chapter 6)

Mitigation Measure 6.2(a)

This mitigation measure was revised with a timeframe for implementation of measures regarding bats.

Impact 6.3: Impact Analysis

This revision was provided to clarify that the use of the historic plant palettes and landscaping would contribute to the reduction of potential impacts to migratory birds.

1.1.7 - Transportation/Traffic (Chapter 8)

Setting

A discussion regarding the High Speed Rail was provided and references Chapter 22, Cumulative Impacts for a further discussion.

Mitigation Measure 8.4(a)

This mitigation measure was revised to clarify the type and location of fence that will be constructed to prevent pedestrians from crossing the railroad tracks at mid-block locations.

Mitigation Measure 8.4(b)

This mitigation measure was revised to discuss implementation of a sidewalk on the south and north sides of the Olive Avenue at-grade railroad crossing.

Mitigation Measure 8.4(c)

This mitigation measure was added to include implementation of a Standard 8 warning device in the off-quadrant at the Olive Avenue at-grade railroad crossing.

1.1.8 - Air Quality (Chapter 10)

Impact 10.1: Impact Analysis

The discussion regarding GHG emissions thresholds was expanded to include SJVAPD's "Guidance for Valley Land-Use Agencies in Addressing GHG Emission Impacts for New Projects Under CEQA."

1.1.9 - Hydrology (Chapter 14)

Mitigation Measure 14.2(b)

This mitigation measure was added to discuss implementation of a relief system for the proposed storm drainage facility.

1.1.10 - Cumulative Impacts (Chapter 22)

Basis for Cumulative Impact Analysis

A discussion of the California High Speed Rail Authority and the status of the High Speed Rail (HSR) Project was provided. Based on the current status of the HSR Project, the City has determined that the Fresno portion of HSR Project would not constitute a reasonably foreseeable probable future project that requires a cumulative impact analysis under CEQA for the proposed Master Plans Project. However, in the interest of providing the reviewing agencies and the public with full disclosure of the available information and a meaningful opportunity to review and comment on the Master Plans

Project's impacts, this chapter incorporated analysis of HSR where appropriate and reasonably feasible.

Parks and Recreation

A discussion of the cumulative effect of implementing the proposed Master Plans Project and the HSR Project was provided. The discussion concludes that the Master Plans Project would not contribute to park land impacts.

Cultural Resources

A discussion of the cumulative effect of implementing the proposed Master Plans Project and the HSR Project was provided. However, due to the unknowns regarding the degree of HSR's encroachment, on the Park, the timing of construction, and precise timing of the Master Plans Project development, the mitigation measures provided for the Master Plans Project will minimize the potential significant cumulative impact to historical resources, but not necessarily to a less-than-significant level. Since there are no other feasible mitigation measures that are capable of avoiding the impact or minimizing the impact to less than significant, the cumulative impact would be considered significant and unavoidable.

Aesthetics

A discussion of the cumulative effect of implementing the proposed Master Plans Project and the HSR Project was provided. The discussion concludes that the Master Plans Project's aesthetic impacts would not be cumulatively considerable.

Transportation/Traffic

A discussion of the HSR Project was provided; however, there was a determination that a cumulative analysis that includes the HSR Project would be too speculative, and such analysis would not be required by CEQA.

Parking

A discussion of the cumulative effect of implementing the proposed Master Plans Project and the HSR Project was provided. The discussion concludes that the Master Plans Project would still be anticipated to provide the same number of parking spaces along Golden State Boulevard, even with a potential realignment of Golden State Boulevard with the HSR Project.

Noise

A discussion of the cumulative effect of implementing the proposed Master Plans Project and the HSR Project was provided. While publicly available information from CHSRA suggests that HSR noise impacts will be mitigated, particularly in areas such as the corridor adjacent to Roeding Park, it is possible that the cumulative impact of the Master Plans Project in conjunction with HSR could exceed the 1.5-5 dBA threshold increase. Mitigation Measures 22.1(a) and (b) will help to reduce this

impact, but without specific information regarding design elements and proposed mitigation for HSR, it cannot be said with certainty that the impact would be reduced to a less than significant level. Therefore, the cumulative impact was considered significant and unavoidable.

1.1.11 - Significant Environmental Effects That Cannot Be Avoided (Chapter 23)

The proposed Master Plans Project was determined to contribute to potential cumulative impacts on cultural resources and noise due to the addition of the project's impacts to potential impacts associated with the HSR project.

1.1.12 - Response to Comments on the Draft EIR (Chapter 27)

This chapter was added to provide the public an opportunity to review previous comments on the environmental documentation as well as responses to those comments.

1.2 - Revisions Provided in this Final EIR - Response to Comments Document That Are Presented in Section 4, Errata

1.2.1 - Cultural Resources (Chapter 4)

Mitigation measure 4.1(a)

This mitigation measure has been modified to ensure that the historic plant palettes and landscaping around the reintroduced ponds provide comparable migratory bird habitat.

1.2.2 - Aesthetics (Chapter 5)

Mitigation Measure 5.1(f)(1)

This mitigation measure has been modified to clarify the intent to ensure compliance with not only Mitigation Measures 5.1(f)(2) through (7) to reduce the potential significant aesthetic impact of the perimeter fence, but also comply with the United State Department of Agriculture and American Zoo Association (AZA) requirements for Zoo perimeter fences.

1.2.3 - Transportation/Traffic (Chapter 8)

Mitigation Measure 8.2(a)

This mitigation measure has been revised to ensure that funding to install the traffic improvements is provided to the City of Fresno since the improvements are estimated to be required in the future.

Mitigation Measure 8.2(b)

This mitigation measure has been revised to ensure that funding to install the traffic improvements is provided to the City of Fresno since the improvements are estimated to be required in the future.

Mitigation Measure 8.4(b)

This mitigation measure has been revised to reference the California Public Utility Commission's (CPUC's) General Order (GO) 88-B which provides guidance of CPUC requirements.

1.2.4 - Hydrology and Water Quality (Chapter 14)

Mitigation Measure 14.2(b)

This mitigation measure has been revised to provide clarification of the recommended relief system.

SECTION 2: LIST OF COMMENTORS

A list of public agencies, organizations, and individuals who provided comments on the Recirculated Draft EIR is presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be cross-referenced with responses. The text of the communication is reprinted in Section 3, Responses to Comments, immediately followed by the corresponding response.

Correspondence Code	Commentor	Date
A	Office of Planning and Research, Scott Morgan	June 7, 2011
B	Native American Heritage Commission, Dave Singleton	May 26, 2011
C	Department of Transportation, Christine Cox-Kovacevich	November 23, 2010
D	California Public Utilities Commission, Moses Stites	June 3, 2011
E	County of Fresno, Public Health Department, Glenn Allen	April 27, 2011
F	Fresno Metropolitan Flood Control District, Rick Lyons	June 6, 2011
G	Joan Catherine LeRoux	June 3, 2011
H	Lambo Yip and Hui Zhong Li	June 5, 2011
I	Shute, Mihaly & Weinberger, Gabriel Ross	June 6, 2011

SECTION 3: RESPONSES TO COMMENTS

3.1 - Introduction

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Fresno, as the lead agency, evaluated the comments received on the Recirculated Draft EIR (State Clearinghouse No. 2008031002) for the Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans, and has prepared the following responses to the comments received. This Response to Comments becomes part of the Final EIR for the project in accordance with CEQA Guidelines Section 15132.

3.2 - Comment Correspondence and Responses

The comment correspondence reproduced in the following pages follow the same order in Section 2, List of Commentors.



JERRY BROWN
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



June 7, 2011

Kevin Fabino
City of Fresno
2600 Fresno Street
Fresno, CA 93728

Subject: Roeding Regional Park and Fresno Chaffee Zoo Facilities Master Plans (Including Rotary Playland and Storyland)
SCH#: 2008031002

Dear Kevin Fabino:

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 June 6, 2011, 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.

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."

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.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2008031002
Project Title Roeding Regional Park and Fresno Chaffee Zoo Facilities Master Plans (Including Rotary Playland and Storyland)
Lead Agency Fresno, City of

Type EIR - Draft EIR
Description NOTE: Recirculated

The 148-acre Roeding Regional Park consists of three components: the portion devoted to active and passive recreation areas and the PARCS maintenance yard (123 acres), the Fresno Chaffee Zoo (18 acres), and they Rotary Storyland and Playland facilities (7 acres). The planned expansion of the zoo (by 21 acres) and Storyland and Playland (by 2 acres) would reduce the amount of land for active and passive recreation uses, a decrease from 123 acres currently to 100 acres. These 100 acres would include public recreation/open space (76 acres), parking (9 acres), multiple purpose paths (6 acres), public access roads (5 acres), a non-public access road (2 acres) and a new PARCS maintenance facility (2 acres). Some of the roads and parking included in the active and passive recreation area of Roeding Regional Park would also serve the Fresno Chaffee Zoo and Rotary Storyland and Playland facilities.

Lead Agency Contact

Name Kevin Fabino
Agency City of Fresno
Phone 559-621-8046 **Fax** 559 498-1026
email kevin.fabino@fresno.gov
Address 2600 Fresno Street
City Fresno **State** CA **Zip** 93728

Project Location

County Fresno
City Fresno
Region
Lat / Long 36° 45' 1" N / 119° 49' 11" W
Cross Streets State Route 99 & Belmont Ave
Parcel No. 458-114-02
Township 13S **Range** 20E **Section** 32 **Base** MDB&M

Proximity to:

Highways Hwy 99
Airports Fresno Chandler
Railways UPRR
Waterways
Schools Multiple
Land Use Regional Park and Zoo/Open Space Conservation District/Regional Park

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Noise; Public Services; Recreation/Parks; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wildlife; Growth Inducing; Landuse; Cumulative Effects

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); Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission; State Lands Commission

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

**Document Details Report
State Clearinghouse Data Base**

Date Received 04/22/2011 *Start of Review* 04/22/2011 *End of Review* 06/06/2011

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

Office of Planning and Research, Scott Morgan, June 7, 2011 (A)

Response to Comment A-1

This comment acknowledges that the Draft EIR was distributed to selected state agencies for review. The state agencies sent the Draft EIR were Resources Agency, Department of Fish and Game - Region 4, Office of Historic Preservation, Department of Park and Recreation, Department of Water Resources, Caltrans - Division of Aeronautics, California Highway Patrol, Caltrans - District 6, Regional Water Quality Control Board - Region 5 (Fresno), Department of Toxic Substances Control, Native American Heritage Commission, Public Utilities Commission, and State Lands Commission. No specific comments on the Draft EIR were provided by the State Clearinghouse; therefore, no further response is necessary. The letter "acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents."

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
ds_nahc@pacbell.net



May 26, 2011

Mr. Kevin Fabino, Planning Manager

City of Fresno

2600 Fresno Street
Fresno, CA 93721-3604

Re: SCH#2008031002; CEQA Notice of Completion; proposed Mitigated Negative Declaration; for the: **“Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans;”** located in the City of Fresno; Fresno County, California

Dear Mr. Fabino:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources. The NAHC wishes to comment on the above-referenced proposed Project.

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments 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 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.' In order to comply with this provision, 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. The NAHC Sacred Lands File (SLF) search resulted in; **Native American cultural resources were not identified** within the 'area of potential effect (APE), based on the USGS coordinates of the project location provided. However, there are Native American cultural resources in close proximity to the APE. The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254.10.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to

obtain their recommendations concerning the proposed project. Pursuant to C.A. Public Resources Code § 5097.95, the NAHC requests that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and Section 2183.2 that requires documentation, data recovery of cultural resources.

Furthermore we recommend, also, that you contact the California Historic Resources Information System (CHRIS) California Office of Historic Preservation for pertinent archaeological data within or near the APE, at (916) 445-7000 for the nearest Information Center in order to learn what archaeological fixtures may have been recorded in the APE.

Consultation with tribes and interested Native American 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 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, 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 Interiors 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. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation.

B-1
(cont.)

Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 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'.

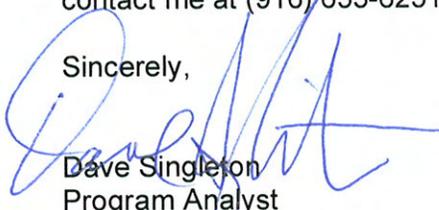
To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

The response to this search for Native American cultural resources is conducted in the NAHC Sacred Lands Inventory, established by the California Legislature (CA Public Resources Code 5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code 6254.10) although Native Americans on the attached contact list 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 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 and there may be sites within the APE eligible for listing on the California 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 APEs and possibility threatened by proposed project activity.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

B-1
(cont.)

Sincerely,



Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

Native American Contact List

Fresno County
May 26, 2011

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

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

Cold Springs Rancheria of Mono Indians
Robert Marquez, Chairperson
P.O. Box 209 Mono
Tollhouse , CA 93667
(559) 855-5043
559-855-4445 - 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 Government
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
(669) 307-6430

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

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

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2008031002; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans; located in the City of Fresno; Fresno County, California.

Native American Contact List
Fresno County
May 26, 2011

Letter B
Page 5 of 5

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

Traditional Choinumni Tribe
David Alvarez, Chairperson
2415 E. Houston Avenue Choinumni
Fresno , CA 93720
davealvarez@sbcglobal.net
(559) 323-6231
(559) 292-5057 FAX

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

Santa Rosa Tachi Rancheria
Lalo Franco, Cultural Coordinator
P.O. Box 8 Tachi
Lemoore , CA 93245 Tache
(559) 924-1278 - Ext. 5 Yokut
(559) 924-3583 - FAX

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

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 the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2008031002; CEQA Notice of Completion; proposed Nitigated Negative Declaration for the Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans; located in the City of Fresno; Fresno County, California.

Native American Heritage Commission, Dave Singleton, May 26, 2011 (B)

Response to Comment B-1

This comment calls for consultation with Native American Tribes for the purpose of identifying sensitive cultural areas. The City of Fresno sent letters to nine Native American tribes that had any possibility of having a “most likely descendent” at the project site. Six additional Native American tribes were provided by the Native American Heritage Commission in their NOP comment letter dated March 5, 2008; however, the City did not send letters to these six tribes based on the City Historic Preservation staff’s historical knowledge of tribes within the City area. The City did not receive any responses from the nine tribes that were sent letters that indicated the existence of potential cultural or historical sites (see Appendix B of Recirculated Draft EIR for copies of these letters). A Sacred Lands File (SLF) search was requested by the City and conducted by the Native American Heritage Commission (NAHC). The NAHC stated, “The SLF search did not indicate the presence of Native American cultural resources within one-half mile of the project area (APE). . . .” Furthermore, the California Historical Resources Information System (CHRIS) and State of California Department of Parks and Recreation-Historic Preservation and Southern San Joaquin Valley Archeological Information Center determined that there are no known archeological features of significance associated with the Roeding Park site. Finally, while the City has already satisfied its legal obligations with respect to consultation with Native American Tribes, in response to the comments, and in an effort to be collaborative and inclusive, the City has also sent notice of the hearing on the EIR and the Master Plans to all of the individuals identified on the commentor’s list of Native American contacts.

DEPARTMENT OF TRANSPORTATION

1352 WEST OLIVE AVENUE
P. O. BOX 12616
FRESNO, CA 93778-2616
PHONE (559) 488-4115
FAX (559) 488-4195
TTY (559) 488-4066



*Flex your power!
Be energy efficient!*

November 23, 2010

2131-IGR/CEQA
6-FRE-99-23.304
ROEDING REGIONAL PARK AND
CHAFFEE ZOO MASTER PLANS (DEIR)

Mr. Kevin Fabino
City of Fresno Development Department
2600 Fresno Street
Fresno, CA 93721-3604

Dear Mr. Fabino:

We have reviewed the Draft Environmental Impact Report (DEIR) for the Roeding Park and Fresno Chaffee Zoo Facility Master Plan. The project site is adjacent to State Route (SR) 99, between Belmont and Olive Avenues. Caltrans has the following comments:

The traffic study for this proposed master plan for Roeding Regional Park and Chaffee Zoo predicts the proposed expansion would generate 133 additional trips during the morning peak travel periods by the year 2014; and 235 additional trips during the morning peak travel periods by the year 2030.

Previous traffic studies have indicated a need for signal controls at the two ramp intersections at Olive Avenue in order to accommodate projected future demand. The City of Fresno Traffic Signal Mitigation Impact (TSMI) fee identifies 100% funding for the northbound and southbound ramps at the SR 99/Olive interchange. Furthermore, the City of Fresno has received additional Highway Safety Improvement Program (HSIP) funding for installation of traffic signals at the SR 99/Olive Avenue interchange. The signals are expected to be installed prior to the year 2014.

The traffic study identifies the future need for signal controls for the northbound and southbound ramps at the SR 99/Belmont Avenue interchange. The City of Fresno TSMI fee identifies 100% funding for these two ramp intersections. The traffic study also recommends the project contribute its proportional share for the widening of the SR99/Belmont Avenue overcrossing in order to accommodate left turn storage on the structure. These improvements would provide adequate mitigation to the State Highway System for this project. However, there is substandard interchange spacing between SR 180 and Belmont Avenue and future operational solutions to decrease merging conflicts and improve operations along the SR 99 corridor may need to be considered. This may result in the closing of some interchanges as defined in the Corridor System Management Plan (CSMP) for SR 99 which was completed in April, 2009. It should be

C-1

Mr. Kevin Fabino
November 23, 2010
Page 2

noted that both Princeton and Belmont Avenue interchanges were identified for possible closure in the CSMP.

Caltrans would like to thank City staff and Project representatives for involving us in the early stages of the Master Plan through to its current status. We appreciate the effort of ensuring the DEIR adequately addressed project related impacts to State facilities. If you have any questions, please call me at (559) 488-4115.

C-1
(cont.)

Sincerely,



CHRISTINE COX-KOVACEVICH
Acting Deputy District Director
Planning and Local Programs

Department of Transportation, Christine Cox-Kovacevich, November 23, 2010 (C)

Response to Comment C-1

This comment states that previous studies identified a need for signal controls at the two ramp intersections at Olive Avenue and the signals are expected to be installed prior to the year 2014. The traffic study prepared for the proposed project assumes that the signals at the two ramp intersections at Olive Avenue would be installed prior to the year 2014. As stated on page 8-12 in Chapter 8 of the Recirculated Draft EIR, the funding for these signal improvements would be provided by the City of Fresno's Traffic Signal Mitigation Impact (TSMI) fees.

This comment also states that the City received additional Highway Safety Improvement Program (HSIP) funding for installation of traffic signals at the SR-99/Olive Avenue interchange. This comment regarding the additional funding source is noted and identified on page 8-13 in Chapter 8 of the Recirculated Draft EIR. The comment states that the identified improvements would provide adequate mitigation to the State Highway system.

This comment also states that there is currently substandard interchange spacing between SR-180 and Belmont Avenue and future solutions to decrease merging conflicts and improve operations along SR-99 corridor may need to be considered. The comment further states that some interchanges (i.e., Belmont Avenue and Princeton Avenue) may be closed in the future. The City understands that the future operation of SR-99 is under the jurisdiction of Caltrans and when Caltrans programs the closure of existing interchanges, environmental documentation will be prepared to address potential environmental effects. At this time, Caltrans has not programmed the closure of the Belmont Avenue interchange, and environmental review, without further information such as timing and technical studies, would be premature.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 3, 2011

Kevin Fabino
City of Fabino
2600 Fresno Street
Fresno, CA 93728

Re: Notice of Completion, Recirculated Draft Environmental Impact Report (DEIR)
Roeding Regional Park and Fresno Chaffee Zoo Facilities Master Plans
SCH# 2008031002

Dear Mr. Fabino:

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.

D-1

We have completed our review of the DEIR and find the document to be adequate in addressing the concerns with regard to the at-grade railroad crossing located at Olive Avenue and Golden State Boulevard. The proposed mitigation measures as outlined in the Executive summary section 8.4 (a), (b) and (c) are appropriate and acceptable to the Commission staff. We recommend the addition of a General Order (GO) 88-B for the proposed project mitigation measures.

Thank you for your consideration of these comments. If you have any other questions, 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

California Public Utilities Commission, Moses Stites, June 3, 2011 (D)*Response to Comment D-1*

This comment stated that the California Public Utilities Commission (CPUC) determined that the document adequately addressed the concerns regarding the at-grade railroad crossing located at Olive Avenue and Golden State Boulevard. This comment suggests that General Order (GO) 88-B be added as a mitigation measure. Based on a review of GO 88-B and the comment, it is the City's understanding that the improvements identified in Mitigation Measure 8.4(c) would be processed by the CPUC under General Order 88-B. Though not legally required, a reference to GO-88-B will be added to Mitigation Measure 8.4(b) and shown below.

- 8.4(b) The project applicant shall install a sidewalk on the south and north sides of the Olive Avenue at-grade railroad crossing consistent with the requirements of General Order 88-B and any other applicable CPUC requirements.

Mitigation Measure 8.4(a) includes the placement of a fence along the Golden State Boulevard right-of-way (i.e., on City of Fresno property); therefore, this improvement would not require CPUC approval.



County of Fresno

Department of Public Health

Edward L. Moreno, M.D., M.P.H., Director-Health Officer

April 27, 2011

FA0169123
LU0014715
PE 2600

Kevin Fabino
City of Fresno
Development Department
2600 Fresno Street
Fresno, CA 93721

Dear Mr. Fabino:

SUBJECT: Recirculation of DEIR for Roeding Regional Park and Fresno Chaffee Zoo Master Plans.

LOCATION: City of Fresno Roeding Regional Park, Fresno.

The Fresno County Department of Public Health, Environmental Health Division has reviewed the Recirculated DEIR for the proposed project and concurs with the information contained therein. This Department would appreciate the opportunity to review the final EIR and requests inclusion in its routing. (electronic preferred)

E-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: 2011.04.27 15:04:10 -0700

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

ga

Fresno Recirculated DEIR for Roeding Regional Park and Chaffee Zoo

County of Fresno, Public Health Department, Glenn Allen, April 27, 2011 (E)

Response to Comment E-1

This comment states the County of Fresno, Department of Public Health has received the Recirculated Draft EIR and concurs with the information contained therein. Since no specific comments on the Recirculated Draft EIR were provided, no further response is necessary.



FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

File 170.25
210.41
550.30
(Roeding Regional Park)

June 6, 2011

Kevin Fabino, Planning Manager
City of Fresno, Planning and Development Department
2600 Fresno Street
Fresno, CA 93721

Dear Mr. Fabino,

**Recirculated Draft Environmental Impact Report
for the Roeding Regional Park
and Fresno Chaffee Zoo Facility Master Plans**

Fresno Metropolitan Flood Control District (District) has reviewed the subject Recirculated Draft Environmental Impact Report for the Roeding Regional Park and Chaffee Zoo Master Plans (Park) and finds exception to it as detailed below.

The District's Revised Notice of Preparation (NOP) comment letter, dated July 29, 2009, states in the second paragraph:

2. Designate how a relief system for the proposed Basin will operate without hindering the District's system. The system shall be compatible with the District's system and not impact the capacity in the FID system.

Subsequent District comments to the Draft Environmental Impact Report for the Roeding Regional Park Facility Master Plan and Fresno Chaffee Zoo Facility Master Plan letter, dated November 22, 2010, requested an addition be incorporated into the District's comments as follows:

- 1) The DEIR, Chapter 1, Table 1-1, Page 1-5 in the Summary of Environmental Issues Raised in Comment Letter column, the following information should be added:

Without a relief system to the City's proposed pond there will be an impact to the District's system when rain totals exceed the proposed basin standards.

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Mr. Kevin Fabino
June 6, 2011
Page 2 of 2

The City addressed the District concern for a relief system in the City's Final Environmental Impact Report Response to Comments SCH No. 2008031002 dated January 21, 2011, comments given on page 3-37, second paragraph and Page 14-10 of the Recirculated Draft EIR.

However, the comments should include:

the proposed design will require a pump should the proposed basin be deeper than four-feet (4'). In addition, a siphon currently exists at the intersection of Pacific and Franklin Avenues and the Draft EIR should be revised to state, "The relief system would include connection to an existing siphon at the southeast corner of the proposed basin (i.e., at the intersection of Franklin Avenue and Pacific Avenue) and installation of approximately 500 feet of pipeline in the Franklin Avenue right-of-way to the existing Fresno Metropolitan Flood Control District (FMFCD) pipeline located at the intersection of Franklin Avenue and Humboldt Avenue. This underground pipeline is connected to the FMFCD retention Basin RR-2. The proposed relief system would be used if there is a storm that exceeds the FMFCD's retention basin design requirements (i.e., runoff from 6 inches of rainfall over 10 days).

F-1
(cont.)

The relief system is a critical component for the proposed basin and the City will need to designate how it will operate without hindering the District's system and not impact the capacity in the FID system. These conditions can be formalized during the entitlement process of this proposed project.

The comments previously provided in letters dated July 29, 2009 and November 22, 2010 are still applicable to this subsequent request for comment for the Revised NOP for the Park. Copies of those letters are attached for your reference.

Thank you for the opportunity to comment. Please keep our office informed on the development of the project and if you have any further questions, or need any additional information, please contact the District at (559) 456-3292.

Sincerely,



Rick Lyons
Engineering Technician III

RL/lrl

Attachment(s)



FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

File 170.25, 210.41
550.30 (Roeding Regional Park)

November 22, 2010

Kevin Fabino, Planning Manager
City of Fresno, Planning and Development Department
2600 Fresno Street
Fresno, CA 93721

Dear Mr. Fabino,

**FMFCD comments to the Draft Environmental Impact Report
for the Roeding Regional Park Facility Master Plan
and Fresno Chaffee Zoo Facility Master Plan**

The District has reviewed the subject Draft Environmental Impact Report and finds that the majority of the District's comments, in the letter dated July 29, 2009, have been incorporated in the report and are still applicable.

However, the District requests that the following comment be incorporated into the Draft Environmental Impact Report as follows:

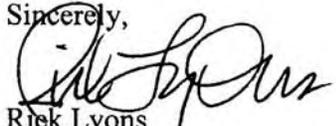
- 1) The DEIR, Chapter 1, Table 1-1, Page 1-5 in the Summary of Environmental Issues Raised in Comment Letter column, the following information should be added:

Without a relief system to the City's proposed pond there will be an impact to the District's system when rain totals exceed the proposed basin standards.

The District will need to review and approve the final improvement plans for all development (i.e. grading, street improvement) within the Roeding Regional Park and Chaffee Zoo Master Plans to insure consistency with and that there are no impacts to the approved Storm Drainage Master Plan.

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 contact the District at (559) 456-3292.

Sincerely,


Rick Lyons
Engineering Technician III

RL/lrl

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FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

File 170.25
210.41
550.30
(Roeding Regional Park)

July 29, 2009

Kevin Fabino, Planning Manager
City of Fresno, Planning and Development Department
2600 Fresno Street
Fresno, CA 93721

Dear Mr. Fabino,

**Revised Notice of Preparation (NOP)
for the Roeding Regional Park
and Fresno Chaffee Zoo Facility Master Plans**

Fresno Metropolitan Flood Control District (District) has reviewed the subject Notice of Preparation (NOP) for the Roeding Regional Park and Chaffee Zoo Master Plans (Park) and finds no exception to it. The proposed project is located within the boundaries of the District, but in an area designated as a non-planned area. Therefore, recognizing that the site must provide its own storm drainage system, the following comments are offered:

The Park site must provide a storm drainage system (System) that is owned, operated and maintained by the Park. The Park is proposing a 3.5 acre off-site location for a storm water management basin (Basin) to be used in conjunction with the Park's private system. The District supports this proposed plan provided the following conditions are met:

1. Provide a study for review and approval by the District that the System and 3.5 acres of Basin area, as indicated in the report, will be of sufficient size to convey, accommodate and store the storm drainage runoff from the 148 acre Park site and meet the community standard.
2. Designate how a relief system for the proposed Basin will operate without hindering the District's system. The System shall be compatible with the District's system and not impact the capacity in the FID system.
3. The District recommends that the proposed Basin be landscaped so as to be compatible with neighborhood improvements.

K:\Environmental impact report letters\revised nop roeding park-zoo eir facility(rl).doc

Mr. Kevin Fabino
July 29, 2009
Page 3 of 3

Any construction site of one or more acres of land and specified industrial uses shall comply with the requirement of the U.S. Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES) regulations promulgated by the U.S.E.P.A (CFR Parts 122-124, Nov 1990). If the applicant determines that a NPDES permit is required for the operation of the proposed facility, a State General permit Notice of Intent must be filed with the State Water Resource Control Board. Copies of the State General Permit and Notice of Intent are available at Fresno Metropolitan Flood Control District.

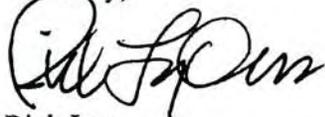
In an effort to improve storm water runoff quality, outdoor storage areas shall be constructed and maintained such that material which generates contaminants will not be conveyed by runoff into the storm drain system.

The District encourages, but does not require that roof drains from non-residential development be constructed such that they are directed onto and through a landscaped grassy swale area to filter out pollutants from roof runoff.

Runoff from areas where industrial activities, product, or merchandise come into contact with and may contaminate storm water must be directed through landscaped areas or otherwise treated before discharging it off-site or into a storm drain. Roofs covering such areas are recommended. Cleaning of such areas by sweeping instead of washing is to be required unless such wash water can be directed to the sanitary sewer system. Storm drains receiving untreated runoff from such areas that directly connect to the storm drain system will not be permitted. Loading docks, depressed areas, and areas servicing or fueling vehicles are specifically subject to these requirements.

Thank you for the opportunity to comment. Please keep our office informed on the development of the project and if you have any further questions, or need any additional information, please contact the District at (559) 456-3292.

Sincerely,



Rick Lyons
Engineering Technician III

RL/lrl

Fresno Metropolitan Flood Control District, Rick Lyons, June 6, 2011 (F)**Response to Comment F-1**

This comment states that the City addressed the District's concern for a relief system for the proposed storm drain system south of the project site. This comment also states further clarification should be provided for Mitigation Measure 14.2(b). The City concurs and Mitigation Measure 14.2(b) is revised as follows. The underlined text provides additional text to the measure and the stricken text represents deleted text. These revisions provide clarifications of the mitigation measure.

- 14.2(b) The Fresno Chaffee Zoo shall coordinate with the City and the Fresno Metropolitan Flood Control District to implement a relief system for the proposed storm drainage facility. The proposed relief system shall include a pump if the proposed basin is deeper than four-feet. ~~The relief system would~~ will include connection to an existing ~~the installation of~~ a siphon at the southeast corner of the proposed basin (i.e., at the intersection of Franklin Avenue and Pacific Avenue) and installation of ~~a pipeline~~ of pipeline approximately 500 feet in the Franklin Avenue right-of-way to the existing underground Fresno Metropolitan Flood Control District (FMFCD) pipeline located at the intersection of Franklin Avenue and Humboldt Avenue. This underground pipeline is connected to the FMFCD retention Basin RR-2. The proposed relief system would be used if there is a storm that exceeds the FMFCD's retention basin design requirements (i.e., runoff from 6 inches of rainfall over 10 days). The relief system shall be subject to approval by the FMFCD.

RECEIVED

JUN 16 2011

Planning Division
Planning & Development Dept.
CITY OF FRESNO

June 3, 2011

Hand Delivered to Planning and Resources/Development Department, City Hall

City of Fresno
2600 Fresno Street
Fresno, CA 93721

Re: Roeding Regional Park and Fresno Chaffee Zoo Master Plans
Environmental Impact Report

Dear Sir or Madam,

Please accept my comments and questions with respect to the above referenced EIR.

I am a citizen of the City of Fresno, a neighbor to Roeding Park (less than 2 miles), and a visitor to Roeding Park and the Chaffee Zoo.

I have been told that the ground under the current City of Fresno Maintenance yard is "toxic."

After the Fresno Chaffee Zoo meeting of May 19, 2011, a member of the Chaffee Zoo Board of Directors advised me that the ground under the current City of Fresno Maintenance Yard/Park Operations is "toxic" and that no one could "put a shovel" into the ground without creating a problem. This Board Member reported that the City of Fresno's solution was to simply pave over the toxic area.

Paoli & Odell, Inc, provided "Figure 3 Existing Park and Zoo Layout" on page 16 of a prior Notice of Preparation (the Figure is not dated. Copy of Figure attached.) In that figure, Paoli and Odell, Inc. noted that Park Operations operates on 4.25 acres adjacent (to the north) of the existing 18.0 acres now used by the Fresno Chaffee Zoo.

If the ground under the current City of Fresno Maintenance yard is "toxic" it might answer my long-held question as to why the EIR and Master Plan for the expansion of the Zoo does not use the land currently being used for the City of Fresno Maintenance Yard/Park Operations for the Zoo itself, instead of for parking.

G-1

If the ground under the current City of Fresno Maintenance yard is too "toxic" to do more than pave over it, that might explain why the EIR requires that the zoo expand east, across the Belmont Park entrance road, with all of the complexities attendant with that activity.

The currently planned expansion to the east, across the Belmont Park entrance road, would prevent the necessity of placing Zoo animals, habitats, and visitors on the ground under the current City of Fresno Maintenance Yard/Park Operations.

However, even the City plans to simply pave over the surface of the exiting ground under the Fresno Maintenance Yard/Park Operations, won't there be some disturbance of this "toxic" soil?

G-1
(cont.)

I am only peripherally involved in the EIR process, yet because I have heard talk of the existence of "toxic" ground being left behind by the City of Fresno from years of vehicle maintenance on the site, I would be surprised if City staff, which is intensely involved in this process, has not heard the talk also.

Finally, please forgive me if I have missed specific soil sample testing of the ground under the current City of Fresno Maintenance Yard/Park Operations, specifically if a determination has been made that no environmental hazards exist.

Is such a study has not been done, is it planned? What happens if an environmental concern is identified?

Thank you for your attention to my concerns.

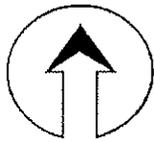
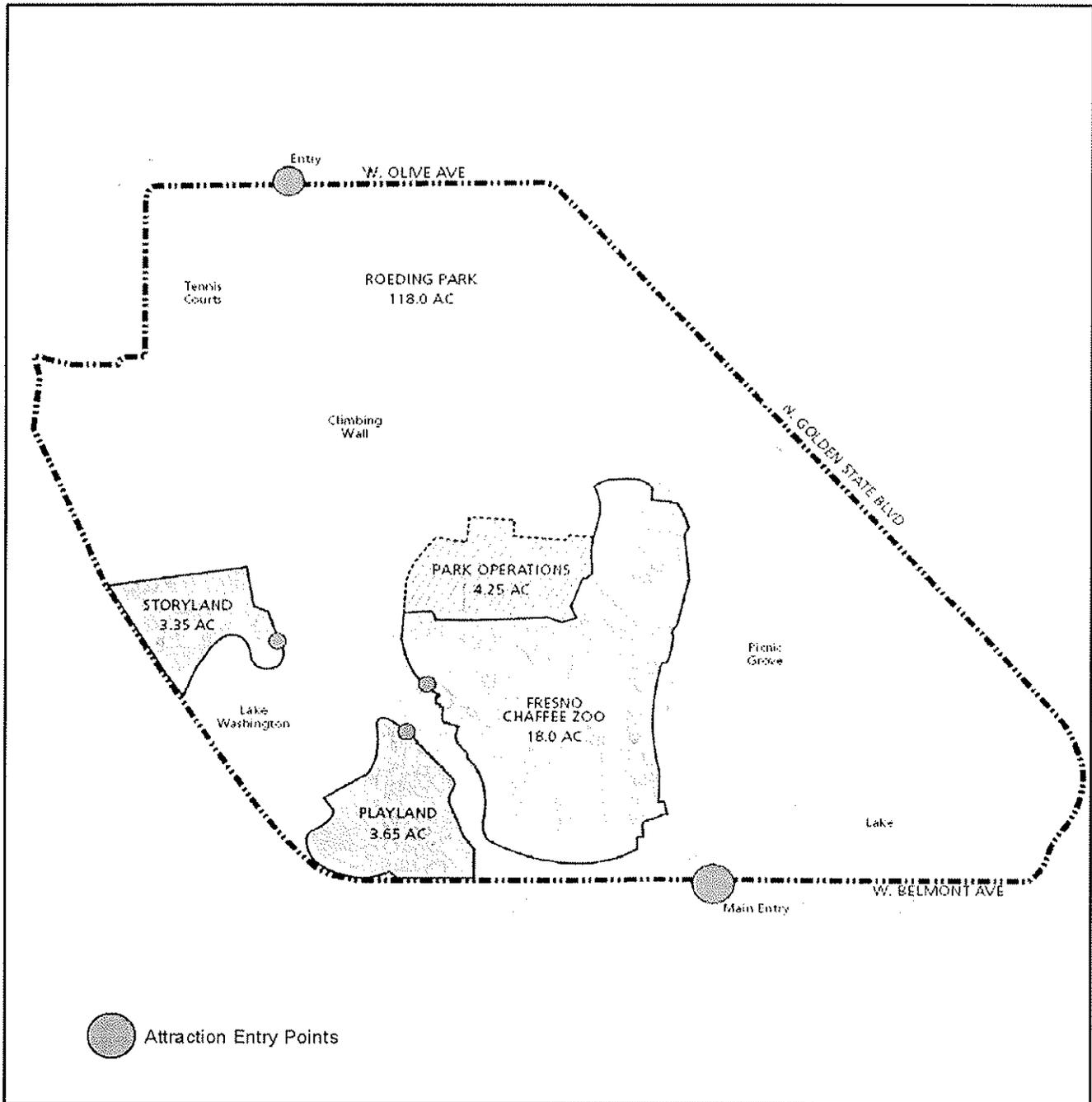
Yours Truly,



Joan Catherine LeRoux
224 East Cambridge Ave – not a mailing address

Post Office Box 5497
Fresno, CA 93755-5497

CC: Kevin Fabino at Kevin.Fabino@fresno.gov



Not to Scale

Figure 3
Existing Park and Zoo Layout

Paoli & Odell, Inc.

Joan Catherine LeRoux, June 3, 2011 (G)

Response to Comment G-1

This comment expresses concern that the ground under the existing City of Fresno Maintenance Yard/Park Operations is too toxic. Chapter 19 of the Recirculated Draft EIR provides a discussion of past and present hazardous materials that are located at the 5-acre Maintenance Yard/Park Operations location. As discussed on Pages 19-3 through 19-5 of the Recirculated Draft EIR, there have been previous soil contamination issues on the 5-acre Maintenance Yard/Park Operations, but each of the issues included remedial actions and the regulatory agency involvement (i.e., County of Fresno Environmental Health Department or the State Water Resources Control Board). These previous issues and remedial actions are discussed in detail in Appendix I (Phase I Environmental Site Assessment [ESA] Report for Roeding Park/Chaffee Zoo and Additional Environmental Site Assessment Information). For each issue, the regulatory agencies oversaw the remedial actions and provided a closure letter that stated that the previously contaminated site no longer exceeds regulatory standards.

Currently the 5-acre Maintenance Yard/Park Operations location contains hazardous materials in various storage tanks, drums, and other containers. As discussed in Impact 19.2 in Chapter 19 of the Recirculated Draft EIR, the proposed relocation of the Maintenance Yard/Park Operations will result in the removal of a 2,500 gallon diesel underground storage tank, a 2,000 gallon above ground storage tank, a 250 gallon above ground storage tank, several 55-gallon drums of used motor oil, and pesticides and herbicides. The removal of the old tanks, placement of new tanks, and relocation of the existing tanks, drums, and other containers will require a standard approval process through the Fresno County Environmental Health Department.

This comment also expressed that the proposed Zoo expansion did not extend to the north because of the hazardous materials within the existing 5-acre Maintenance Yard/Park Operations location. The presence of hazardous materials was not a factor in determining why expanding the Zoo in a northerly direction was not feasible. The topics considered and conclusions are discussed in Chapter 26 of the Recirculated Draft EIR under Response to Comment O-9.

From: Lily Yip [mailto:lilyyip988@yahoo.com]
Sent: Sunday, June 05, 2011 11:24 PM
To: Kevin Fabino
Cc: lambo; lilyyip988@yahoo.com
Subject: Comments about the CHAFFEE ZOO FACILITY MASTER PLANS

Dear Mr. Kevin Fabino,

We are the property owner of the house located at 919 w Belmont ave, Fresno, Ca 93728. We have concerns about the Chaffee Zoo Project.

First, our house is directly across from storyland/playland, our tenants have complained many, many time about the noise comes from the storyland train. Second, there is a lot of trash on our front and side yard, because of the visitors sometimes park their car on our property located at corner of w Belmont & N Durant ave.

We sincerely hope these issues can be resolved ASAP. thank you.

Lambo Yip

Hui Zhong Li

H-1

Lambo Yip and Hui Zhong Li, June 5, 2011 (H)*Response to Comment H-1*

This comment is concerned about the existing noise levels that comes from the Playland and Storyland train and is conveyed to the residence at 919 Belmont Avenue, which is the commentor's property. The proposed project does not include a modification to the existing train tracks or train. The existing train activities at Storyland are regulated by the existing City of Fresno Municipal Code that allows 60 dBA Leq from 7 a.m. to 7 p.m. The hours of operations for Playland and Storyland is currently 10:30 a.m. to 5:30 p.m., and these hours are not proposed to be modified.

Based on noise measurements of similar train activities, noise levels of 73 to 78 dBA Leq at approximately 10 feet from the track centerline were recorded. The average noise-attenuation rate is 6 dBA per doubling of distance from the source. In addition, the nearest resident to the centerline of the train tracks is the home at 919 W. Belmont Avenue, which is at 90 feet. Based on a 90-foot distance, noise levels from the train activities would reduce to below 54 dBA Leq (i.e., 10 feet from track centerline – 78 dBA Leq, 20 feet from track centerline – 72 dBA Leq, 40 feet from track centerline – 66 dBA Leq, and 60 feet from track centerline – 60 dBA Leq, and 80 feet from track centerline is 54 dBA Leq). Therefore, no levels would be greater than the maximum noise level allowed under the City of Fresno Municipal Code.

This comment also stated that trash is left in their front yard and side yard because park visitors sometimes park their cars on the private property located at the corner of West Belmont Avenue and North Durant Avenue. The proposed Master Plans Project will result in an increase in parking stalls to accommodate visitors to Roeding Regional Park. Parking and littering on private property without owner approval is illegal and can be enforced with property owner request for enforcement at the time of the illegal activity.

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: 415 552-7272 F: 415 552-5816
www.smwlaw.com

GABRIEL M.B. ROSS
Attorney
ross@smwlaw.com

June 6, 2011

Via E-Mail and U.S. Mail

Kevin Fabino
Planning Manager
City of Fresno
Development and Resources Management Department
2600 Fresno Street
Fresno, CA 93721

E-Mail: Kevin.Fabino@fresno.gov

Re: Comments on Recirculated Draft Environmental Impact Report

Dear Mr. Fabino:

This firm represents Friends of Roeding Park (“Friends”) relating to the proposed expansion of the Fresno Chaffee Zoo at Roeding Park (“Zoo Expansion”). Our client is deeply concerned about the cultural, historical, and environmental impacts the Project may have in the City of Fresno. On behalf of Friends, we submit this letter to state our position that the Recirculated Draft Environmental Impact Report (“RDEIR”) for the Roeding Regional Park Facility Master Plan and Fresno Chaffee Zoo Facility Master Plan Project (“Master Plans Project”) does not comply with the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.*, the National Environmental Policy Act (“NEPA”), 42 U.S.C. section 4321 *et seq.*, the State Planning and Zoning Law, Govt. Code § 65000 *et seq.*, the Land and Water Conservation Fund Act, 16 U.S.C. §§4601-4, *et seq.*, or the Clean Water Act, 33 U.S.C. §1251 *et seq.* Because of these conflicts, the Master Plans Project may not be approved in its present form, nor may it be approved in any form without a thorough revision of the RDEIR.

In its previous letter to the City, which is by this reference incorporated herein in its entirety, Friends identified numerous flaws and omissions in the original DEIR for the Master Plans Project. Unfortunately, the RDEIR neither adequately

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responds to comments previously raised nor cures the legal inadequacies identified by those comments. Instead, the RDEIR frequently dismisses the public's concerns without substantive discussion or deals with these serious issues by proposing new mitigation or project elements that will do little, if anything, to address them.

The inadequacies of the RDEIR's description of the impacts, mitigation measures, and alternatives of the Zoo Expansion undermine the very purpose of CEQA. The EIR is "the heart of CEQA." *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.*, 47 Cal. 3d 376, 392 (1988) (citations omitted) ("*Laurel I*").

[It] is an environmental "alarm bell" whose purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. The EIR is also intended "to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." Because the EIR must be certified or rejected by public officials, it is a document of accountability.

Id. (citations omitted).

Where, as here, the environmental document fails to fully inform decision-makers, and the public, of the environmental consequences of the proposed actions, it does not satisfy the basic goals of CEQA. *See* CEQA § 21061. "The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." *Id.* The RDEIR here fails to fulfill this purpose and cannot support approval of the proposed Project.

In sum, it is our opinion that the RDEIR does not comply with the requirements of CEQA. The RDEIR violates CEQA by, among other deficiencies, (1) failing to adequately describe the Project, (2) failing to adequately analyze the significant environmental impacts of the Project, and (3) failing to propose and analyze feasible mitigation measures and alternatives to reduce the Project's significant environmental impacts. As a result of the RDEIR's inadequacies, the City must further revise and recirculate the RDEIR to provide the public a complete, comprehensible description of the Master Plans Project and its alternatives, an accurate assessment of the environmental issues at stake, and a mitigation strategy—developed before Project approval—that fully addresses the Project's significant impacts. Unless the RDEIR is extensively revised and

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recirculated, any approvals made on the basis of its environmental analysis will be unlawful.

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I. The RDEIR Fails To Comply With CEQA.

After carefully reviewing the RDEIR for the Master Plans Project, we have concluded that it fails in numerous respects to comply with the requirements of CEQA. As described below, the RDEIR violates CEQA because it fails: (1) to adequately describe the Project; (2) to identify all of the responsible agencies; and (3) to adequately analyze the significant environmental impacts of the Master Plans Project or propose adequate mitigation measures to address those impacts.

A. The RDEIR's Flawed Project Description Does Not Permit Meaningful Public Review of the Master Plans Project.

In order for an environmental document to adequately evaluate the environmental ramifications of a project, it must first provide a comprehensive description of the project itself. "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal.App.4th 713, 730 (1994), quoting *County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185, 193 (1977). As a result, courts have found that, even if an EIR is adequate in all other respects, the use of a "truncated project concept" violates CEQA and mandates the conclusion that the lead agency did not proceed in a manner required by law. *San Joaquin Raptor*, 27 Cal.App.4th at 730. Furthermore, "[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." *Id.* (citation omitted). Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable. While extensive detail is not necessary, the law mandates that EIRs should describe proposed projects with sufficient detail and accuracy to permit informed decision-making. See CEQA Guidelines, §15124 (requirements of an EIR). As explained below, the RDEIR fails to meet this basic threshold.

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The RDEIR fails to adequately describe or explain the attendance figures for the Fresno Chaffee Zoo or Rotary Playland and Storyland included on Page 2-41 of the RDEIR. In the Project Description, the RDEIR includes the following statements regarding annual attendance numbers at the Zoo and Rotary Playland and Storyland:

In 2006, the Zoo had 311,247 visitors. Attendance in 2007 was 398,820. Attendance in 2008 was 429,272. It is

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anticipated that the Zoo's attendance will increase to 550,000 in 2014.

Total attendance at Rotary Playland and Storyland during 2008 was approximately 112,800. Increased attendance in the range of 5 to 10 percent per year is anticipated as new attractions open.

RDEIR at 2-41. The RDEIR fails to identify any source for these figures, and it is unclear why attendance numbers for 2009 and 2010 are not included. Given the significant increase in attendance at the Zoo between 2006 and 2008, the attendance figures from the last two years may be significantly different from 2008. More troubling, however, is the fact that this statement does not specify whether the anticipated increase to 550,000 Zoo visitors in 2014 is due to the proposed Zoo Expansion, or whether this increase in attendance is expected even without implementation of the Master Plans Project. The RDEIR, again, does not identify the source for this number, and does not explain what methodology was used to arrive at this figure. Furthermore, this modest increase is an unrealistic estimate of the Master Plans Project's effect, as the Zoo Expansion proposes to double the size of the Chaffee Zoo and add "world class" exhibits. These expansions will surely prove to be a significant draw, both locally and regionally. RDEIR at 3-6 – 3-7.

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The RDEIR similarly fails to adequately describe, explain or identify any source or methodology employed to arrive at the 600,000 estimated attendance figure for the total number of annual visitors to Roeding Regional Park as a whole. Adding together the previously cited Fresno Chaffee Zoo and Rotary Playland and Storyland attendance figures for 2008, the RDEIR is estimating 542,112 persons visit these operations alone. It is ludicrous to suggest that only 57,988 persons visit Roeding Regional Park annually for spontaneous and reserved picnics, walking, jogging, fishing, nature walks, bird-watching, organized and spontaneous sporting events, visits to the dog park, children's events, private group events and children's playground areas without visiting the Zoo or Rotary Playland and Storyland. The RDEIR's claim is not supported by any data whatsoever. The RDEIR's Traffic Impact Study even admits: "The zoo data is used because insufficient data is available for park attendance." RDEIR, Appendix D, *Traffic Impact Study - Proposed Roeding Regional Park and Fresno Chaffee Zoo Master Plans*, Peters Engineering Group, July 8, 2010, page 8. Furthermore, the City's own grant applications to the federal government throughout the years have stated far greater attendance estimates: "...in excess of 1.3 million people visit Roeding Park annually" (Attachment A; City of Fresno (1991) *LWCF Program (Part IV) Narrative*, at 11); and "[i]t is estimated that in excess of one million people visit Roeding Park annually."

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Attachment B, City of Fresno (2000) *LAND AND WATER CONSERVATION FUND PROGRAM NARRATIVE*, at 37.

The magnitude of the Master Plans Project's traffic, air quality, greenhouse gas and noise impacts depends largely on how many new Zoo visitors the Zoo Expansion will attract added to accurately analyzed current attendance data. The RDEIR's brief statements regarding attendance completely fail to adequately describe current and anticipated attendance for all of these areas, with and without the project. Without an adequate analysis of current and projected attendance figures, it will be impossible for a decision-maker or the public to conduct a meaningful review of the Zoo Expansion; the RDEIR as it now stands thus fails at its primary task. The Master Plans Project Description must be revised to identify the sources for all of these figures, describe the data and methodology used to come up with these figures, and should include a realistic projection of the overall increase in Roeding Park attendance due to the Master Plans Project.

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B. The RDEIR Fails to Identify All of the Responsible Agencies

Section 21069 of CEQA defines a "responsible agency" for a particular project as "a public agency, other than the lead agency, which has responsibility for carrying out or approving a project." 14 C.C.R. § 21069. CEQA requires that, if a lead agency determines that an environmental impact report needs to be prepared for a proposed project, it must immediately send notice of that determination to each responsible agency. 14 C.C.R. § 21080.4(a). Upon receiving such a notice, each responsible agency shall:

specify to the lead agency the scope and content of the environmental information that is germane to the statutory responsibilities of that responsible agency ... in connection with the proposed project and which, pursuant to the requirements of [CEQA], shall be included in the environmental impact report.

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Id. Furthermore, Section 21104 requires a lead agency, "[p]rior to completing an environmental impact report," to "consult with, and obtain comments from, each responsible agency, trustee agency, any public agency that has jurisdiction by law with respect to the project." § 21104. The lead agency must also "request similar guidance from appropriate federal agencies." § 21080.4(a). The CEQA Guidelines identify "responsible agencies" as "all public agencies other than the Lead Agency which have discretionary approval power over the project." CEQA Guidelines § 15381.

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In maintaining and developing Roeding Regional Park, the City of Fresno has received federal funding through the Land and Water Conservation Fund (“LWCF”) program. The LWCF program is a federal program that provides matching grants to States and local governments for the acquisition and development of public outdoor recreation areas and facilities. The City received federal grants through the LWCF program for six projects located within Roeding Park, including tennis court development in 1979 and 1986, the Fresno Zoo Australian Exhibit in 1987, picnic areas in 1991, sport fields in 2000, and Chaffee Zoo Development in 2004. When local governments receive federal funding through the LWCF program, they agree to comply with 36 CFR800, Executive Order 11593, § 106 of the National Historic Preservation Act of 1966 and Section 6(f)(3) of the Land and Water Conservation Fund Act (“Conservation Fund Act”), which states: “No property acquired or developed with assistance under this section shall, without the approval of the National Secretary of the Interior, be converted to other than public outdoor recreation uses.” 16 U.S.C. § 4601–8(f). The Secretary of the Interior may approve conversions only if the City complies with the terms of the conversion provisions of the Conservation Fund Act and provides replacement parkland that satisfies the requirement that the public recreation estate remain undiminished.

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Despite the fact that the Master Plans Project will result in the conversion of outdoor open space to indoor use as it includes the construction of an indoor café with seating for 250-300, event center, numerous new indoor exhibit buildings, retail gift shops and offices totaling many thousands of square feet in areas that are currently devoted to outdoor recreation, the original DEIR failed to recognize that the Master Plans Project was subject to the provisions of the Conservation Fund Act due to the City’s acceptance of federal funding for Park improvements through the LWCF program. The RDEIR attempts to correct this error by recognizing briefly that the City is required to comply with Section 6(f)(3) of the Conservation Fund Act, and that the “City may need to complete an administrative approval process with NPS through the California Department of Parks and Recreation.” RDEIR at 2-42.

Despite the addition of this discussion of Conservation Fund Act and the LWCF program, the RDEIR still does not include the California Department of Parks and Recreation (“State Parks”) among the Responsible Agencies. RDEIR at 2-44. This continued omission is striking, particularly because the National Park Service (“NPS”) has confirmed that “the proposed expansion of the Fresno Zoo appears to be the kind of action that requires State and NPS involvement.” See Attachment C, Letter from Christine S. Lehnertz, Regional Director, National Parks Service, to Representative Pete Stark, House of Representatives (Dec. 30, 2010). As outlined by NPS, “any public facility expansion or conversion of parkland to other than public outdoor recreation use

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would have to be reviewed and approved either as a compatible public facility or under the conversion provisions of the LWCF program.” *Id.* State Parks has “compliance oversight responsibility for all grants made to state and local agencies” under the LWCF program in California, and thus is responsible for determining whether a proposed public facility expansion or conversion of parkland should be approved, and for forwarding a recommendation to NPS for review and approval. *Id.* Therefore, State Parks is a public agency with “discretionary approval power over the project,” and should be listed as a Responsible Agency in the RDEIR.

This failure to recognize State Parks as a Responsible Agency renders the RDEIR legally inadequate. Because of its initial failure to recognize the application of the Conservation Fund Act to the Project, the City has already failed in its legal duty to immediately send notice of its decision to prepare an EIR to State Parks, pursuant to §21080.4(a). State Parks has thus had no opportunity to “specify to the lead agency the scope and content of the environmental information that is germane to [its] statutory responsibilities ... in connection with the proposed project and which, pursuant to the requirements of [CEQA], shall be included in the environmental impact report.” 14 C.C.R. § 21080.4(a). There may be significant environmental impacts germane to State Parks’ statutory authority that were not analyzed in the RDEIR, due to the City’s failure to seek consultation with this Responsible Agency.

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One issue clearly germane to State Park’s statutory authority is the Master Plans Project’s consistency with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. sections 470 et seq.) and its implementing regulations (36 C.F.R. sections 800.1 et seq and; Executive Order 11593.). As a grant recipient under the LWCF program, the City agreed to comply with these laws in any further development of the Park. Attachment D, Letter from Sedrick Mitchell, Office of Grants and Local Services to Richard Putnam (September 15, 2004).

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We see no documentation in the RDEIR of the Master Plans Project’s consistency with these laws, nor any indication that the Office of Grants and Local Services at State Parks or the Secretary of the Interior have signed off on any of the Project’s proposals. Due to the City’s failure to consult with State Parks, it has failed to conduct this analysis, which renders the RDEIR legally inadequate. Furthermore, the City’s failure to recognize State Parks as a Responsible Agency may also lead to the City’s failure to comply with Section 21104 of CEQA, which requires a lead agency, “[p]rior to completing an environmental impact report,” to “consult with, and obtain comments from, each responsible agency, trustee agency, any public agency that has jurisdiction by law with respect to the project.” 14 C.C.R. § 21104. Without such consultation, the CEQA process for this project will remain fatally flawed.

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The City has also failed to “request similar guidance from appropriate federal agencies”; i.e., NPS. *Id.* There is no indication from the RDEIR that the City has sought guidance from NPS or that its analysis of the potential impacts of the project has been guided by NPS; in fact, the RDEIR states that the City intends to proceed with the CEQA process completely separately from any federal approval process necessary under the Conservation Fund Act and NEPA. RDEIR at 2-42. This decision is contrary to the CEQA Guidelines, which state that agencies should reduce delay and paperwork by “[e]liminating duplication with federal procedures by providing for joint preparation of environmental documents with federal agencies and by adopting completed federal NEPA documents.” CEQA Guidelines § 15006(j). The City should consider preparing a joint EIR/EIS to ensure that all appropriate impacts are analyzed and all appropriate federal and public agencies are consulted.

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C. The Land Use Discussion in the RDEIR Fails to Disclose the Master Plans Project’s Substantial Inconsistencies with Applicable Land Use Plans.

The proposed Zoo Expansion would replace nearly 50 acres of open space with urbanized, partly indoor recreation development, even as the City’s General Plan promotes a vision for Regional Parks that emphasizes non-commercial, nature-oriented recreation. The RDEIR must analyze a project’s consistency with any and every “applicable land use plan, policy, or regulation of an agency with jurisdiction over the project.” CEQA Guidelines Appx. G § X(b). Any inconsistency between the project and such plans must be disclosed as a significant impact on the environment, and mitigation to reduce or avoid that impact must be identified. *See, e.g., Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 930, 934. The RDEIR discusses relevant General Plan policies in Chapter 7, but its simplistic analysis fails to identify clear inconsistencies between the Master Plans Project and the General Plan (or between the Project and any other applicable plan or policy). In addition, the RDEIR fails entirely to analyze whether the large and numerous indoor facilities proposed in the Zoo Expansion within the Master Plans Project is consistent with the California Outdoor Recreation Plan, a land use plan made applicable to the project by the Conservation Fund Act.

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1. The Zoo Expansion within the Master Plans Project is Inconsistent with the Open Space/Recreation Element of the General Plan

The project conflicts with the Open Space/Recreation Element (“OS/RE”) of the City’s General Plan. Specifically, the Zoo Expansion is not consistent with the defined purposes of Regional Parks outlined in OS/RE policy F-1-e. As the RDEIR

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recognizes, Roeding Park is a designated Regional Park that currently provides nearly 120 acres of open space for active and passive recreation, and includes picnic grounds shaded by mature trees, multiple picnic shelters, and ponds stocked for fishing. OS/RE policy F-1-e includes the following definition of Regional Parks:

These parks are generally 100 or more acres in extent. They are developed to serve residents living within each quadrant of the city. This type of park serves a population of approximately 100,000 residents with active and passive recreational opportunities. In addition to facilities for various outdoor sports, regional park improvements may include picnic shelters, hiking trails, lakes, streams, public gardens, and other amenities not normally located in an urban setting. These parks are the only city recreation sites large enough to set aside wildlife habitat and offer non-programmed, nature-oriented recreational opportunities.

The Master Plans Project would reduce Roeding Park's 123 acres of open space to only 76 acres of public recreation/open space, swallowing up nearly 50 acres of accessible, non-commercial open space and replacing it with commercial recreation space. In addition, the Master Plans Project has the potential to destroy over 800 mature trees that provide shade for picnicking and other passive recreation, and will include the destruction of a chain of lakes currently used by the surrounding community for "non-programmed, nature-oriented recreation opportunities," including fishing and hiking. The Master Plans Project will irrevocably change the character of the Park, shifting its focus from "picnic shelters, hiking trails, lakes, streams, public gardens, and other amenities not normally located in an urban setting" to commercial recreation.

Public access to the amenities in Roeding Park that are essential to achieving the General Plan's vision, including picnic areas, ponds, and other outdoor recreation amenities, will be reduced by the Master Plans Project. Currently, the picnic grounds, extensive lawns and groves of large, mature trees in the Park are open to the public with no admission fee required. After the Master Plans Project is implemented, nearly 50 acres of open space, which was previously extensively used for picnicking, walking, jogging, bicycling, fishing, and other outdoor passive recreational uses, will be converted to commercial, programmed recreation space. This will reduce access to the Park for members of the public who cannot afford the entrance fee at the Zoo, or can only afford to attend the Zoo infrequently. None of the mitigation measures proposed by the RDEIR include replacing any of the nearly 50 acres of open space being lost, and instead

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only propose relocating picnic grounds and other “non-programmed, nature-oriented” amenities to other areas of the Park.

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Despite the fact that the Master Plans Project is not consistent with the definition of Regional Parks in the General Plan, the RDEIR alleges that the project would “enhance the qualities indicative of such parks, including opportunities for passive and active recreation.” *See* RDEIR at 7-16. This conclusion is outrageous: the Master Plans Project will reduce the number of acres of open space to 76 acres, which is well below the 100 plus acres described in the General Plan definition of Regional Parks. In addition, significant features of the current Park that contribute to its use by the community for “non-programmed, nature-oriented recreation opportunities,” including extensive groves of mature trees and a chain of ponds stocked with fish and lilies, will be destroyed by the project. Given these facts, the RDEIR’s conclusion that the Master Plans Project will “enhance the qualities indicative” of Regional Parks is incorrect and unsupported, and the project is inconsistent with the General Plan. This inconsistency is a significant environmental impact, which the RDEIR has failed to recognize.

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Furthermore, the proposed project does not meet the policy goals of OS/RE Policy F-3-f. The policy specifies that “[s]hade, water, comfort facilities and art should be prominent design elements of current and future recreation facilities.” As the RDEIR recognizes, Roeding Park currently contains many groves of mature trees that provide shade for picnickers and hikers. The Master Plans Project has the potential to destroy up to 811 trees, including 710 trees that are not dead or severely diseased and are greater than 6 inches in diameter. RDEIR at 5-25. This elimination of shade resources is inconsistent with the General Plan and therefore is a significant environmental impact. While Mitigation Measure 5.2(a) proposes to either preserve these trees in their present locations, relocate them to other areas of the Park, or replace them with trees of the same species, there is still a great potential for loss of shade from these mature, healthy trees. Mitigation Measure 5.2(b) only requires that the Master Plans Project shall not result in the removal of more than 30% of healthy trees with a diameter of 6 inches or more. This would allow a net loss of shade resources in the Park and therefore fails to actually mitigate the impact.

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Finally, the Master Plans Project is in conflict with the policy objectives set out in the Resource Conservation Element of the General Plan, including Policies G-11 and G-11-f concerning historic resources. Objective G-11 of the General Plan states that the City must “[s]afeguard Fresno’s heritage by preserving resources which reflect important cultural, social, economic and architectural features.” Policy G-11-f further specifies that the City must provide “protection for, and routine maintenance of, character-defining streetscape and landscape elements of historic districts.” The RDEIR

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recognizes that Roeding Park qualifies as a historic district with twenty-three contributing features, and is eligible for listing in the National Register of Historic Resources. RDEIR at 4-10. Yet, the Master Plans Project proposes to demolish or significantly alter nine of these contributing features, including four ponds and several historic groves of trees. RDEIR at 4-10-4-11. Such dramatic changes to the heart of the historic district are not consistent with the General Plan's policy to "[s]afeguard Fresno's heritage by preserving resources which reflect important cultural, social, economic and architectural features."

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These inconsistencies, in addition to requiring further CEQA analysis, render approval of the project in its current form illegal. The State Planning and Zoning Law requires that development decisions be consistent with the jurisdiction's general plan. Accordingly, "[t]he consistency doctrine [is] the linchpin of California's land use and development laws; it is the principle which infuses the concept of planned growth with the force of law." *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1336. It is an abuse of discretion to approve a project that "frustrate[s] the General Plan's goals and policies." *Napa Citizens for Honest Gov't v. Napa County* (2001) 91 Cal.App.4th 342, 379. The project need not present an "outright conflict" with a general plan provision to be considered inconsistent; the determining question is instead whether the project "is compatible with and will not frustrate the General Plan's goals and policies." *Napa Citizens*, 91 Cal.App.4th at 379. As the project is in conflict with the General Plan's goals and policies, it would be an abuse of discretion to approve the Master Plans Project in its current form.

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2. The RDEIR Fails to Analyze the Master Plans Project's Consistency with the Conservation Fund Act and the California Outdoor Recreation Plan

Even as the RDEIR recognizes that the project is subject to the requirements of the Conservation Fund Act, it fails to analyze any potential inconsistencies between the project and that Act. It similarly ignores the California Outdoor Recreation Plan, a land use plan mandated by the Act. Therefore, the RDEIR must be revised, and the Master Plans Project's consistency with the Conservation Fund Act and the California Outdoor Recreation Plan must be analyzed and disclosed in order to allow the decision-makers and the public to meaningfully evaluate the impacts of the Project.

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As discussed above, the Master Plans Project is subject to the requirements of the Conservation Fund Act and will require the approval of NPS:

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To comply with Section 6(f)(3) of Public Law 88-578 for the proposed project, the City may need to complete an administrative approval process with NPS through the California Department of Parks and Recreation . . . This federal process includes various steps such as a request from the project sponsor (i.e., City of Fresno) for permission to make modifications to properties funded through LWCF, in whole or in part consistent with public outdoor uses prescribed in the California Outdoor Recreation Plan.

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RDEIR at 2-42.

The Act and the California Outdoor Recreation Plan are each an “applicable land use plan, policy, or regulation of an agency with jurisdiction over the project.” CEQA Guidelines Appx. G § X(b). The RDEIR, however, completely fails to provide the public and decision-makers with any analysis of whether the project is consistent with the Act’s goals and requirements or with the recreation plan. The document must be revised to include such discussions. Federal approval will be a substantial hurdle for this project; and a thorough CEQA analysis would prepare the City and the public for the issues that will be raised in that process, and will likely demonstrate that the Master Plans Project must be reconsidered and redesigned.

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Once a jurisdiction, such as the City, accepts funding under the Conservation Act for a park, Section 6(f)(3) of the Act bars the conversion of any part of that park to “other than public outdoor recreation uses” without federal approval and the provision of replacement land of equivalent recreational utility. 16 U.S.C. § 4601-8(f). The Master Plans Project would convert portions of Roeding Park to such indoor, non-recreation uses as a café with seating for 250-300, an event center, retail gift shops and offices totaling many thousands of square feet. RDEIR at 2-26 through 29, Table 2-6. The Project, however, provides no replacement land and is therefore plainly inconsistent with the Conservation Fund Act. We strongly urge the City to reconsider its proposal in light of the Act’s requirements. An appropriate first step would be to consult Chapter 8 of the Federal Financial Assistance Manual that the National Park Service publishes to provide guidance to grant recipients in the City’s position. *See* Attachment E, Land and Water Conservation Fund State Assistance Program Manual, (2008).

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The RDEIR similarly fails to make any mention of the California Outdoor Recreation Plan in Chapter 7, Land Use and Public Land Use Policy, which purports to identify and evaluate “the potential environmental effects of the [Master Plans Project]

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related to land use and public land use policy.” RDEIR at 7-1. Furthermore, the California Outdoor Recreation Plan and its consistency with the Master Plans Project are not discussed in any other section of the RDEIR. The complete failure to evaluate and disclose the Master Plans Project’s consistency with this state-wide plan is a failure to comply with CEQA, and renders the RDEIR inadequate.

The California Outdoor Recreation Plan discusses many issues and policies that are not adequately analyzed in the RDEIR; for example, one of the primary policy goals of the Plan is to preserve and promote access to public parks for all members of the public. The plan recognizes that certain park facilities may be inaccessible to portions of the population, as “programs and services have barriers such as distance, location, fees, environmental restrictions, security, access for persons with disabilities, traffic and the lack of public transportation.” Attachment F, California Outdoor Recreation Plan (2008), at 64. The RDEIR fails to address this issue entirely, and does not analyze the impact that the increased level of commercial recreation will have on different populations in the City of Fresno. The RDEIR must be revised to provide a complete analysis of its consistency with the California Outdoor Recreation Plan, as required by CEQA.

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D. The RDEIR Fails to Adequately Analyze and Mitigate Impacts to Recreational Resources in the City of Fresno

In discussing the project’s potential impacts to recreational resources in the City of Fresno, the RDEIR notes that “the amount of regional parkland available is deficient citywide”, and that “the total unmet regional parkland need in 2009 was approximately 414 acres.” RDEIR at 3-9. Despite recognizing this need for more regional parkland, the RDEIR goes on to state that the Master Plans Project would not result in a net reduction of regional parkland. RDEIR at 3-10. This assertion is absurd on its face—the Master Plans Project would develop 50 acres of open space. The RDEIR, however, claims that the “land uses contained within Roeding Regional Park, will continue to be recreational in nature since such active commercial recreation is consistent with the City’s vision for providing open space and recreational opportunity to the community.” *Id.*

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As outlined above, this conclusion is inconsistent with the definition of Regional Parks in the General Plan, which details a vision consisting of large parks that “offer non-programmed, nature-oriented recreational opportunities” and “amenities not normally located in an urban setting,” such as “picnic shelters, hiking trails, lakes, streams, [and] public gardens.” The definition of a Regional Park in the General Plan does not reference commercial recreation, and a large zoo is exactly the kind of recreational use that *is* “normally located in an urban setting.” Also significant is the fact

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that all of the uses contemplated by the General Plan are non-commercial recreational uses available to all citizens of the City of Fresno, regardless of their socio-economic status. As the Master Plans Project will be converting nearly 50 acres of open space within Roeding Park to commercial recreation use, the RDEIR must recognize that it results in a net loss of regional parkland, as defined in the General Plan for the City of Fresno, and deepens the regional park deficit. This must be recognized as a significant impact on recreational resources.

The RDEIR's conclusion that the Master Plans Project does not involve a net loss of parkland because the open space converted to commercial zoo use will continue to be used for recreational purposes is simplistic and ignores the General Plan's policies that promote "non-programmed, nature-oriented" recreational uses for regional parkland. It also ignores the common sense distinction between open space that is accessible to all citizens and commercial recreation space that is inaccessible to a significant portion of the population. Contrary to the RDEIR's conclusions, the Master Plans Project will result in a significant loss of regional parkland, at a time when there is already a significant deficit within the City. Given the fact that nearly 50 acres of parkland will be lost, the RDEIR should recalculate how many acres of open space will be lost per person in the City of Fresno, and should analyze how that loss impacts the existing unmet need for 414 acres of regional parkland. Furthermore, the RDEIR must consider mitigation measures, such as the replacement of this open space with new parkland.

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E. The RDEIR Fails to Adequately Mitigate Impacts to Cultural and Historical Resources in the City of Fresno

As stated above, the Master Plans Project involves the destruction or significant alteration of nine contributing features to the proposed Roeding Park Historic District, many of which are central to its character and significance as a historic resource. Slated for destruction are four ponds that currently contribute to the aesthetic, recreational, and historical characteristics of the southeastern portion of the Park. The RDEIR recognizes that these ponds and this portion of the Park have "a unique character within the historic district, where mature tree canopy and water features create a comfortable setting for picnicking." RDEIR at 4-24. The RDEIR concludes that the destruction of this "unique and prominent historic landscape" will result in a significant adverse impact, as "it would materially alter in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its eligibility for inclusion in the federal, state, and local registers." *Id.* The destruction of the ponds, and the alteration of other contributing features of the proposed

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historic district “will affect the district’s eligibility for listing in the California Register of Historical Resources.” *Id.*

To mitigate this significant impact, the RDEIR proposes to build a new pond feature using “historic preservation design guidelines ... that address new design in the context of the contributing architectural and landscape features of the potential historic district.” *Id.*, Mitigation Measure 4.1(a). However, the mitigation discussion in the RDEIR fails to demonstrate how the introduction of new pond features which are not historically significant, even if they are designed using historic preservation guidelines, will mitigate the potential impact to the proposed historic district’s eligibility for listing. The mitigation discussion similarly fails to discuss how this mitigation measure will mitigate the recreational impacts that the destruction of the ponds will have on the Park; it does not state whether the new pond features will provide the “comfortable setting for picnicking” that is currently present. An EIR must provide substantial evidence to demonstrate the efficacy of proposed mitigation. *Gray v. County of Madera* (2008)167 Cal.App.4th 1099, 1115-18; *see also San Franciscans for Reasonable Growth v. City & County of San Francisco* (1984)151 Cal.App.3d 61, 79 (measures must not be so vague that it is impossible to gauge their effectiveness). The RDEIR lacks such evidence and therefore fails to demonstrate how this potentially significant impact will be mitigated to a less than significant level. In the absence of this evidence, the impact must be considered significant and unavoidable.

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cont.

The Master Plans Project also involves the loss of two historic groves of mature trees that are currently located at the project site, both of which were established in the early days of the Park and add to the Roeding Park’s “significant contribution to the development of municipal parks in California in the early twentieth century.” RDEIR at 4-10. The RDEIR recognizes that “[t]he trees at the proposed Roeding Park Historic District help shape the experience of the landscape, which is informed by its visual quality, and intangible qualities such as the landscape’s feeling and association.” *Id.* at 4-13. While the Master Plans Project may attempt to transplant some of these trees to other areas of the Park, the RDEIR assumes that, in the worst case scenario, both groves may be destroyed. *Id.* at 4-23. This will “result in the removal of contributing historic landscape features within the historic district and will diminish the network of seven historic picnic groves within the park.” *Id.*

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The RDEIR discussion of these groves is internally inconsistent, as it recognizes in the Cumulative Impacts chapter that the destruction of these groves, together with other impacts to historic resources, is a significant and unavoidable impact (*see also* RDEIR at 22-8), and yet, in the Cultural Resources chapter, the RDEIR seems to conclude that the loss of these groves is not significant:

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Although the Master Plans Project includes the demolition of two historic picnic groves, the other five historic groves will be preserved, including three groves constructed in 1907 and two constructed in the late 1940s. ... The preservation of the five historic picnic groves under the Master Plans Project will maintain the overall network of historic picnic groves. The demolition of the Umbrella and Palm Point Groves would not adversely affect the overall ability of the historic district to convey its significance nor would it affect the district's eligibility for listing in the California Register of Historical Resources.

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cont.

RDEIR at 4-23. This brief and perfunctory discussion fails to recognize the groves' significance to the visual quality and feeling of this historic landscape, and particularly the shade provided by these mature trees for picnickers. The RDEIR must recognize that, along with contributing to the cumulative impact of other alterations to the historic resources of Roeding Park, the loss of these groves is a significant environmental impact by itself.

The RDEIR's failure to provide any mitigation measures to address impacts from the loss of these groves is astounding, given its earlier recognition of the fact that these groves are properly classified as contributing historic features. When an EIR concludes that a project will have a significant impact, as it does here, CEQA requires the lead agency to adopt all feasible mitigation. CEQA Guidelines § 15126.4(a)(1)(A) (discussion of mitigation "shall identify mitigation measures for each significant environmental effect identified in the EIR"); *see also Woodward Park Homeowners Ass'n, Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 724 ("The EIR also must describe feasible measures that could minimize significant impacts.") The RDEIR must be revised to adequately discuss this significant impact and provide for meaningful mitigation measures that reduce the historic impact of removing these trees.

F. The RDEIR Fails to Adequately Mitigate Impacts to Aesthetic Resources in the City of Fresno

While the RDEIR recognizes that the Master Plans Project has the potential to significantly degrade the aesthetic resources of Roeding Park, the mitigation measures it proposes fail to adequately address these impacts. In particular, the Master Plans Project has the potential to destroy 811 trees greater than 6 inches in diameter; the RDEIR recognizes that these trees are a "scenic resource, and contribute to the existing visual character and quality of the site." RDEIR at 5-26. Additionally, as discussed

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above, many of these trees are located in groves that have historic value to the Park. The mitigation measures proposed by the RDEIR include preserving, relocating, or replacing these trees, but still allow the removal of up to 30% of the mature tree canopy in the project area, or 270 trees. *Id.* at 5-27. This potential loss of mature tree canopy remains significant, even after the proposed mitigation measures, and the RDEIR's conclusion that this impact is mitigated to a less than significant level is incorrect.

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cont.

Under CEQA, it is the state's policy to "[t]ake all action necessary to provide the people of this state with . . . enjoyment of aesthetic, natural, scenic, and historic environmental qualities." Pub. Res. Code § 21001(b). Thus, courts have recognized that aesthetic issues "are properly studied in an EIR to assess the impacts of a project." *The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 791, 937 (overturning a mitigated negative declaration and requiring an EIR where proposed project potentially affected street-level aesthetics).

The accepted approach to analyzing visual and aesthetic impacts is as follows:

- Describe the criteria for significance thresholds.
- Characterize the existing conditions of the project site and the surrounding area by photograph and description, and select key viewpoints within the area, including scenic corridors and landscapes.
- Use photomontages or visual simulations, to illustrate the change in character of the project site before and after project implementation.
- Identify feasible mitigation measures and alternatives to reduce or eliminate significant impacts.
- Where mitigation measures are proposed, use the simulations to illustrate the change in character before and after project mitigation measures are imposed (e.g., landscaping at various stages of construction, aesthetic additions to retaining and sound walls).

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Although the RDEIR correctly notes that there will be significant impacts to visual and aesthetic resources, the document does not provide the comprehensive analysis necessary to accurately characterize the severity and extent of this impact. The analysis is crippled in part because of the document's failure to fully provide for visual simulations of the impact of the Master Plans Project. Though the RDEIR includes many pictures of the current visual setting, there is no visual representation of what the loss of

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up to 811 mature trees will mean for the aesthetic resources of the Park. Further, the RDEIR fails to contain any visual simulations of the Zoo Expansion's perimeter fence, which will be expanded to surround the 21 acres being added to the zoo. Zoo perimeter fences can present significant aesthetic and visual impacts, potentially cutting off views that some residents, pedestrians and motorists previously enjoyed and cutting off the connectivity of previously intact views. The complete lack of simulations or descriptions of these fences renders the RDEIR incomplete and legally inadequate. Its conclusions lack the support of substantial evidence, and the City may not rely upon them in approving the project.

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cont.

Furthermore, the RDEIR's analysis and mitigation of aesthetic impacts is internally inconsistent, and the application of key mitigation measures is uncertain. Mitigation Measure 5.1(f), intended to mitigate the aesthetic impacts of the Zoo's perimeter fence, states as follows::

The design and construction of the zoo expansion perimeter fence shall comply with the following requirements:

(1) The fence shall comply with United State Department of Agriculture and American Zoo Association (AZA) requirements for Zoo perimeter fences. In keeping with these requirements, the location and design of the fence shall not jeopardize the safety of animals within the Fresno Chaffee Zoo. Compliance with this mitigation requirement shall take precedence over following mitigation requirements in cases where the requirements may conflict.

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RDEIR at S-13. The rest of the measure sets out further requirements that might ensure that the fence does not damage the visual environment; the RDEIR relies on these measures to reduce the fence's impact a less than significant level. But there is no guarantee that the aesthetic requirements will be followed. If modifications required by other measures are inconsistent with Measure 5.1(f)(1), those modifications will not be implemented, and there will be no mitigation of the fence's visual impact. In light of this uncertainty, the RDEIR may not rely on any measures meant to mitigate the fence's aesthetic impacts. These impacts must be recognized as significant and unavoidable.

The RDEIR should be revised to include a visual representation of the full impact of the Master Plans Project on aesthetic resources. In addition, the mitigation discussion should qualitatively describe how the mitigation measure proposed will reduce the impact to a less than significant level, given the fact that up to 270 mature trees will

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be destroyed and the landscape will be irrevocably altered. Even if these trees are replaced by new trees, and even if the replacement is staggered by a couple of years, it will be decades before the same level of mature tree canopy is present in the Park. Therefore, the RDEIR should either provide additional mitigation or it must recognize that the impacts to aesthetic resources remain significant, even after mitigation.

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cont.

G. The RDEIR Fails to Adequately Analyze and Mitigate Impacts to Biological Resources in the City of Fresno

The RDEIR's treatment of potential impacts to the site's biological resources is inadequate because (1) it fails to adequately analyze impacts to biotic environments, biological resources, and special status species and (2) it fails to adequately analyze cumulative impacts of the Zoo Expansion with other development. When discussing cumulative impacts, the RDEIR relies on analysis performed by the City in the preparation of the General Plan, without recognizing that the Zoo Expansion was not considered in the EIR prepared for the General Plan, and therefore the analysis in the General Plan EIR is not sufficient to support a finding that there are no cumulatively significant impacts to biological resources.

1. The RDEIR's Analysis of Impacts to Amphibians Is Inadequate

Despite recognizing that the artificial ponds destroyed by the project likely provide breeding habitat for various amphibian species, the RDEIR fails to recognize any impacts to these species, briefly concluding that certain species "would disperse into other habitats of the site during summer and fall." RDEIR at 6-5. There is no scientific support for this statement in the RDEIR, and there is also no indication that any survey was conducted to determine what amphibian species use the ponds as habitat and whether there are any special status amphibian species in the Park. At least one amphibian species of special concern, the Western Spadefoot, is known to inhabit areas in and around Fresno, and yet this species is not mentioned or discussed in the RDEIR. Attachment G, Mark R. Jennings and Marc P. Hayes, 1994 Department of Fish and Game publication "Amphibian and Reptile Species of Special Concern in California," at 97; *see also* Attachment H, Complete List of Species of Special Concern. The RDEIR should be revised to include an accurate analysis of which amphibian species use the Park as habitat, how those species would be impacted by the Master Plans Project, and what mitigation measures should be implemented to mitigate any potentially significant impacts to amphibians, and in particular, any species of special concern.

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2. The RDEIR Fails to Adequately Analyze and Mitigate Potential Impacts to the Pallid Bat and the Townsend's Big-Eared Bat

The RDEIR recognizes that the restoration work on the bandstand currently located in the Park has the potential to impact the pallid bat and the Townsend's big-eared bat, which "are California species of special concern and have the potential to forage and roost/breed on-site." RDEIR at 6-12. The discussion of this impact, however, is brief and fails to include any analysis of potential cumulative impacts to the bat's habitat regionally. There is similarly no discussion of the population status of these species regionally and whether the Master Plans Project would have any cumulative impacts on populations in the area. CEQA requires lead agencies to disclose and analyze a project's "cumulative impacts," defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." Guidelines § 15355. The RDEIR fails to meet these essential requirements.

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Finally, the mitigation measure proposed does not include any mitigation for the loss of habitat that may result from the restoration of the bandstand; such mitigation could include the installation of bat boxes or other artificial habitat in other areas of the Park to compensate for the loss of habitat. With the determination that there are significant impacts comes CEQA's mandate to identify and adopt feasible mitigation measures that would reduce or avoid the impact. CEQA Guidelines § 15126.3(a)(1); *see also Woodward Park v. City of Fresno* (2007) 150 Cal.App.4th 683, 724 ("The EIR also must describe feasible measures that could minimize significant impacts."); *Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm'rs*, 91 Cal. App. 4th 1344, 1354 ("[P]ublic agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.") (quoting Pub. Res. Code § 21002). The RDEIR must be revised to include a more thorough and accurate analysis of this potential impact, and must include mitigation measures that will address all of the impacts to these species.

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3. The RDEIR Fails to Include a Quantitative Analysis of the Impacts to Migrating Birds

The RDEIR recognizes that there will be some impacts to migrating birds due to loss of habitat from the destruction of the ponds, and also states that some of the bird species observed in the Park "appear to permanently or temporarily inhabit the shores of the ponds." RDEIR at 6-13. However, while it recognizes that the impact to these species from the Master Plans Project is potentially significant, the RDEIR fails to

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include any quantitative analysis of the amount of foraging and nesting habitat that will be lost to which species, and how the mitigation measure proposed will effectively mitigate that impact. The effectiveness of a project's proposed mitigation must be established based on substantial evidence. *Gray v. County of Madera* (2008)167 Cal.App.4th 1099, 1115-18 ; *see also San Franciscans for Reasonable Growth v. City & County of San Francisco* (1984)151 Cal.App.3d 61, 79 (measures must not be so vague that it is impossible to gauge their effectiveness). It is impossible for a decision-maker or a member of the public to know the extent of this impact or the effectiveness of the mitigation measures proposed, as there is a complete lack of any data on the amount of habitat lost versus the amount of habitat that the mitigation measure propose to create. Nor is there any quantitative analysis of the number of species or individual migrating birds that currently inhabit the ponds. Like the rest of the analysis of impacts to biological resources, the RDEIR's discussion of the impacts to migrating birds is brief, vague, and almost entirely lacking in meaningful analysis. It is legally inadequate and must be revised before this document can meet CEQA standards.

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cont.

4. The RDEIR Fails to Provide Adequate Analysis of the Project's Potentially Significant Cumulative Impacts to Biological Resources.

As stated above, CEQA requires lead agencies to disclose and analyze a project's "cumulative impacts," defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." Guidelines § 15355. Cumulative impacts may result from a number of separate projects, and occur when "the incremental impact of the project is added to other closely related past, present, and reasonably foreseeable probable future projects," even if each project contributes only "individually minor" environmental effects. Guidelines §§ 15355(a)-(b). A lead agency must prepare an EIR if a project's possible impacts, though "individually limited," prove "cumulatively considerable." Pub. Res. Code § 21083(b); Guidelines § 15064(i).

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Extensive case authority highlights the importance of a thorough cumulative impacts analysis. In *San Bernardino Valley Audubon Society v. Metropolitan Water Dist. of Southern Cal.* (1999) 71 Cal.App.4th 382, for example, the court invalidated a negative declaration and required an EIR be prepared for the adoption of a habitat conservation plan and natural community conservation plan. The court specifically held that the negative declaration's "summary discussion of cumulative impacts is inadequate," and that "it is at least potentially possible that there will be incremental impacts . . . that will have a cumulative effect." *Id.* at 386, 399. *see also Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d at 728-729 (EIR's

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treatment of cumulative impacts on water resources was inadequate where the document contained “no list of the projects considered, no information regarding their expected impacts on groundwater resources and no analysis of the cumulative impacts”).

In contravention of these authorities, the RDEIR provides a completely inadequate discussion of the Project’s cumulative impacts on biological resources. The RDEIR relies entirely on cumulative impact analysis from the EIR for the General Plan for the City of Fresno, and fails to provide any list of reasonably foreseeable projects in the area. The General Plan EIR, which was completed in 2002, did not analyze any cumulative impacts from the Zoo Expansion, and while it may have projected reasonably foreseeable development, it could not have analyzed cumulative impacts from projects that had yet to be approved. The RDEIR cannot rely on this analysis: CEQA is clear that an agency may not rely on an inaccurate or outdated summary of projections contained in a general plan or previous EIR. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 11841217; Guidelines § 15183(j) (reliance on general plan EIR does not affect requirement to analyze cumulative impacts “not adequately discussed in the prior EIR”). An EIR that attempts to do so is “legally inadequate due to [its] underinclusive and misleading cumulative impacts analysis.” *Bakersfield Citizens*, 124 Cal.App.4th at 1217. Once again, the RDEIR’s discussion of impacts to cumulative resources is short, vague, and entirely devoid of quantitative analysis. See RDEIR at 22-9-22-10. The RDEIR must be extensively revised to provide a meaningful analysis of cumulative impacts to biological resources.

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cont.

H. The RDEIR’s Analysis of Traffic Impacts is Inadequate.

1. The RDEIR Underestimates Trip Generation and Thus Further Understates the Project’s Traffic Impacts.

The RDEIR assumes certain growth estimates for the traffic generated by the Zoo; however, the document is unclear on the methodology used to arrive at these numbers, and appears to rely on 2014 estimates of zoo attendance that are unrealistic and far lower than common sense dictates, as discussed above. See RDEIR at 7. The 2014 estimate appears in only one sentence on one page of the Traffic Chapter, without any reference to the source of this estimate and without any data or evidence in support of the estimate. *Id.* There is no realistic estimate of the increase in attendance from the Zoo Expansion, and therefore the RDEIR substantially understates the severity and extent of the Master Plans Project’s transportation impacts. Had the RDEIR conducted a proper analysis and supported its estimates with data, additional significant effects would have been identified, thus triggering the need for more extensive mitigation and additional

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alternatives to reduce the Project's traffic impacts. The revised RDEIR must correct the deficiencies identified above.

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cont.

2. The RDEIR's Traffic Analysis Relies on an Inappropriate Baseline.

The RDEIR's analysis of traffic impacts bases its conclusions on the impacts of the Zoo Expansion on traffic volumes in 2014, without a quantitative or qualitative comparison to the current baseline. RDEIR at 8-18. This reliance on 2014 traffic volumes is a fatal flaw in the RDEIR's analysis. Whether the traffic impacts of a project have been adequately analyzed in an EIR depends in part on whether the document relies on an appropriate baseline. Here, the RDEIR delays the analysis of the traffic impacts to 2014, and selects mitigation measures based on this baseline. In addition, the RDEIR assumes that these mitigation measures will be effective, yet provides no quantitative support for this assumption, and the RDEIR itself is unclear about when these mitigation measures will be completed. *Id.* ("The timing of implementing these improvements is estimated to be in or before 2014..."). Furthermore, the RDEIR fails to analyze whether the City will be able to fund the improvements proposed under the Traffic Signal Mitigation Impact program. CEQA does not allow this approach.

In the recent case of *Sunnyvale West Neighborhood Ass'n. v. City of Sunnyvale* (2011) 1190 Cal.App.4th 1351, the Court of Appeal invalidated an EIR that made precisely the same error made here. In that case, the City of Sunnyvale had certified an EIR that measured the project's impacts against a baseline of traffic conditions in the year 2020; these conditions assumed a future scenario where: (1) development had occurred according to the city's general plan, and (2) "numerous roadway improvements in the project area [were] in place by the year 2020 . . ." *Id.* at 1361. In a lengthy analysis, the court held that this approach violated CEQA as a matter of law: "The statute requires the impact of any proposed project to be evaluated against a baseline of existing environmental conditions, which is the only way to identify the environmental effect specific to the project alone." *Id.* (citations omitted)

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In light of CEQA's mandates, as explained by the *Sunnyvale* court, the RDEIR was clearly required to evaluate the effect that the Zoo Expansion would have on the local and regional transportation system as it exists today. The RDEIR must be revised to include this analysis, and must include a detailed description of any mitigation measures, including a clear timeline and plan for funding such measures. *See County of San Diego v. Grossmont-Cuyamaca Cmty. College Dist.* (2006) 141 Cal.App.4th 86, 93 (overturning an EIR that relied on future, uncertain traffic mitigation contemplated in a

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General Plan); *Laurel Heights Improvement Assn. v. Regents of University of Cal.* (1988) 47 Cal.3d 376, 404–405 (requiring that an EIR contain “facts and analysis, not just an agency's bare conclusions or opinions.”).

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cont.

3. The RDEIR Fails to Mitigate for Traffic Impacts

In discussing traffic impacts from the Zoo Expansion, the RDEIR proposes mitigation measures 8.2(a) and 8.2(b), which would require the installation of signals at certain intersections and dedicated left-turn lanes. RDEIR at 8-21-22. However, the RDEIR states that, since the improvements are under the jurisdiction of CalTrans, which “does not have a program in place to collect impact fees for future interchange widening,” the timing of the implementation of this measure is uncertain and implies that it may not be completed without the cooperation of CalTrans. *Id.* Even if this is the case, the City must require the project proponent to prepare for these mitigation measures by holding the estimated cost of the measures in a fund until such time that the projects are approved by CalTrans. The duty to provide adequate mitigation is not diminished by the fact that CalTrans is ultimately responsible for its implementation. *See* CEQA Guidelines § 15126.4(a)(1)(A) (discussion of mitigation “shall identify mitigation measures for each significant environmental effect identified in the EIR”); *see also Woodward Park Homeowners Ass’n, Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 724 (“The EIR also must describe feasible measures that could minimize significant impacts.”).

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In addition, the RDEIR fails to provide adequate evidence as to the efficacy of these mitigation measures on the traffic impacts. The RDEIR should be revised to require the project proponent to fund these measures in advance, and should provide a more complete discussion of the effect of mitigation measures 8.2(a) and 8.2(b).

I. The RDEIR Fails to Adequately Analyze and Mitigate for Impacts to Air Quality

The RDEIR’s analysis of air quality impacts is grossly inadequate. In several instances, the RDEIR fails to analyze the Zoo Expansion’s effects at all. Where the document does attempt to analyze impacts, it underestimates the increase in emissions because it underestimates the Master Plans Project’s increase in predicted traffic volumes. The fact is that this Project will have a significant impact on local and regional air quality. Unfortunately, the details remain unknown because the RDEIR does not provide anything close to a complete analysis of these impacts.

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1. The RDEIR Underestimates the Master Plans Project's Air Quality Impacts Because it Underestimates the Amount of Traffic That Would Be Generated by the Zoo and Rotary Playland and Storyland Expansions

As discussed above, the RDEIR underestimates predicted traffic volumes because it fails to include a realistic estimate of increased attendance at the Fresno Chaffee Zoo and Rotary Playland and Storyland. Inasmuch as the air quality emissions are dependent on the transportation analysis assumptions, any underestimation of vehicular trips necessarily results in an underestimation of vehicular emissions. Once the City accurately models the Master Plans Project's increase in traffic volumes, it must revise the air quality impact analysis.

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cont.

2. The RDEIR Fails to Adequately Evaluate Whether the Master Plans Project Would Violate Air Quality Standards or Substantially Contribute to an Existing or Projected Air Quality Violations.

CEQA's most basic purpose is to inform governmental decision-makers and the public about the potential significant environmental effects of a proposed project. CEQA Guidelines § 15002 (a) (1); 40 C.F.R. § 1500.1(b). Here, although the San Joaquin Valley Air Basin ("SJVAB") is non-attainment under the state and federal standards for various air pollutants, the RDEIR fails to adequately analyze these impacts and propose mitigation measures that will not only minimize these impacts, but actually reduce emissions and further the state and federal air quality policy goals. The RDEIR should be revised to analyze whether the project will contribute to an *existing* air quality problem, and should not limit its analysis to whether it falls within performance standards for the region.

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3. Modeling for mobile-source CO concentrations is unclear and unsupported

The RDEIR's explanation of its modeling for CO concentrations is difficult to follow and unclear. *See* RDEIR at 10-39. The RDEIR states the following regarding its CALINE4 model for potential CO hot spots:

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The traffic volumes were for the cumulative year 2030 peak hour with the project traffic. Emission factors generated using the EMFAC2007 model for the year 2014. This year was selected because emission factors are greater in 2014 and traffic volumes are greater in 2030. Therefore, no analysis was done for traffic in 2014 because if concentrations under

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the 2030 are under the threshold, then concentrations in 2014 would be as well.

Id. There is no data to support the conclusion that “emission factors are greater in 2014” than in 2030, and indeed this conclusion seems to fly in the face of common sense. This analysis needs to be further explained, and the methodology needs to be supported with data.

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cont.

4. The DEIR/S Fails to Adequately Evaluate and Mitigate Impacts Related to Climate Change.

The law is clear that lead agencies must thoroughly evaluate a project’s impacts on climate change under CEQA. In 2007, the state Legislature passed Senate Bill 97, which required the Governor’s Office of Planning and Research to prepare guidelines “for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions *as required by* [CEQA], including, but not limited to, effects associated with *transportation* or energy consumption.” SB 97 (2007), codified as Pub. Res. Code § 21083.05 (emphasis added). Consistent with this mandate, the state Natural Resources Agency adopted revisions to the CEQA Guidelines that require lead agencies to determine the significance of a proposed project’s greenhouse gas (“GHG”) emissions. CEQA Guidelines § 15064.4 (“A lead agency should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate, or estimate the amount of greenhouse gas emissions resulting from a project”). The agency may do this through one of two methods. First, it may perform a quantified analysis, which involves using a significance threshold based on a numeric standard, i.e., emissions over a certain level, constitute a significant impact. *Id.* at § 15064.4(a)(1). Alternatively, an agency may use a qualitative analysis which determines significance based on (1) a project’s compliance with performance standards for GHG reductions or (2) its consistency with GHG reduction plans or regulations put into place by other agencies (*e.g.*, a Climate Action Plan). *Id.* at § 15064.4(a)(2).

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Agencies must also analyze the cumulative impacts of a project’s GHG emissions in conjunction with other projects causing related impacts. CEQA Guidelines § 15130. Indeed, climate change is the classic example of a cumulative effects problem; emissions from numerous sources combine to create the most pressing environmental and societal problem of our time. *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1217 (9th Cir. 2008) (“The impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct.”); *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692, 720 (1990) (“Perhaps the best example [of a cumulative impact] is

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air pollution, where thousands of relatively small sources of pollution cause a serious environmental health problem.”). If an agency’s analysis indicates that a proposed project will have a significant project-specific or cumulative impact on climate change, the agency must identify and adopt feasible mitigation measures to address this impact. CEQA Guidelines § 15126.4(c).

(a) **The RDEIR’s Baseline is Incorrect.**

As described above, CEQA requires an agency to analyze “[t]he extent to which the project may increase or reduce greenhouse gas emissions as *compared to the existing environmental setting . . .*” CEQA Guidelines § 15064.4(b)(1) (emphasis added). This Guidelines provision incorporates the basic principle that “the significance of a project’s impacts can be ascertained only if the agency first establishes the physical conditions against which those impacts are to be measured.” Michael H. Remy et al., *Guide to CEQA California Environmental Quality Act*, 198 (11th ed., Solano Press 2007). The idea, then, is to compare “what will happen if the project is built with what will happen if the site is left alone.” *Woodward Park Homeowners Assn, Inc.*, 58 Cal.Rptr.3d at 119. Guidelines section 15125(a) describes the proper environmental baseline as follows:

An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.

The RDEIR here ignores these fundamental principles. Instead, it uses a comparison of the proposed Master Plans Project to the “2020 business as usual” scenario, relying on guidance published by the San Joaquin Valley Air Pollution Control District. RDEIR at 10-28. Additionally, the greenhouse gas section of the RDEIR uses estimates from the year 2014 and 2020, rather than providing an analysis of the Project’s greenhouse gas impacts against a baseline based on current emissions. *See* RDEIR at 10-32-33. These guidelines are meant to assist the City in their significance threshold, and do not relieve the City of its duty to disclose the magnitude of the impacts of the Zoo Expansion on greenhouse gases. Regardless of the advice provided in these guidelines, CEQA still requires the City to disclose project related increases in greenhouses gases over the current baseline. *See Kings County Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692, 712-18 (1990) (even if a project’s emissions comply with applicable

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cont.

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regulations and standards, an agency still must analyze the impacts from the project's entire emissions in an EIR); *Riverwatch v. County of San Diego*, 76 Cal. App. 4th 1428, 1453-55 (1999) (same). The RDEIR must be revised to provide an analysis of greenhouse gas emissions from the Project as compared to existing conditions.

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cont.

(b) **The DEIR/S Fails to Analyze Cumulative Impacts to Climate Change.**

An EIR must analyze a project's significant "cumulative impacts." CEQA Guidelines § 15130(a). A project has a significant cumulative effect if it has an impact that is individually limited but "cumulatively considerable." *Id.* §§ 15065(a)(3), 15130(a). "Cumulatively considerable" is defined as meaning that "the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." *Id.* § 15065(a)(3). As one appellate court recently held, "the greater the existing environmental problems are, the lower the threshold for treating a project's contribution to cumulative impacts as significant." *Communities for Better Env't v. Cal. Res. Agency*, 103 Cal. App. 4th 98, 120 (2002).

The RDEIR's discussion of cumulative impacts on greenhouse gases is exceedingly brief, vague, and unsupported. *See* RDEIR at 22-16. In fact, the potential cumulative impacts of the project are virtually ignored, as the RDEIR simply concludes that the mitigation measures proposed will achieve more than a 29 percent reduction over the 2020 "business as usual" baseline, and therefore "the project's contribution of greenhouse gas emissions is less than cumulatively significant." However, as explained above, the City's use of the 2020 "business as usual" baseline is illegal, and renders the discussion of cumulative impacts inadequate. Furthermore, there is no indication that the City even attempted to assess whether the Zoo and Rotary Playland and Storyland Expansions, together with other reasonably foreseeable future projects, would have a cumulative impact on greenhouse gas emissions. The RDEIR must be revised to provide a complete analysis of the Project's potential cumulative impacts related to greenhouse gas emissions, so that decision-makers and the public may evaluate its potential significant impacts on the region.

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In sum, the RDEIR's analysis of the Master Plans Project's greenhouse gas emissions is fatally flawed. Pursuant to CEQA, the RDEIR must be revised to include: (1) a complete and adequate inventory of the Project's greenhouse gas emissions; (2) a full discussion of the cumulative impacts from those emissions and others in the region; and (3) a thorough and quantitative analysis of mitigation measures to reduce such

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impacts. The City cannot lawfully approve the Master Plans Project until this required analysis has been completed.

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cont.

5. The RDEIR's conclusion that there are no cumulative air quality impacts from construction is without merit

In reaching its conclusion that the Master Plans Project will not result in cumulative air quality impacts during the construction phase, the RDEIR states simply that "the project would not result in a project specific impact from construction related emissions." RDEIR at 10-44. This bald claim doesn't even come close to meeting the requirements for the analysis of cumulative impacts under CEQA. *See Kings County*, 221 Cal.App.3d at 720-21 (EIR may not conclude that project will not contribute considerably to cumulative impacts simply because its individual impacts are insignificant). It is not the project's own impacts in isolation that must be disclosed in a cumulative impacts analysis, but the individual project's impacts "when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." CEQA Guidelines § 15065(a)(3). The RDEIR must be revised to provide a complete analysis of the Master Plans Project's cumulative air quality impacts from construction together with air quality impacts from other past, current, and foreseeable projects.

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Furthermore, it is clear that the Project will have a cumulative impact on air quality, as it will not reduce emissions as required by the San Joaquin Valley Air Pollution Control District's 2007 Ozone Plan. As the RDEIR recognizes, this plan requires a reduction of 75 percent for NO_x and a 25 percent reduction in ROG. RDEIR at 10-45. Therefore, any increase in emissions will result in cumulative impact in the SJVAB. The RDEIR must be revised to recognize that it will result in cumulative impacts to air quality, and should provide adequate mitigation measures to address these impacts.

I-37

J. The RDEIR Fails to Adequately Analyze Impacts to Water Supply in the City of Fresno

The RDEIR claims that the Master Plans Project will have no significant impacts related to water supply in the City of Fresno. The RDEIR's entire analysis of this subject, however, relies on projections from the City of Fresno's Urban Water Management Plan. RDEIR at 12-2. As the RDEIR recognizes, "[t]he proposed project's increase water demand of 64 AF/YR was not specifically accounted for in the growth scenario analyzed in the UWMP." *Id.* at 12-3. But, the RDEIR goes on to state, "general

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growth within the City was accounted for and the Master Plans Project could be considered part of the City's general growth." This is simply absurd.

The Zoo Expansion is a major land use change. The new zoo areas will certainly use more water than the open space areas it will replace. The UWMP accounts for general population growth, but not such substantial changes in demand. *See* City of Fresno Urban Water Management Plan, chapter 19. It is possible (but very unlikely) that the project's new demand is encompassed by the UWMP's projections, but neither the RDEIR nor the UWMP provide any evidence. There is no way for a decision-maker or a member of the public to know whether the Zoo Expansion falls within the growth projected in the UWMP. The RDEIR's assumption is unsupported by any quantitative data, such as comparisons between the projected growth in water supply needs in the Urban Water Management Plan and actual needs today. Water supply needs often outpace projections, and without a quantitative analysis of actual conditions, there can be no meaningful analysis of the impact of the Zoo Expansion on water supplies.

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cont.

Under CEQA, an EIR must demonstrate that sufficient water supplies are available for a project, and must consider the environmental impacts of providing that water. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 431. If "it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies." *Id.* at 432; *see also Stanislaus Natural Heritage Project v. County of Stanislaus*, 48 Cal. App. 4th 182 (1996) (invalidating EIR that had failed to adequately analyze water supply impacts but found them to be significant and unavoidable). The RDEIR must be redrafted to provide both a realistic estimate of the water needs of the project and a quantitative analysis of its impacts on the water supply available in the City of Fresno.

K. The RDEIR's Analysis of Alternatives is Inadequate.

Under CEQA, an EIR must analyze a reasonable range of alternatives to the proposed project. *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal. App. 3d 433, 443-45. A reasonable alternative is one that would feasibly attain most of the project's basic objectives while avoiding or substantially lessening the project's significant impacts. *See* Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126.6(a).

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The chief failure of the analysis here is that it simultaneously understates the benefits of certain alternatives while overstating their failings. The analysis proceeds on the assumption that the Master Plans Project's only significant and unavoidable

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impact is its traffic impacts. As discussed above, several other impacts would be significant and unavoidable, most notably aesthetic and historic impacts, and the project's essential incompatibility with the Fresno General Plan. These impacts would be entirely avoided by leaving Roeding Park's open space and historic resources alone and renovating the Zoo within its current footprint. The alternative offering such a plan, however, is given short shrift because the RDEIR fails to recognize all of the proposed project's real impacts. The alternative must be re-analyzed in light of *all* of the Master Plan Project's environmental effects.

At the same time, the RDEIR makes much of the failure of the "Renovation with No Expansion Alternative" to meet certain project objectives. RDEIR at 24-13, 14. Initially, an alternative must be considered even if it does not meet all project objectives; the discussion of alternatives must focus on alternatives that attain most of the basic objectives of the project and avoid or substantially lessen the adverse environmental effects of a project, "even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." CEQA Guidelines § 15126.6(b). Moreover, the RDEIR's discussion of these objectives is profoundly flawed. For example, the RDEIR states that the alternative would not meet objective 5.5 "Facilitate the expansion of the Fresno Chaffee Zoo...." This objective is entirely inappropriate, as it serves to disqualify any alternative that is not the Project itself. Similarly, many of the Zoo objectives that, according to the RDEIR, desire to make Roeding Park a "destination" (Objective 2.3) are based entirely on the Zoo's intentions. Roeding Park is designed to serve as a Regional Park, as the General Plan acknowledges. The EIR would reject an alternative protecting this status in favor of a project that would undermine it. This is simply illogical. The RDEIR's analysis of alternatives must be revised to consider appropriate project objectives.

I-39
cont.

II. The RDEIR Fails to Recognize that the Ponds Located in Roeding Park May Qualify as Jurisdictional Waters under the Clean Water Act.

Sections 301 and 502 of the Clean Water Act, 33 U.S.C. §§ 1311, 1362, prohibit the discharge of dredged or fill materials into "navigable waters" - defined as "waters of the United States" - unless authorized by a permit issued by the Corps pursuant to § 404, 33 U.S.C. § 1344. In its short discussion of potential impacts to Biological Resources, the RDEIR concludes that "[j]urisdictional waters [under the Clean Water Act] are not present within the Master Plans Project site because the park's bodies of water are concrete-lined and isolated from downstream navigable waters." RDEIR at 6-6. However, the Ninth Circuit has held that the Army Corps of Engineer's jurisdiction under the Clean Water Act and the Rivers and Harbors Act can extend to artificially created waters. *Leslie Salt Co. v. U.S.* (9th Cir. 1990) 896 F.2d 354, 360. In addition, the

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RDEIR does not analyze whether the ponds themselves are navigable in fact under the Clean Water Act. The RDEIR should include a more complete analysis of whether the ponds are waters of the United States under the Clean Water Act, and therefore whether the City must obtain a 404 permit from the Army Corps of Engineers.

I-40
cont.

CONCLUSION

On behalf of Friends, we respectfully submit that the City of Fresno must address the above discussed deficiencies in a second Recirculated Draft Environmental Impact Report and in a simultaneously prepared Environmental Impact Statement under NEPA. . The City may not take any action to approve the Master Plans Project unless and until adequate environmental review is complete. Moreover, the City may not approve the Master Plans Project until its conflicts with the Conservation Fund and the Fresno General Plan are resolved.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Gabriel M.B. Ross

cc:

David Siegenthaler, National Parks Service
Chris Pattillo
Milford Wayne Donaldson, California Department of Parks and Recreation
Rep. Fortney Pete Stark
Secretary Ken Salazar, U.S. Department of the Interior
George C. Roeding, III

Attachments:

Attachment A	City of Fresno (1991) <i>LWCF Program (Part IV) Narrative</i>
Attachment B	City of Fresno (2000) <i>LAND AND WATER CONSERVATION FUND PROGRAM NARRATIVE</i>

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Attachment C	Letter from Christine S. Lehnertz, Regional Director, National Parks Service, to Representative Pete Stark, House of Representatives (Dec. 30, 2010)
Attachment D	Letter from Sedrick Mitchell, Office of Grants and Local Services to Richard Putnam (September 15, 2004)
Attachment E	Land and Water Conservation Fund State Assistance Program Manual, (2008)
Attachment F	California Outdoor Recreation Plan (2008)
Attachment G	Mark R. Jennings and Marc P. Hayes, 1994 Department of Fish and Game publication "Amphibian and Reptile Species of Special Concern in California"
Attachment H	Complete List of Species of Special Concern

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Shute, Mihaly & Weinberger, Gabriel Ross, June 6, 2011 (I)

This comment letter includes eight attachments which are reproduced and included in Appendix A, Attachments A.1 through A.8.

Response to Comment I-1

This comment alleges that the Recirculated Draft EIR includes various inadequacies. No response to this comment is required because this comment provides a summary of the alleged inadequacies that are identified in more detail in the following comments.

As a general response, this comment, and many of the other comments in the letter contain argument and unsubstantiated opinion. Such comments do not constitute substantial evidence under CEQA.

(*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 578-580.)

Response to Comment I-2

To the extent the comment alleges inadequacies in the project description, the commentor should be reminded that CEQA does not require extensive detail in an EIR's project description beyond what is necessary to evaluate and review environmental impacts. (Guidelines § 15124.) Only a "general description" of the project's technical, economic, and environmental characteristics is required. (Guidelines § 15124(c).)

In *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 27-28, the leading CEQA case addressing project description adequacy, the Court articulates several important policy reasons for not requiring overly exhaustive detail in a project description. Those reasons include ensuring an EIR remains a user-friendly, readily understandable document, as well as encouraging the preparation of an EIR as early in the planning process as possible. The Zoo Master Plan EIR exceeds CEQA's project description requirements.

Additionally, CEQA does not require perfection. Adequacy, completeness, and a good faith effort at full disclosure is the standard. (Guidelines § 15151; see *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376, 410.) The City has made a good faith effort at full disclosure. Additionally, the EIR is sufficiently adequate and complete to inform decision makers and the public about the Project's impacts.

The comment specifically states that the Recirculated Draft EIR fails to adequately describe the attendance figures for the Fresno Chaffee Zoo or Rotary Playland and Storyland, and Roeding Regional Park as a whole. The commentor made reference to statements in previous LWCF Program applications where Roeding Park attendance was estimated by the City at 1.3 million in 1991 and in excess of one million in 2000. These estimates were inaccurate and not based on specific surveys. According to the Zoo records based on ticket sales, the highest attendance at the Zoo was in 1989 with 501,705 while in 1991, attendance at the Zoo was 467,622 and in 2000 the attendance was

356,062. Future LWCF grant applications will have a more accurate attendance estimate based on surveys.

As stated on page 2-41 of the Recirculated Draft EIR, attendance for the years 2006 through 2008 is provided as well as the estimated attendance for year 2014. The years 2006 through 2008 attendance figures were provided by the Fresno Chaffee Zoo based on ticket sales. The projected 2014 attendance figure was based on various factors as determined by the Fresno Chaffee Zoo. These factors include management practices, ticket pricing, new attractions, and weather. Based on Zoo staff's observations over the past 25 years, new zoo attractions will usually result in an increase in attendance. Zoos generally expect that new attractions will generate a spike in attendance upon the opening of an attraction. However, when no new exhibits are built, Zoo staff's experience has been that annual zoo attendance often plateaus or decreases. An example of this is the increase in visitation in 2007 when the Zoo's Sting Ray Bay attraction opened and continued to increase in 2008 before the Zoo's visitation declined slightly in 2009 when no new attractions opened.

The proposed Master Plans project will result in the gradual completion of new attractions over a 10 to 15-year period. Based on the Zoo's experience with the industry, a gradual unveiling of new attractions over a 10 to 15-year period would result in a steady rate of growth of between approximately 2.5 to 5 percent each year. Because the new attractions would open gradually and over a relatively long period of time, the Zoo estimates that growth will likely gradually increase over the 10 to 15-year period. Conservatively, no plateaus or declines in attendance were assumed.

Over the approximately 15-year buildout period for the Master Plans Project, the Zoo estimates the annual attendance would increase from a current estimate of 425,000 visitors to a buildout annual attendance of 700,000 (see Appendix D, Traffic Impact Study). This increase in visitors result in a 3.38 percent annual growth rate, which is in the middle of the 2.5 to 5 percent growth estimate identified above.

The attendance for the Rotary Playland and Storyland was obtained from Rotary Playland and Storyland staff. As stated on page 2-41 of the Recirculated Draft EIR, the 2008 attendance was approximately 112,800. Based on experience, their staff estimates an increase of attendance in the range of 5 to 10 percent per year as new attractions open.

The annual attendance is identified above and the daily attendance is based on various factors including the time of year. As discussed in Chapter 8, Transportation/Traffic and Appendix D, Traffic Impact Study, of the Recirculated Draft EIR, existing Roeding Regional Park 24-hour and manual peak-hour traffic counts at the existing entrances and exits were conducted during August 2007 and May/June 2008. According to Zoo attendance records and discussions with Zoo staff, traffic volumes during the months of October through March are substantially less than those identified during the relatively busy spring and summer months (excluding special events).

The daily and peak hour traffic volumes (i.e., all vehicular traffic visiting Roeding Regional Park such as the park, Zoo, and Playland/Storyland) obtained during the traffic counts were used to forecast traffic volumes in 2014 and 2030.

A growth factor using an attendance estimate of 550,000 for 2014 and an estimated attendance estimate of 360,000 for 2008 was developed for 2014. This growth factor is 1.53 and is applied to the daily and peak hour traffic volumes (i.e., all vehicular traffic visiting Roeding Regional Park such as the park, Zoo, and Playland/Storyland). Subsequent to the use of the 360,000 attendance estimate for 2008 and after the year was completed, the Zoo attendance record for 2008 was higher; however, if the higher attendance was used, the growth factor would be less. Therefore, the use of the 360,000 attendance estimate is considered a worst-case growth factor (i.e., more traffic is projected). Please note that traffic baseline conditions were based on the actual traffic counts.

The 2030 daily and peak hour traffic estimates were derived similar to the 2014 daily and peak hour traffic estimates. A growth factor was developed for 2030 using an attendance estimate of 700,000 for 2030 and an estimated attendance estimate of 360,000 for 2008. This growth factor is 1.94 and is applied to the daily and peak hour traffic volumes (i.e., all vehicular traffic visiting Roeding Regional Park such as the park, Zoo, and Playland/Storyland). As stated above, subsequent to the use of the 360,000 attendance estimate for 2008 and after the year was completed, the Zoo attendance record for 2008 was higher; however, if the higher attendance was used, the growth factor would be less. Therefore, the use of the 360,000 attendance estimate is considered a worst-case growth factor (i.e., more traffic is projected).

As a result, the daily and peak hour traffic volumes that were used in the 2014 and 2030 traffic evaluations are appropriate. They are considered worst-case scenarios, and include projected traffic from the park, Zoo, and Playland/Storyland. The traffic volumes were distributed on the roadway network as discussed in Appendix D. As discussed in greater detail in response to comment I-29, these worst-case scenarios were also compared to existing conditions. The air quality and noise evaluations appropriately used the traffic projections to determine potential air quality and noise impacts.

Response to Comment I-3

This comment stated that the Recirculated Draft EIR did not include the California Department of Parks and Recreation (CDPR) as a Responsible Agency and is concerned that the City did not consult with CDPR regarding their potential concerns. Based on coordination with the U.S. Department of Interior – National Parks Service (NPS) and CDPR in February and March 2011, and receipt of letters from both agencies (see Appendix A of the Recirculated Draft EIR), the City distributed the Notice of Preparation as well as the Recirculated Draft EIR to both agencies. (See Notice of Preparation [Appendix A-6 of the Recirculated Draft EIR]; see Comment Letter A identifying CDPR as one of the agencies that received the Recirculated Draft.) The CDPR informed the City that the role of the

Office of Grants and Local Services of the CDPR is to assist local agencies in complying with requirements of the terms of the Land and Water Conservation Fund (LWCF) program. CDPR does not have discretionary authority relating to the LWCF program. The NPS is the federal agency that has approval authority related to the LWCF program. Since NPS is a federal agency, the NPS is not considered a Responsible Agency. (See CEQA Guidelines, §§ 15379, 15381.)

Response to Comment I-4

This comment states that CDPR has statutory authority over the proposed Master Plans Project's consistency with Section 106 of the National Historic Preservation Act of 1966 and its implementing regulations. The CDPR does not have authority over the proposed Master Plans Project's consistency with Section 106. This authority is provided to NPS, which is the agency with authority associated with the LWCF program. The project applicant will work with NPS during the LWCF program application process and will comply with the requirements of the program.

Response to Comment I-5

This comment stated that there is no consistency analysis of the proposed Master Plans Project with Section 106 and its implementing regulations. This consistency analysis occurs as part of NPS's review of the design plans for the Master Plans project. This review may also include documentation in accordance with the National Environmental Protection Act (NEPA), which may be required prior to NPS taking action on the design plans.

This comment also states that the City failed to consult with CDPR. Since CDPR is not a Responsible Agency as discussed in Response to Comment I-3, the consultation requirement as stated in CEQA does not apply to CDPR related to the LWCF Fund program. Although the CEQA consultation requirement does not apply to the project applicant related to the CDPR for the proposed Master Plans Project, the City of Fresno still consulted with CDPR related to the future LWCF Program process.

This comment also states that the City failed to consult with NPS related to the Master Plans Project. In March 2011, the City coordinated with NPS; however, this coordination was not mandated by CEQA. NPS suggested that a joint CEQA and NEPA environmental document be prepared as one document for the LWCF program; but appropriately, NPS did not assert that a joint document is legally required because that is not the case. The City's intent is to process the proposed Master Plans Project in accordance with CEQA and the appropriate local approvals prior to processing the project through the NPS and its federal approvals associated with the LWCF program.

Response to Comment I-6

This comment states that the RDEIR must analyze a project's consistency with any and every "applicable land use plan, policy, or regulation of an agency with jurisdiction over the project." Chapter 7, Land Use and Public Land Use Policy, in the Recirculated Draft EIR provides a consistency evaluation of the proposed Master Plans Project with the City of Fresno 2025 General

Plan objectives and policies, the West Area Plan policies, and the Freeway 99-Golden State Boulevard Corridor Redevelopment Plan goals. Based on the evaluations, the proposed Master Plans Project is consistent with each of the goals, objectives, and policies that are applicable to the project. The comment also refers to a need for a consistency analysis of the project with the California Outdoor Recreation Plan. This consistency evaluation is not required as part of the City's discretionary actions of approving the Master Plans Project or approving Conditional Use Permit Application No. C-08-186 or the Conditional Use Permit for Storm Drain Facility. The project's consistency with the Outdoor Recreation Plan is a required evaluation for the Master Plans project design plans by the National Park Service to provide federal approval for the LWCF program compliance. The City has determined that the design plans will be processed through the LWCF program and possibly the NEPA process subsequent to the CEQA process.

Response to Comment I-7

This comment states that the Master Plans project is not consistent with the Open Space/Recreation Element Policy F-1-e of the City of Fresno General Plan. Policy F-1-e classifies public parks as either Mini-Parks, Neighborhood Parks, Community Parks, Regional Parks, School Grounds/Playfields, Ponding Basins, or as part of the San Joaquin River Parkway, a "super-regional" park. Policy F-1-e also provides some general criteria for designating various parks according to these classifications. Regional Parks, as noted in Policy F-1-e and Comment I-7, "are generally 100 or more acres in extent" and "serve[] a population of approximately 100,000 residents with active and passive recreational opportunities." Comment I-7 asserts that the proposed Master Plans project would not comply with Policy F-1-e because it would reduce the amount of existing open space. The Master Plans project is consistent with Policy F-1-e. Once completed, the Master Plans project will provide approximately 123 acres of the "active and passive recreational opportunities" contemplated by Policy F-1-e. The commentor's assertion appears to be premised on the assumption that a Regional Park, as that term is used in the Fresno General Plan, cannot include a zoo. To the contrary, the Fresno General Plan anticipates that Regional Parks will provide "active" recreational opportunities, which would include zoos, and other recreational opportunities that are frequently located in large public parks. Among the active recreation uses currently counted as part of the City's Regional Parks are amphitheaters, shinjin gardens, and paintball facility. These active recreation uses also serve to counter the commentor's assertion that by definition, Regional Parks exclude "commercial, programmed recreation space" or recreational opportunities that require admission. Nothing in the General Plan's classification indicates that such active recreational uses may not be considered as part of a Regional Park, and indeed, the existing uses in the City's Regional Park directly contradict this notion. Development of the Master Plans project, therefore, is consistent with the General Plan's park classifications, including Policy F-1-e, and would not threaten or alter Roeding Park's existing classification as a Regional Park.

While the Master Plans project will provide more than 100 acres of Regional Park use, for the purposes of this response, even if we were to assume that a "Regional Park" could not include a zoo,

the Master Plans project would still be consistent with General Plan Policy F-1-e. Policy F-1-e states that Regional Parks “are *generally* 100 or more acres.” (Emphasis added.) This statement provides guidance for classifying parks, but it does not establish any minimum size requirement for designation of Regional Parks. If the zoo is not considered part of the “Regional Park,” the Master Plans project still provides approximately 76 acres of strictly passive recreational opportunities. This is consistent with the guidance that Regional Parks are *generally* 100 acres, especially given the fact that the next largest classification of parks—Community Parks—“are ideally twenty acres in size.” (Fresno 2025 General Plan, Policy F-1-e.) Accordingly, while the active recreational opportunities contemplated for “Regional Parks” include zoos, even if the zoo were excluded, the Master Plans project is consistent with General Plan Policy F-1-e.

Response to Comment I-8

This comment states that the proposed Master Plans project will reduce the number of acres of open space to 76 acres, which is inconsistent with the General Plan guidance regarding Regional Parks. As described in Response to Comment I-7, the proposed project will not result in the reduction of regional parkland, and is consistent with the General Plan.

This comment also asserts that the Recirculated Draft EIR’s conclusion that the Master Plans Project will “enhance the qualities indicative” of Regional Parks is incorrect, not supported, and inconsistent with the General Plan. As stated in Policy F-1-e in the General Plan, Regional Parks serve residents with active and passive recreational opportunities. The proposed Master Plans Project provides, and indeed enhances, active and passive recreational uses. The Master Plans project expands active recreational uses within Roeding Park, and rehabilitates and renovates existing passive uses. As a result, the project will not result in a net reduction of regional parkland and is considered consistent with General Plan Policy F-1-e.

Response to Comment I-9

This comment asserts that the proposed Master Plans Project would not meet the policy goals of Policy F-3-f, which specifies that shade, water, comfort facilities and art should be prominent design elements of the current and future recreational facilities. Each of the recreation and landscaping elements identified in Policy F-3-f is part of the proposed Master Plans project.

There are currently seven groves within the park that provide shade. With the proposed Master Plans Project, five of the seven groves (Eucalyptus, Maple, Pine, Cedar, and Redwood) would remain and provide shade. As described on page 12 of the Roeding Park Facility Master Plan, new shade pavilions in the picnic groves will be provided. In addition, all trees including healthy, diseased, and dead trees that will be removed as a result of the Master Plans project will be replaced. The replacement ratio will depend on the existing size of the tree as described in Mitigation Measure 5.2(a) in Chapter 5 of the Recirculated Draft EIR. The Fresno Chaffee Zoo Facilities Master Plan also identifies shade concepts such as shade trellises provided in the entry village (page 17), and

shade contact areas with farm animals within the children's zone (page 18). Shade is an important concept within both Master Plans. Page 35 of the Roeding Park Facility Master Plan and page 44 of the Chaffee Zoo Facilities Master Plan describe the conceptual architecture and site imagery within public spaces. They state "An informal, rhythmic organization of trees and border plantings flanking the edges of the promenades and plazas is proposed to reinforce the circulation patterns, create a sense of 'scale', provide visual interest and provide shade."

Water is also an important feature in both Master Plans. Although the project will remove the four ponds in the southern portion of the site, two new ponds are proposed to be located prominently at the Golden State Boulevard entrance. In addition, the Roeding Park Facility Master Plan states that the central plaza hub and fountain will serve as the primary gathering space at the center of the Park (page 12). The Fresno Chaffee Zoo Facility Master Plan identifies fountains within the Diversity of Life Pavilion and Education Center (page 12), watering holes for the Zoo animals (page 13), a water attraction with the proposed Sea Lion Exhibit, a fountain at the Entry Village (page 17), and an active splash fountain in the Children's Zone (page 18). As described on page 35 of the Roeding Park Facility Master Plan and page 44 of the Fresno Chaffee Zoo Facility Master Plan, fountains are a key architectural element.

A variety of comfort facilities are part of the Master Plans project. The new introduced ponds as described in Mitigation Measure 4.1(a) in Chapter 4 of the Recirculated Draft EIR will be assessable to the public for enjoyment. Page 14 in the Roeding Park Facility Master Plan identify that the plazas will provide comfort facilities including fountains, seat walls, sculptures, drinking fountains, lighting, benches, and trellises. A great lawn area is proposed and described on page 12 of the Roeding Park Facility Master Plan as a "Large, centralized lawn area that could be used for passive recreation, concerts, events and more." Also on page 12, the park plaza hub is described as providing site furnishing such as benches and water fountains. In addition, page 12 describes the picnic groves that will provide table and chairs.

Art is also a key concept within the Master Plans project. Page 10 of the Roeding Park Facility Master Plan describe the Golden State Boulevard entry as having "Special themed landscape (landform berms, special planting, sculpture, etc.) that would be unique and distinguish Roeding Park from Woodward Park and other nearby recreation sites." Page 13 describes the proposed sculpture gardens that will be located near the Golden State Boulevard entrance. Page 14 describes the proposed landscape as including "unique Roeding Park sculpture/artwork at Park edges."

As described above, the proposed Master Plans project would meet the policy goals of Policy F-3-f, which specifies that shade, water, comfort facilities and art should be prominent design elements of the current and future recreational facilities such as Roeding Regional Park.

This comment also states that the project with the implementation of Mitigation Measure 5.2(b) would result in a net loss of shade resources in the Park. The presence of shade is one component of the visual character and quality of the site. The proposed project will result in the loss of trees that contribute to substantially degrading the existing visual character and quality of the site. The implementation of all the recommended Mitigation Measures for Impact 5.2 (i.e., Mitigation Measures 5.2(a), 5.2(b), 5.2(c), 5.2(d), and 5.2(e)) would reduce the impact on the existing visual character and quality of the site to less than significant as discussed in the Mitigation Discussion on pages 5-28 and 5-29 of the Recirculated Draft EIR.

Response to Comment I-10

This comment states that the proposed Master Plans project would conflict with Objective G-11 and Policy G-11-f of the City of Fresno General Plan Resource Conservation Element concerning historic resources. As discussed in Chapter 4, Cultural Resources, the Master Plans project will not affect the majority of the resources that contribute to the District historic character, though there are some contributing landscape features and one contributing architectural feature that will be demolished. Mitigation Measures 4.1(a), 4.1(b), 4.1(c), and 4.2 are proposed to reduce impacts to the potential historic district to less than significant as discussed on pages 4-25 and 4-26 of the Recirculated Draft EIR. Additional Mitigation Measures (4.3, 4.8(a), and 4.8(b)) are proposed to further reduce potential impacts to cultural resources so that impacts are less than significant and the historic character of Roeding Regional Park is retained. The implementation of the proposed Master Plans Project and the Mitigation Measures were designed to preserve the contributing features in a manner that retains the District's eligibility and historic character. Therefore, the project does in fact "safeguard Fresno's heritage" and protect and maintain "character-defining streetscape and landscape elements of historic districts" by ensuring that the eligibility of one of Fresno's historic district's remains intact. The project, therefore, would result in a consistency with Objective G-11 and Policy G-11-f of the City of Fresno General Plan Resource Conservation Element concerning historic resources.

Response to Comment I-11

The commentor mischaracterizes judicial interpretations of the general plan consistency requirement. Government Code section 66473.5 only requires that the proposed project be "compatible with [the applicable] objectives, policies, general land uses, and programs." (Emphasis added.) Explaining this provision, courts have held that a proposed project must be "in agreement or harmony with the terms of the applicable plan, not in rigid conformity with every detail" and that "it is the province of elected city officials to examine the specifics of a proposed project to determine whether it would be 'in harmony' with the policies stated in the plan." (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 678; and *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 822.)

This comment asserts that the project is in conflict with the City of Fresno General Plan's goals and policies. Table 7-1 in Chapter 7 of the Recirculated Draft EIR provides a consistency determination for each of the applicable objectives and policies. As discussed, the project is consistent with the applicable General Plan objectives and policies. As discussed in Response to Comments I-9 and I-10, the project is actually *consistent* with, and indeed promotes the policies and objectives identified in the comment letter. Since the project is consistent with the General Plan, it would not be an abuse of discretion to approve the Master Plans Project, as currently proposed.

Response to Comment I-12

This comment states that the Recirculated Draft EIR fails to analyze the project's consistency with the Land and Water Conservation Fund (LWCF) Act and the California Outdoor Recreation Plan. Pages 2-41 and 2-42 of the RDEIR discuss the LWCF, and how the project is and will continue to comply with the procedural requirements set forth in the Act. As discussed in Response to Comment I-6, the project's consistency with the Outdoor Recreation Plan is a required evaluation for each of the individual project components by the National Park Service to provide federal approval for the LWCF program compliance. This required evaluation also includes the requirements of the LWCF Act. These project consistency evaluations are not required as part of the City of Fresno approval process that includes CEQA review, but are required as part of the LWCF process which may include the preparation of a NEPA document. Importantly, zoos and amusement parks are among the outdoor recreation activities contemplated as part of the State's Outdoor Recreation Plan.

Response to Comment I-13

This comment states that the LWCF Act and the Outdoor Recreation Plan are each an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project. It is acknowledged that the NPS is an agency with jurisdiction over the grant contracts, and that the Recirculated Draft EIR fails to provide required analysis of the project's consistency with the Act's goals and requirements or with the recreation plan. NPS's plan, policy, or regulatory consistency determination is part of a federal process that may include a NEPA document. Information required for NPS to make determinations or on which to base its approval is not required to be incorporated into a CEQA document that is prepared to provide information for local jurisdiction approvals and responsible agencies (which, by definition, do not include NPS). The information that NPS will require will be part of the LWCF process. This process will establish the applicability of the Outdoor Recreation Plan to the project, but assuming for the sake of this response that the Outdoor Recreation Plan is a "land use plan" requiring analysis under CEQA, the project is consistent with that plan, because the project's land uses are the types of land uses contemplated by the Outdoor Recreation Plan. The Outdoor Recreation Plan acknowledges the importance of amusement parks and zoos to creation of outdoor recreation space in California.

Response to Comment I-14

This comment asserts that the Master Plans Project would convert portions of Roeding Park to “other than public outdoor recreation uses.” This determination will be made by NPS for the Master Plans Project based on detailed design plans submitted as part of the LWCF process. The NPS will also determine if the Master Plans Project will require NEPA documentation.

Response to Comment I-15

This comment states that the Recirculated Draft EIR fails to mention the California Outdoor Recreation Plan and that a complete analysis of the project’s consistency with the Plan is required by CEQA. This assertion is incorrect because the consistency of the project with this plan is required for a federal approval and not for a local approval. Since a federal approval would be required, the federal approving agency, NPS, would require information to determine if the project is consistent with the California Outdoor Recreation Plan. This information would be provided as part of the LWCF process.

Response to Comment I-16

This comment implies that the proposed project is not consistent with the definition of Regional Parks in the City of Fresno General Plan. Please see Responses to Comments I-7 and I-8, regarding the project not reducing the existing regional parkland acreage. The project will not result in creating a deficit of regional park acreage, and therefore no Mitigation Measures such as replacement open space are required.

Response to Comment I-17

This comment asserts that the Recirculated Draft EIR fails to adequately mitigate impacts to cultural and historic resources. The comment implies that the Recirculated Draft EIR concludes that destruction of the ponds is a significant impact to a historic resource and asserts that the Recirculated Draft EIR has not sufficiently demonstrated how the introduction of new pond features will mitigate the potential impact to the proposed historic district’s eligibility for listing. The Roeding Park Historic District Response to DEIR Comments in Appendix B-6 of the Recirculated Draft EIR address "the individual historic significance and integrity of the ten (10) contributing features within the park . . . all of which are contributing features to the Roeding Park Historic District" which features include the Ponds and the Umbrella Grove. (Appendix B-6, page 8). The Recirculated Draft EIR concludes that the loss of the ponds is not, in and of itself, a significant impact to a historic resource. The basis for that conclusion is the determination in the Supplemental Historical Analysis that the ponds are not, "individually eligible for listing in the National Register of Historic Places, California Register of Historical Resources, or the Fresno Local Register of Historic Resources due to their lack of individual distinction and significance," and that "[i]ndividually, the ponds lack sufficient historic significance and integrity to be eligible for listing in the National Register." (Appendix B-6, pages 13 and 14). The loss of the ponds, however, is considered to be a significant adverse impact because of how it would affect the eligibility of the historic district for inclusion in

those federal, state and local registers. (RDEIR p. 4-23). Appropriately, the totality of mitigation proposed—not just one measure—will reduce this impact to a less than significant level. With respect to the ponds, Mitigation Measure 4.1(a) includes the introduction of a new pond feature to maintain the public recreational uses associated with the ponds. The new pond feature will minimize impacts related to the loss of the existing recreational use associated with the ponds by retaining the characteristics that make the existing ponds a contributing feature, such as proximity to the park entrance, facilitation of similar passive recreational uses, and similar landscaping. The proposed pond feature, therefore, will still contribute to the district’s historical eligibility in a manner similar to the existing ponds, and as such, will help reduce the impact to a less than significant level.

Response to Comment I-18

This comment states that the impact discussion of cultural and historic resources in Chapter 4, Cultural Resources is not consistent with Chapter 22, Cumulative Impacts. The analysis of the loss of Umbrella Grove and Palm Point Grove is provided on page 4-23 of the Recirculated Draft EIR. The analysis concludes that although these two historic groves are assumed to be removed, the preservation of the other five historic groves within the park will maintain the overall network of historic picnic groves within Roeding Regional Park. The assumed removal of the two historic groves would not adversely affect the overall ability of the historic district to convey its significance nor would it affect the district’s eligibility for listing in the California Register of Historic Resources. (Appendix B-6, page 8). Therefore, Mitigation Measures for the loss of these two groves are not required.

The above determination is the project’s affect on the historic district. In Chapter 22, there is a discussion of the potential cumulative effect on the historic district. Except for potential impacts associated with the California High Speed Rail Authority (CHSRA) project, the analysis concluded that cumulative development along with the proposed project would result in less than significant impacts to the historic district after the implementation of the proposed Mitigation Measures. Given the unknowns regarding the CHSRA project’s encroachment, if any, on the park; the timing of the CHSRA project construction; and the precise timing of the Master Plans Project development, the project Mitigation Measures will minimize the cumulative impact, but not necessarily to a less than significant level. As a result, the cumulative impact on the historic district was determined to be significant and unavoidable. This determination is not considered inconsistent with the less than significant impact determination in Chapter 4 because the proposed Mitigation Measures could reduce the potential project-specific impacts.

Furthermore, the comment implies that the destruction of the groves itself is a significant impact to a historic resource. As discussed in the Roeding Park Historic District Response to DEIR Comments in Appendix B-6 of the Recirculated Draft EIR, potential impacts to the Palm Point Grove and Umbrella Grove would be less than significant because these groves are not individually eligible for listing in the National Register of Historic Places, California Register of Historical Resources , or the

Fresno Local Register of Historic Resources due to their lack of individual distinction and significance; and because individually, the groves lack sufficient historic significance and integrity to be eligible for listing in the National Register. (Appendix B-6, pages 16, 17 and 18).

Response to Comment I-19

This comment provides a conclusionary opinion, unsupported by expert testimony, that the loss of mature tree canopy remains significant, even after the proposed Mitigation Measures are implemented. Although there will be an initial loss of tree canopy, Mitigation Measure 5.2(a) includes preservation, relocation, or replacement. If the tree is lost, the tree would be required to be replaced by the same species at a ratio of 1.0 to 5.0 depending on the size of the tree. As a result, the larger the tree, the higher the ratio of replacement and eventually an increase in tree canopy. As discussed on pages 5-28 and 5-29, the implementation of the proposed Mitigation Measures would result in a less than significant impact on the visual character and quality of the Roeding Regional Park resulting from the loss of trees.

The commentator states that the potential impacts to individual groves, which may contribute historic features, is a “significant environmental impact in and of itself.” As Page & Turnbull, the historic resources consultant, point out in their letter responding to comments on the Recirculated Draft EIR, “[h]istoric districts are not collections of individually significant features; instead districts are made up of components which achieve significance when grouped together.” (FEIR Attachment B, p. 4.) The District contains 23 contributing features, which only achieve significance when grouped together.

In their supplemental report, Page & Turnbull concluded that none of the 10 contributing features that would be demolished or altered as part of the Master Plan project are individually eligible for listing on the National Register. (FEIR Attachment B, p. 9.) Page & Turnbull specifically analyzed whether the Umbrella or Palm Point Groves retain sufficient historic significance to be individually eligible for listing on the National Register. (FEIR Attachment B, pp. 14-18.) In both instances, the groves lacked the requisite historic significance to be individually eligible. Thus, the potential impacts to individual groves, in and of itself, does not result in a significant environmental impact as the commentator suggests.

Response to Comment I-20

The case citation provided in the comment is incorrect. The correct citation is: *The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, hereafter referred to as “*Pocket Protectors*.” The citation merely supports the assertion that it is appropriate to analyze aesthetic impacts in an EIR, as opposed to a mitigated negative declaration, when substantial evidence supports a fair argument that the project may have significant effects on aesthetic resources. The City does not disagree with this assertion. The EIR has adequately analyzed the Project’s impacts on aesthetic resources.

The comment goes further to assert that aesthetic impacts must be analyzed using particular methodologies and visual display techniques. There is no legal basis for such assertions and no citation is provided. The central holding in *Pocket Protectors* with respect to evidence of aesthetic impacts is that opinions of residents based on direct observation can be substantial evidence sufficient to support a fair argument of significant aesthetic impacts. There is no discussion of particular approaches that must be taken to analyze aesthetic impacts in *Pocket Protectors*, or anywhere else in CEQA. Appendix G of the CEQA Guidelines provides four areas of analysis that should be considered when reviewing a project's aesthetic impacts. The guidelines do not specify any particular methodology or technique for describing aesthetic impacts.

An EIR is not required to include all variations of a potential impact or include every conceivable study or permutation of the data. *San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 666. Chapter 5, Aesthetics, in the Recirculated Draft EIR thoroughly describes existing conditions, the project's potential impacts, and imposes Mitigation Measures in compliance with CEQA.

Response to Comment I-21

This comment is concerned that the required compliance with the United States Department of Agriculture and American Zoo Association (AZA) requirements for zoo perimeter fences may prevent Mitigation Measures 5.1(f) (2) through (7) from being fully implemented to reduce the fence's visual impact to less than significant. The City fully expects that the design and construction of the zoo expansion perimeter fence can comply with AZA requirements and implement Mitigation Measures 5.1(f) (2) through (7) to reduce potential visual impacts to less than significant. Therefore, Mitigation Measure 5.1(f)(1) on page 5-19 of the Recirculated Draft EIR is revised as follows. The striken text represents a deletion.

- (1) The fence shall comply with United State Department of Agriculture and American Zoo Association (AZA) requirements for Zoo perimeter fences. In keeping with these requirements, the location and design of the fence shall not jeopardize the safety of animals within the Fresno Chaffee Zoo. ~~Compliance with this mitigation requirement shall take precedence over following mitigation requirements in cases where the requirements may conflict.~~

Response to Comment I-22

This comment requested that a visual representation of the full impact of the Master Plans Project be provided. Please see Response to Comment I-20 regarding the visual impact evaluation and the recommended Mitigation Measures. This comment also states that the planting of replacement trees for the loss of mature trees would not provide the same level of mature tree canopy. As stated in

Response to Comment I-19 regarding the proposed ratio of replacement trees. The ratio increases if a larger tree is removed.

Response to Comment I-23

This comment is concerned that the analysis of amphibians is inadequate and states that the Western Spadefoot is not addressed. Page 6-5 in the Recirculated Draft EIR identifies that western toads, pacific tree frogs, and bullfrogs likely breed in the existing onsite ponds. These are common species and are not special status species. Potential impacts to common amphibian species are considered less than significant and no mitigation is required. According to Table 2 in Appendix C of the Recirculated Draft EIR, the Western Spadefoot Toad which is a special status amphibian species is absent from the project site. No historical breeding habitat was present. The onsite ponds are unsuitable for this species because of the presence of fish and disturbance of the surrounding area.

Response to Comment I-24

This comment is concern about the cumulative impact on the bat populations in the area. Chapter 6 identified the potential project impact on the pallid bat and the Townsend's big-eared bat due to the proposed restoration of the existing bandstand. The existing bandstand is the only potential suitable roosting/breeding habitat for either of these two bat species. Roeding Regional Park does not provide regionally significant foraging or roosting/breeding habitat for either of these two bat species, as similar habitat is abundant in the region. The potential significant impact is the project's potential affect on these species during the breeding season. Cumulatively, future development may result in similar potential impacts to roosting/breeding habitat for these two species or other bat species; however, as stated above similar habitat is abundant in the region. Mitigation Measure 6.2(a) is proposed to reduce the project's potential impact on these two bat species and would reduce the project's potential contribution to cumulative impacts on bat species during roosting/breeding to less than significant.

Response to Comment I-25

As stated in Response to Comment I-22, Roeding Regional Park does not provide regionally significant foraging or roosting/breeding habitat for bat species, as similar habitat is abundant in the region. The loss of roosting/breeding habitat for bat species is considered a less than significant impact due to the abundance of this type of habitat in the region. Therefore, no Mitigation Measures regarding creation of additional habitat are required.

Response to Comment I-26

This comment requests that the amount of foraging and nesting habitat for bird species be identified and provide Mitigation Measures. Impact 6.3 identifies that the disturbance to the bed and banks of the existing ponds would deprive migratory birds of forage and habitat and likely causing mortality to the migratory birds. As further discussed, Mitigation Measure 4.8(b) provides for historic plant palettes and landscaping for all new construction including the reintroduced ponds. The introduction of the historic plant palette and landscaping would reduce the potential impact on migratory birds by

providing foraging habitat. This reduction in potential impact is considered less than significant. In addition to Mitigation Measure 4.8(b), a reintroduction of the ponds will include stocking the pond with fish species as identified in Mitigation Measure 4.1(a). This measure will further reduce potential impacts to migratory birds by providing a food source. Furthermore, Mitigation Measure 4.1(a) is revised to ensure that the historic plant palettes and landscaping around the reintroduced ponds provide comparable migratory bird habitat. The addition text is underlined.

- 4.1(a) Maintain the public recreational uses associated with the ponds by introducing a new pond feature in accordance with Mitigation Measure 4.8(a), which states that historic preservation design guidelines shall be developed that address new design in the context of the contributing architectural and landscape features of the potential historic district. A new pond feature shall be located near the Golden State Boulevard entry to the park, such that the pond feature is at least as visible and as accessible as it is in its current location. Historic American Landscape Survey (HALS) documentation of the ponds shall be prepared by a qualified historic preservation professional prior to the demolition of the ponds. The Zoo will consult with the California Department of Fish and Game (CDFG) and will stock the pond feature with fish species recommended by CDFG. The Zoo will also consult with a qualified biologist concerning the design of the new ponds. The Zoo will incorporate design elements recommended by the biologist into the ponds (potentially including but not limited to foraging areas, access to the ponds, and other features) in order to create migratory bird habitat of comparable value to that provided by the existing ponds.

Response to Comment I-27

This comment states that cumulative biological impacts should be addressed in greater detail. The comment's statement that "the RDEIR relies entirely on cumulative impact analysis from the EIR for the General Plan for the City of Fresno" is inaccurate. On page 22-10, the Recirculated Draft EIR states that, "Project and cumulative impacts with respect to loss of habitat were not found to be potentially significant *in the project biological assessment*" (emphasis added). Thus, the Recirculated Draft EIR did not limit its cumulative impact analysis to the information in the Fresno General Plan EIR. The biological evaluation for the project incorporated the projections from the Fresno General Plan EIR into its analysis of the project's impacts and properly found that there would be no cumulatively significant impacts.

The commentor states that the Recirculated Draft EIR fails to provide a list of reasonably foreseeable projects. There is no legal requirement that an EIR provide such a list. Where a lead agency has determined a project's incremental effect is not cumulatively considerable, as it has here, the EIR need only provide a brief explanation of the basis for that determination. (Guidelines § 15130(a).) The Recirculated Draft EIR meets this requirement on pages 22-9 to 22-10.

The comment cites *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 to support its position. In *Bakersfield Citizens*, EIRs were prepared concurrently for two competing shopping centers in close proximity to each other. (*Id.* at p. 1213.) Neither EIR referenced the other shopping center in their cumulative impacts analyses. (*Ibid.*) The Court held that the use of a planning document, in and of itself, does not preclude challenge to cumulative impacts analysis where it clearly failed to account for a similar new project nearby. (*Id.* at p. 1217.)

Bakersfield Citizens does not support an argument that the Recirculated Draft EIR's biological resources cumulative impacts analyses is inadequate. The commentor provides no evidence to indicate that the Fresno General Plan EIR is inaccurate or out of date. The City ensured that any reasonably foreseeable probable future projects were accounted for in the Recirculated Draft EIR pursuant to CEQA Guidelines § 15355(b). Contrary to the commentor's assertions, substantial evidence supports the conclusion in the Recirculated Draft EIR that the project's incremental effects on biological resources impacts are not cumulatively considerable.

Response to Comment I-28

This comment raises a concern regarding traffic volume growth estimates, attendance estimates, and traffic impacts. Please see Response to Comment I-2 regarding the methodology in developing the attendance estimates as well as how the growth estimates were derived and applied to future traffic volumes.

Response to Comment I-29

This comment raises a concern that an inappropriate baseline was used for the traffic analysis and that the impacts of the project needs to be evaluated against a baseline of existing conditions. As discussed in Chapter 8 and Chapter 22 of the Recirculated Draft EIR, four separate traffic evaluations were conducted. Two traffic evaluations were conducted in Chapter 22 that evaluated potential impacts against the baseline conditions of 2008. (See Recirculated Draft EIR pp. 22-10 to 22-14.) Various potential significant impacts were identified and mitigation measures were recommended to reduce the project's contribution to the traffic impacts.

The commentor states that the Recirculated Draft EIR makes the same mistake as the City of Sunnyvale in *Sunnyvale West Neighborhood Association v. City of Sunnyvale* (2011) 1190 Cal.App.4th 1351 (*Sunnyvale*). In *Sunnyvale*, the EIR failed to compare the project's traffic impacts to existing baseline conditions; instead it only compared impacts to a future projected baseline that relied on various assumed infrastructure improvements. The result was a baseline that may have understated the project's impacts. Here, the Recirculated Draft EIR does not make the same mistake, as the commentor asserts.

The cumulative traffic impacts analysis in Chapter 22 of the Recirculated Draft EIR compares the cumulative scenario against existing conditions. (DREIR, p. 22-11, see also Recirculated Draft EIR, p. 8-7 [description of existing conditions baseline using data from 2007 and 2008].) The cumulative

scenario includes the project's impacts, along with other proposed projects that will *increase* potential impacts. No infrastructure improvements that would reduce the project's potential impacts are included in that analysis. (See Table 8-3, Pending Development Projects, Recirculated Draft EIR, pp. 8-8 to 8-9.) This method of impact analysis is a conservative approach that potentially overstates traffic impacts, by factoring in other pending projects that may or may not come to fruition, and compares those impacts against existing conditions.

The Recirculated Draft EIR adequately analyzes the project's potential traffic impacts against a baseline of existing conditions. The fact that the Recirculated Draft EIR also analyzes the project's potential impacts against projected future conditions is a strength, not a flaw. The *Sunnyvale* Court, after finding the EIR defective for failing to analyze the project's impacts against existing conditions, stated that "[t]his is not to say, however, that discussions of the foreseeable changes and expected future conditions have no place in an EIR. To the contrary, such discussions may be necessary to an intelligent understanding of a project's impacts over time and full compliance with CEQA." (*Sunnyvale*, at p. 1381.) The Recirculated Draft EIR facilitates an intelligent understanding of the project's impacts by analyzing impacts against existing conditions and probable future conditions.

Response to Comment I-30

This comment requests that the funds required for improvements under the jurisdiction of Caltrans should be held by the City until such time that the improvement is approved by Caltrans. The comment references Mitigation Measures 8.2(a) and 8.2(b), which include traffic signals and dedicated left-turn lanes. Mitigation Measure 8.2(a) refers to signal installation at the Olive Avenue and Golden State Boulevard entrances to Roeding Regional Park. These improvements are not under the jurisdiction of Caltrans. However, as requested and to ensure that the funds are provided to the City, Mitigation Measure 8.2(a) is revised as follows. The underlined text provides additional text to the measure. This additional text provides a clarification of the mitigation measure.

8.2(a) Prior to the issuance of building permits, the project applicant shall install traffic signals at the following intersections. The timing of implementing these improvements is estimated to be prior to 2030; however, the improvements shall be completed when or before the significance thresholds are reached. Because the improvements are estimated to be needed in the future, the applicant shall provide the City of Fresno the funding to install the improvements so that when or before the significance thresholds are reached, the City can fund the improvements.

- Olive Avenue and Site Access - Signal Installation
- Golden State Boulevard and Site Access - Signal Installation

The reference to Mitigation Measure 8.2(b) refers to dedicated left-turn storage lanes and the likely requirement to widen the overcrossing structure of Belmont Avenue and SR-99. The measure

identifies an estimated proportionate share of 7.5 percent; however, the final proportion shall be determined by the City Engineer. To clarify that the funds are provided to the City for the improvements, Mitigation Measure 8.2(b) is revised as follows. The underlined text provides additional text to the measure. This additional text provides a clarification of the mitigation measure.

- 8.2(b) Prior to the issuance of building permits, the project applicant shall pay the proportionate share to accommodate dedicated left-turn storage lanes on Belmont Avenue for each on-ramp. This improvement is not currently part of a fee program and would likely require widening of the overcrossing structure and reconstruction of much of the interchange. At the time of publication of this Recirculated Draft EIR, the estimated proportionate share is 7.5 percent; however, the final proportionate share shall be determined by the City Engineer (or his/her designer) at the time building permits are requested. Because the improvements are estimated to be needed in the future, the applicant shall provide the City of Fresno the funding to install the improvements so that when or before the significance thresholds are reached, the City can fund the improvements.

This comment also requests that the effect of the two above mitigation measures be provided. The discussion of the effect of implementing both of the above mitigation measures is provided on page 8-22 of the Recirculated Draft EIR under the “Mitigation Discussion.”

Response to Comment I-31

This comment asserts that the predicted traffic volumes for the Master Plans Project is underestimated and therefore the air quality analysis is inadequate. Please see Response to Comment I-2 for a discussion of the methodology of the traffic projections. This methodology provides an adequate projection of project traffic volumes. The project traffic volumes were adequately used in the air quality analysis.

Response to Comment I-32

The comment asserts that the Recirculated Draft EIR fails to adequately evaluate whether the project would violate the air quality standards or substantially contribute to an existing or projected air quality violation. This is an incorrect assertion.

Impact 10.3 indicates that the project generated increases of criteria air pollutants would not contribute to existing and future non-attainment air quality conditions. In addition, Impact 10.8 indicates that the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable national or state ambient air quality standard. These findings are in part based on the fact that project emissions would be under the SJVAPCD’s significance thresholds (see Impact 10.2 (construction emissions) and 10.4 [operational emissions]).

Note that the SJVAPCD has not identified a threshold for PM_{2.5}; however, one can be derived by using the 15 tons per year threshold for PM₁₀ and applying the ratio of the annual ambient air quality standards for PM₁₀ (20 µg/m³) to PM_{2.5} (12 µg/m³), which results in 9 tons of PM_{2.5} per year. As shown in Impacts 10.2 and 10.4, project emissions of PM_{2.5} are less than 9 tons per year.

It is appropriate to measure a project's impact to thresholds to determine a project's level of impact and determine if mitigation is required. The source of the thresholds of significance for ROG, NO_x, and PM₁₀ is the SJVAPCD's Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI). The SJVAPCD is an expert commenting agency for air quality impacts including those resulting from criteria pollutant emission sources. The GAMAQI went through a public review process and was adopted by the SJVAPCD Governing Board in 1998 and was updated in 2002. The criteria pollutant thresholds for the ozone precursors ROG and NO_x are 10 tons per year for each pollutant. This is the threshold level established in state law for air basins designated as Severe Nonattainment for the state ozone standard to require new stationary sources to provide emission offsets. Although the offset threshold only applies to stationary emissions sources, Air Districts around the state concluded that this level provides a logical threshold that is sufficiently stringent to ensure that projects that emit less than this amount would not result in a significant air quality impact. The offset threshold becomes lower with the severity of the air quality problem in the air basin in recognition that areas with the greatest problem should have a more stringent threshold. Since adoption, the threshold approach has been accepted by communities throughout the state and the San Joaquin Valley including the City of Fresno. Additional proof that the threshold is adequate is the continued rapid decline in the SJVAPCD emission inventory since the threshold was introduced even with rapid development during that period. It is not necessary to re-justify well established thresholds over and over. It is fully legitimate and supported by CEQA for the City of Fresno to continue to rely on this threshold that was created by the agency with the expertise to evaluate and create such a threshold.

The thresholds are supported by substantial evidence. The form of the threshold is important for this discussion. The threshold is in a ton per year format. Ozone is a secondary pollutant that is formed in complex photochemical reactions separated in time and place from the point of emission of the precursors involved in the reaction (ROG and NO_x). Emissions from a single project have no measurable impact on ozone concentrations. Therefore, the ozone health impact of a single project is also not measurable. The project's ozone impact is the cumulative impact from all emission sources, so the question becomes what amount of emissions are cumulatively considerable. The stationary source offset thresholds are the most stringent thresholds applied to any source of ozone precursors; therefore, applying this threshold to indirect sources like the project's sources is reasonable.

In addition, the Recirculated Draft EIR also demonstrates plan consistency as a threshold for the cumulative impacts (see Impact 10.8). The SJVAPCD has adopted plans to attain air quality standards for all pollutants. The plans are designed to address the cumulative impact of all pollution sources, including those related to development projects. The plans do not rely on quantitative

reductions from land use projects, but encourage land use agencies to include measures in projects to reduce trips and vehicle miles traveled. The project improves pedestrian access and fulfills the intent of the air quality plans. The 10 ton per year threshold is based on an important regulatory threshold, new source review, and a lower threshold for development projects is not needed for the SJVAPCD to demonstrate attainment and would not move attainment forward if were set at zero. The existence of attainment plans for the pollutants of concern constitutes substantial evidence that the threshold level is adequate.

Appendix G, Section III. Air Quality, which states: “Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations” ...of air quality impact. This clearly authorizes reliance on Air District thresholds in making determinations of significance. The GAMAQI went through public hearings and is based on a well accepted approach to determinations of significance for regional cumulative air quality impacts and the City is more than justified under CEQA to rely upon its guidance in making impact determinations.

The City has relied upon the data and thresholds of significance established by the agency charged with managing air quality impacts for this region. The City hired their own air quality technical experts to provide an in-depth evaluation of the potential impacts as they relate to air quality. The City has evaluated this data to make its own determinations as to the potential level of impact that may occur as required under CEQA.

Response to Comment I-33

This comment states that the modeling for CO concentrations is unclear and unsupported. The comment raised a question regarding the statement that emission factors are greater in 2014 than in future years. Emission factors are the emission rate of a pollutant (such as grams of CO per mile). To calculate emissions, the emission factor is multiplied by the miles driven. The Caline model allows the user to input emission factors and a schematic of an intersection; the Caline model estimates the concentrations of CO at the corners of the intersections.

As shown in the table below, emission factors for 2014 are greater than the emission factors for 2030. EMFAC2007 is the model that generates emission factors. When a user of EMFAC2007 selects a year, EMFAC2007 generates emission factors for vehicles from 45 model years, from the current model year back 44 years. For example, if 2014 is selected, the vehicle model years will be between 1969 and 2014. An emission factor for 2030 would include vehicles between 1985 and 2030. Newer vehicles have fewer emissions from the application of regulations that require better fuel efficiency. Therefore, using the higher emission factors for 2014 and the higher volumes in 2030 results in the worst-case scenario.

Table 1: Carbon Monoxide Emission Factors

Speed	Emission Factors (grams/mile or idle-hour)	
	2014	2030
0	11.5	10.8
5	6.2	2.3
10	4.9	1.8
15	4.0	1.4
20	3.4	1.2
25	3.0	1.1
30	2.7	1.1

Source: EMFAC2007, Winter season, San Joaquin Valley area, temperature 50 degrees Fahrenheit, relative humidity 50%

Response to Comment I-34

This comment asserts that the Recirculated Draft EIR fails to adequately evaluate impacts related to climate change, because the Recirculated Draft EIR used an improper baseline. The Recirculated Draft EIR evaluates the project's greenhouse gas emissions in Impact 10.1.

As discussed on page 10-28, the SJVAPCD has developed guidance to assessing greenhouse gas impacts. This guidance helps establish a baseline for climate change analysis, and provides that a project would be considered to have a less than significant impact if it would do at least one of the following: (1) comply with an approved greenhouse gas emissions reduction plan or program, (2) implement approved best performance practices, or (3) quantify project greenhouse gas emissions and reduce those emissions by at least 29 percent compared to "Business as Usual." The use of the 29 percent is consistent with the greenhouse gas emissions reduction targets established in the Air Resources Boards Assembly Bill 32 Scoping Plan. The term "Business a Usual" is a defined term in the SJVAPCD's guidance, used to mean emissions occurring in 2020 if the average baseline emissions during the 2002-2004 period grew to 2020 levels. Accordingly, for this third criteria, the SJVAPCD establishes a baseline for evaluation that agencies may use for their climate change analysis.

Here, since there is no approved greenhouse gas emissions reduction plan or program, the analysis included the application of approved best performance standards (project design features and mitigation measures) and reducing emissions by at least 29 percent compared to "Business as Usual."

The SJVAPCD guidance provides substantial evidence to support its approach. The City has relied upon the data and thresholds of significance established by the agency charged with managing air

quality impacts for this region, as well as State goals based upon AB 32. The analysis in the EIR discloses all significant emission sources related to the project with opportunity for influence or control, as well as applicable reductions from other land use related emissions.

The SJVAPCD threshold approach is a thoughtful, reasoned approach to a new impact area. The SJVAPCD concluded that it was not appropriate to set a project quantitative threshold since it was not possible to identify a measurable impact to climate from any project. Since no project by itself could cause a measurable impact to the climate, and no threshold amount applicable to any individual project would result in a measurable change in global greenhouse gas emissions, consistency with AB 32 targets was determined to be an appropriate threshold. No amount of additional analysis will change this conclusion.

The 300-page staff report prepared by the SJVAPCD in support of its threshold approach includes a lengthy discussion describing greenhouse gas impacts and relating the threshold to the Air Resources Board targets. The ARB Scoping Plan contains volumes of information to support the amount of reductions required for the State of California to reduce greenhouse gas emissions in the State of California to 1990 levels by 2020 with reductions from each emission sector. The City has independently reviewed this material, as well as the proposed Project's potential contribution to greenhouse gas emissions from the air quality technical experts. The City has relied upon a threshold that is well supported by fact and made its own determination as to the justification for its use.

The SJVAPCD staff report prepared to support their threshold approach states: "Thus, District staff concludes that it is not feasible to scientifically establish a numerical threshold that supports a determination that greenhouse gas emissions from a specific project, of any size, would or would have a significant impact on global climate change." This means that although the obvious environmental objective is to reduce greenhouse gas emissions to prevent catastrophic climate change, it is not possible to assign an emission quantity to a project as a significance threshold related directly to impacts on climate. Further, the SJVAPCD states that "ARB, in carrying out its AB 32 mandates, has determined that the emission reductions targets established per AB 32 can be accomplished by achieving a 29% reduction in greenhouse gas emissions from Business-as-Usual (BAU), from key greenhouse gas emission source categories. This establishes what could be considered a de facto performance based standard for greenhouse gas emission reductions to be achieved at the project level for greenhouse gas emission source categories." Finally, the SJVAPCD threshold relates the project to the path to achieve the environmental objective provided in the ARB Scoping Plan.

This comment asserts that the Recirculated Draft EIR's baseline is incorrect. The comment essentially asserts that existing emissions be included in the analysis. However, existing emissions are not part of the project. The SJVAPCD's guidance states, "Projects not implementing Best Performance Standards would require quantification of *project specific* greenhouse gas emissions and

demonstration that *project specific* greenhouse gas emissions would be reduced or mitigated by at least 29%, compared to Business-as-Usual, including greenhouse gas emission reductions achieved since the 2002-2004 period” (emphasis added). The *project specific* emissions are consistent with the project description in the Recirculated Draft EIR. Emissions for other sources need not be estimated and included in the analysis.

The comment further implies that the greenhouse gas evaluation does not disclose project related increases in greenhouse gases. The greenhouse gas analysis for this project fully discloses the impact of the project, including project-related emissions. The potential short-term and long-term greenhouse gas emissions associated with the proposed project are provided in Tables 10-7 and 10-8 in Chapter 10 of the Recirculated Draft EIR. This analysis disclosed project-related increases in greenhouse gases over the current baseline condition.

Response to Comment I-35

This comment asserts that the RDEIR has failed to analyze cumulative impacts. This statement is incorrect. Page 22-16 addresses cumulative greenhouse gas impacts. The cumulative analysis references that the project’s impacts were determined to be significant. Since the application of project design features and mitigation measures would reduce potential greenhouse gas emissions to less than significant, the project’s contribution to cumulative greenhouse gas emissions is also less than significant. This finding is consistent with the SJVAPCD guidance on assessing greenhouse gas impacts. Please also see Response to Comment I-34 regarding the RDEIR’s use of a proper baseline for its climate change analysis.

Response to Comment I-36

This comment asserts that the project’s cumulative construction impacts were not adequately analyzed. This is incorrect. Impact 10.8 addresses potential cumulative construction impacts. The finding of less than significance is based on the analysis of the project’s construction emissions and compliance with the SJVAPCD’s Indirect Source Review (ISR). As shown in Impact 10.2, construction emissions are less than the SJVAPCD’s significance thresholds. As discussed in Response to Comment I-32, the thresholds are appropriate to utilize to determine significance. As discussed in Impact 10.8, ISR requires a reduction in construction emissions of 20 percent NO_x and 45 percent PM₁₀ exhaust emissions. The purposes of the ISR are to:

1. Fulfill the SJVAPCD’s emission reduction commitments in the PM₁₀ and Ozone Attainment Plans.
2. Achieve emission reductions from the construction and use of development projects through design features and on-site measures.
3. Provide a mechanism for reducing emissions from the construction of and use of development projects through off-site measures.

Project compliance with the ISR would help obtain the SJVAPCD's emission reduction commitments in the attainment plans. The attainment plans bring the basin's cumulative emission sources into attainment with the ambient air quality standards. Therefore, as shown in the RDEIR and explained further here, the project's construction emissions would not contribute to a significant cumulative impact.

Response to Comment I-37

This comment asserts that any increase in NO_x or ROG emissions within the SJVAB would not comply with the District's 2007 Ozone Plan and would result in a cumulative impact in the SJVAB. The SJVAPCD states in its Guide for Assessing Mitigating Air Quality Impacts that, "Although it may be argued that any increase in pollutant emissions in an area with a severe pollution problem may be significant, a reasonable threshold is still needed to avoid unnecessarily burdening every project with a requirement to prepare an EIR, which is clearly not intended by CEQA nor desired by the SJVAPCD" (pp. 22-23). The statement from the SJVAPCD's Guide for Assessing Mitigating Air Quality Impacts is consistent with the CEQA principle that a non-zero threshold can be used for air quality impacts. The key phrase is "unnecessarily burdening every project." The threshold was set at a level appropriate for the severity of the impact and placed the burden at a level necessary to prevent significant air quality impacts. Please refer to Response to Comment I-32 for a discussion of why the SJVAPCD thresholds of significance are appropriate for this project. As shown in Impact 10.2, construction emissions do not exceed the thresholds. Based on the evaluation in Impact 10.4, project operational emissions that form ozone (i.e., NO_x and ROG) would not exceed the SJVAPCD thresholds. Since the thresholds are not exceeded, less than significant impacts would occur, and no mitigation measures are required. In addition, as discussed in Response to Comment I-36, compliance with the SJVAPCD's Indirect Source Review rule would fulfill the SJVAPCD's emission reduction commitments in the PM₁₀ and Ozone Attainment Plans. Therefore, even with new development, the plan's emission reduction commitments (such as those the commentor references) would be fulfilled. The 2007 Ozone Plan does not state that any increase in emissions will result in a significant cumulative impact. The 2007 Ozone Plan indicates that 61 percent of the required NO_x emission reductions will come from regulatory measures for mobile and stationary sources (such as the Indirect Source Review rule). The remaining 14 percent NO_x reductions would come from incentives and the deployment of advanced technologies.

Response to Comment I-38

This comment states that the water supply evaluation was not adequately evaluated. Based on discussion with City staff, the increase in demand for the year 2030 within the Urban Water Management Plan (UWMP) is derived by anticipated growth within the City of Fresno that are consistent with the existing General Plan land uses. Since the proposed Master Plans Project is consistent with the existing General Plan land uses, the project is considered to be part of the growth that is referenced in the City's UWMP. Therefore, the analysis provided in Chapter 12 adequately evaluates potential impacts on water supply.

Response to Comment I-39

This comment asserts that the alternatives analysis is inadequate because there are more significant unavoidable impacts than the traffic impacts. As presented in Chapter 5 (Aesthetics), Chapter 4 (Cultural Resources), Chapter 7 Land Use and Public Land Use Policy, and Chapter 22 (Cumulative Impacts), the project would cause a significant and unavoidable traffic impact. Due to the potential to implement the High Speed Rail Project along with the proposed project, the cumulative impact to noise and cultural resources may be significant and unavoidable. These potential significant and unavoidable adverse impacts are addressed in Chapter 22 of the Recirculated Draft EIR.

This comment also expresses a concern that the Alternatives Chapter of the Recirculated Draft EIR disqualifies an alternative if it does not meet the project objectives. Chapter 24 of the Recirculated Draft EIR documents the comparative evaluations between the alternatives and the proposed project. The alternative analysis also documents which objectives are not obtained for each alternative. Although there is a discussion of which objectives are not obtained, Chapter 24 does not reject the alternatives that are fully evaluated due to conflicting with some of the project objectives.

Response to Comment I-40

This comment expresses a concern that the onsite ponds may qualify as jurisdictional waters. The discussion of jurisdictional waters on page 6-6 of the Recirculated Draft EIR is correct. The Master Plans site does not contain jurisdictional waters because the park's bodies of water are concrete-lined and isolated from downstream navigable waters. The comment's reference to the extension of Army Corps of Engineer's jurisdiction to artificially created water is correct; however, their jurisdiction does not extend to isolated waters. The comment also request an analysis of whether the ponds themselves are navigable. According to 33 CFR Part 329, a navigable water of the United States is if the water body is (a) subject to the ebb and flow of the tide, and/or (b) the water body is presently used, or has been used in the past, or may be susceptible for use to transport interstate or foreign commerce. The onsite isolated ponds do not meet the definition of navigable waters of the United States.

SECTION 4: ERRATA

The following are revisions to the Recirculated Draft EIR for the Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans. These revisions are minor modifications and clarifications to the document, and do not change the significance of any of the environmental issue conclusions within the Recirculated Draft EIR. The revisions are listed by page number. All additions to the text are underlined (underlined) and all deletions from the text are stricken (~~stricken~~).

4.1 - Changes in Response to Specific Comments on the Recirculated Draft EIR

Chapter 4 - Cultural Resources

Page 4-24

Mitigation Measure 4.1(a) on page 4-24 of the Recirculated Draft EIR is revised as follows.

- 4.1(a) Maintain the public recreational uses associated with the ponds by introducing a new pond feature in accordance with Mitigation Measure 4.8(a), which states that historic preservation design guidelines shall be developed that address new design in the context of the contributing architectural and landscape features of the potential historic district. A new pond feature shall be located near the Golden State Boulevard entry to the park, such that the pond feature is at least as visible and as accessible as it is in its current location. Historic American Landscape Survey (HALS) documentation of the ponds shall be prepared by a qualified historic preservation professional prior to the demolition of the ponds. The Zoo will consult with the California Department of Fish and Game (CDFG) and will stock the pond feature with fish species recommended by CDFG. The Zoo will also consult with a qualified biologist concerning the design of the new ponds. The Zoo will incorporate design elements recommended by the biologist into the ponds (potentially including but not limited to foraging areas, access to the ponds, and other features) in order to create migratory bird habitat of comparable value to that provided by the existing ponds.

Chapter 5 - Aesthetics

Page 5-19

Mitigation Measure 5.1(f)(1) on page 5-19 of the Recirculated Draft EIR is revised as follows.

- (1) The fence shall comply with United State Department of Agriculture and American Zoo Association (AZA) requirements for Zoo perimeter fences. In keeping with these requirements, the location and design of the fence shall not jeopardize the safety of animals within the Fresno Chaffee Zoo. ~~Compliance with this mitigation~~

~~requirement shall take precedence over following mitigation requirements in cases where the requirements may conflict.~~

Chapter 8 - Transportation/Traffic

Page 8-22

Mitigation Measure 8.2(a) on page 8-22 of the Recirculated Draft EIR is revised as follows.

8.2(a) Prior to the issuance of building permits, the project applicant shall install traffic signals at the following intersections. The timing of implementing these improvements is estimated to be prior to 2030; however, the improvements shall be completed when or before the significance thresholds are reached. Because the improvements are estimated to be needed in the future, the applicant shall provide the City of Fresno the funding to install the improvements so that when or before the significance thresholds are reached, the City can fund the improvements.

- Olive Avenue and Site Access - Signal Installation
- Golden State Boulevard and Site Access - Signal Installation

Page 8-22

Mitigation Measure 8.2(b) on page 8-22 of the Recirculated Draft EIR is revised as follows.

8.2(b) Prior to the issuance of building permits, the project applicant shall pay the proportionate share to accommodate dedicated left-turn storage lanes on Belmont Avenue for each on-ramp. This improvement is not currently part of a fee program and would likely require widening of the overcrossing structure and reconstruction of much of the interchange. At the time of publication of this Recirculated Draft EIR, the estimated proportionate share is 7.5 percent; however, the final proportionate share shall be determined by the City Engineer (or his/her designer) at the time building permits are requested. Because the improvements are estimated to be needed in the future, the applicant shall provide the City of Fresno the funding to install the improvements so that when or before the significance thresholds are reached, the City can fund the improvements.

Page 8-23

Though not legally required, a reference to the California Public Utility Commission's General Order (GO) 88-B has been added to Mitigation Measure 8.4(b) on page 8-23 of the Recirculated Draft EIR and shown below.

8.4(b) The project applicant shall install a sidewalk on the south and north sides of the Olive Avenue at-grade railroad crossing consistent with the requirements of General Order 88-B and any other applicable CPUC requirements.

Chapter 14 - Hydrology and Water Quality

Page 14-11

To provide clarification for Mitigation Measure 14.2(b) on page 14-11 of the Recirculated Draft EIR, the measure is revised as shown.

14.2(b) The Fresno Chaffee Zoo shall coordinate with the City and the Fresno Metropolitan Flood Control District to implement a relief system for the proposed storm drainage facility. The proposed relief system shall include a pump if the proposed basin is deeper than four-feet. The relief system ~~would~~ will include connection to an existing ~~the installation of~~ a siphon at the southeast corner of the proposed basin (i.e., at the intersection of Franklin Avenue and Pacific Avenue) and installation of ~~a pipeline~~ approximately 500 feet of pipeline in the Franklin Avenue right-of-way to the existing ~~underground~~ Fresno Metropolitan Flood Control District (FMFCD) pipeline located at the intersection of Franklin Avenue and Humboldt Avenue. This underground pipeline is connected to the FMFCD retention Basin RR-2. The proposed relief system would be used if there is a storm that exceeds the FMFCD's retention basin design requirements (i.e., runoff from 6 inches of rainfall over 10 days). The relief system shall be subject to approval by the FMFCD.

