



Los Banos General Plan 2042 Final EIR

for the City of Los Banos
September 2022

State Clearinghouse Number 2022010254





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1. Introduction

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

This Final Environmental Impact Report (Final EIR), which has been prepared in compliance with the California Environmental Quality Act (CEQA), provides responses to comments received on the Draft Environmental Impact Report (Draft EIR) for the adoption and implementation of the proposed Los Banos General Plan 2042 and Annexation Ordinance, herein referred to as “proposed project.” The Draft EIR identifies significant impacts associated with the proposed project, identifies and considers alternatives to the proposed project, and identifies mitigation measures to avoid or reduce potential environmental impacts.

This Final EIR also contains text revisions to the Draft EIR. This Final EIR, together with the Draft EIR, constitutes the complete EIR for the proposed project.

1.2 ENVIRONMENTAL REVIEW PROCESS

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project, and to provide the general public with an opportunity to comment on the Draft EIR. This Final EIR has been prepared to respond to comments received on the Draft EIR. A Notice of Preparation of an EIR was issued by the City on January 18, 2022 for a 30-day-review period. A Notice of Availability was issued on June 17, 2022 and the Draft EIR was made available for public review for a 45-day public review period through August 1, 2022. The Draft EIR was distributed to local, regional, and State agencies and the general public was advised of the availability of the Draft EIR. The Draft EIR was made available for review to interested parties on the City's website at: <http://losbanos2042.org/>.

Written comments received on the Draft EIR are included in their original format as Appendix J, *Comments Letters*, of this Final EIR. These comments are also reproduced in Chapter 4, *Comments and Responses*, of this document, and responses to comments on environmental issues are provided.

This Final EIR will be presented at a Planning Commission hearing at which the Commission will advise the City Council on certification of the EIR. However, the Planning Commission will not take final action on the EIR or the proposed project. Instead, the City Council will consider the Planning Commission's recommendations on the Final EIR and the proposed project during a noticed public hearing, and will make the final action with regard to certification of the Final EIR. The City Council will consider certification of the Final EIR at a public hearing in Fall 2022.

INTRODUCTION

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2. Executive Summary

This Final Environmental Impact Report (EIR) has been prepared to provide an assessment of the potential environmental consequences of approving and implementing the proposed Los Banos General Plan 2042 project, herein referred to as “proposed project.” The Final EIR contains responses to comments received on the Draft EIR. The Final EIR also contains corrections, clarifications, and changes to the text and analysis of the Draft EIR, where warranted.

Table 2-1, *Summary of Significant Impacts and Mitigation Measures* summarizes the conclusions of the environmental analysis in this Draft EIR and presents a summary of the identified significant impacts and the proposed General Plan 2042 policies and actions and the CEQA-required mitigation measures that reduce impacts. As summarized in Table 2-1 below, and as required by CEQA, some impacts remain significant and unavoidable after implementation of General Plan policies and actions and consideration of feasible mitigation. Table 2-1 is organized to correspond with the environmental issues in Chapter 4, *Environmental Analysis*, of the Draft EIR and its subchapters 4.1 through 4.17. Table 2-1 is arranged in four columns: (1) impact, (2) significance without mitigation, (3) mitigation measures, and (4) significance with mitigation. All environmental topics not listed in this table were found to have less-than-significant impacts without mitigation. For a complete description of potential impacts, please refer to the specific discussions in Chapter 4, *Environmental Analysis*, of the Draft EIR and its subchapters 4.1 through 4.17.

EXECUTIVE SUMMARY

TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
4.2 AGRICULTURAL RESOURCES (AG)			
<p>AG-1: Implementation of the General Plan 2042 would result in the conversion of Prime Farmland, Farmland of Statewide Importance, or Unique Farmland land to non-agricultural land uses.</p>	<p>Significant and unavoidable</p>	<p>Land Use (LU): LU-P1.2, LU-P1.3, LU-P1.4, LU-P1.9, LU-A1.4, LU-3.1, LU-P4.5, LU-P6.4, LU-A6.3, P-A5.1, P-P7.1, P-P7.2, P-P7.3, P-P7.4, P-P7.5, P-P7.6, P-P7.7, P-A7.1, and P-A7.2.</p> <p>Public Facilities and Services (PFS): PFS-P3.6</p> <p>Mitigation Considered but Found to be Infeasible: Replacement of Agricultural Lands, Transfer of Development Rights, and Relocation of Prime Farmland Topsoil. See Chapter 4.2 for a detailed discussion.</p> <p>As discussed in Chapter 4.2, implementation of the proposed project would designate Prime Farmland, Farmland of Statewide Importance, or Unique Farmland land to non-agricultural land uses. Through General Plan 2042 policies and actions, and mandatory mitigation measures, impacts related to the conversion of qualifying agricultural lands would be reduced but not to a less-than-significant level. The proposed General Plan 2042 contains policies and actions to reduce the conversion of qualifying agricultural lands, such as Policy P-P7.3 that requires the City to protect productive agricultural areas from conversion to non-agricultural uses by establishing and implementing an agricultural mitigation program, with consistent standards based on Merced County’s Agricultural Land Mitigation policy, that matches acres converted with farmland acres preserved at a 1:1 ratio, Policy P-P7.4 that requires the City to support agricultural conservation easement programs managed by other public, private, and non-profit organizations, Policy P-P7.7 that requires applicants of annexation proposals that would result in the conversion of 50 or more acres to prepare inventories of vacant land that could serve the same purpose, and Actions P-A7.1 and P-A7.2 that require the City to explore feasible and implementable policies and mitigation measures to address impacts to agricultural lands and establish specific overlay zones to maintain existing agricultural lands, respectively. These policies and actions would not reduce the amount of acreage converted under buildout of the proposed General Plan 2042; however, they would forestall development of the best agricultural land within the City’s SOI. While these efforts and other mitigation measures were considered, such as preserving agricultural uses in the EIR Study Area, replacement of agricultural resources by replacing lost agricultural uses to other areas of the city, and relocation of Prime Farmland topsoil to other areas, these mitigations are not feasible. Additionally, other mitigating efforts, such as</p>	<p>Significant and unavoidable</p>

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Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>AG-2: Implementation of the General Plan 2042 would result in the loss of agricultural land under the Williamson Act.</p>	<p>Significant and unavoidable</p>	<p>conservation easements, one-to-one preservation, and right-to-farm ordinances all work to mitigate impacts; however, the only way to fully avoid the agricultural impact from implementation of the proposed General Plan is to not allow development on state-designated Prime Farmland, Farmland of Statewide Importance, or Unique Farmland, thereby eliminating the agricultural impact. However, doing so is not feasible or practical as the City has a responsibility to meet other conflicting obligations, including increases in the number and type of jobs available in Los Banos and to reduce the need for residents to commute to high-quality jobs. These measures are critical to reducing single-occupant vehicle travel to and from Los Banos and meeting State targets for greenhouse gas reduction. The City needs to promote both economic development and corresponding residential development, as required by State housing law, within its adopted growth boundary. While possible forms of mitigation for, or avoidance of, conservation of agricultural lands in the EIR Study Area would be implemented by the City through its General Plan policies and actions, doing so to reduce impacts to a less-than-significant level would be infeasible and inconsistent with City planning goals and objectives. Therefore, impacts would remain <i>significant and unavoidable</i>.</p> <hr/> <p>Land Use (LU): LU-P1.2, LU-P1.3, LU-P1.4, LU-P1.9, LU-A1.4, LU-3.1, LU-P4.5, LU-P6.4, LU-A6.3, P-A5.1, P-P7.1, P-P7.2, P-P7.3, P-P7.4, P-P7.5, P-P7.7, P-A7.1, and P-A7.2.</p> <hr/> <p>Public Facilities and Services (PFS): PFS-P3.6</p> <hr/> <p>Mitigation Considered but Found to be Infeasible: Replacement of Agricultural Lands, Transfer of Development Rights, and Relocation of Prime Farmland Topsoil. See Chapter 4.2 for a detailed discussion.</p> <p>As described in Chapter 4.2 and in impact AG-1 above, the proposed General Plan 2042 includes policies and actions to minimize impacts to agricultural lands. Those same General Plan policies and actions would also minimize impacts from conflicts with Williamson Act lands and reduce the likelihood of premature contract cancellations by the property owners of the Williamson Act parcels in the EIR Study Area. Mitigation for this impact was considered, including the placement of other farmland under Williamson Act contract. However, the individual and cumulative loss of agricultural land under the Williamson Act caused by the proposed project would still occur. Given that CEQA does not require that the project be changed to avoid an impact, and no</p>	<p>Significant and unavoidable</p>

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TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>AG-4: The General Plan 2042, in combination with past, present, and reasonably foreseeable projects, could result in a significant cumulative impact with respect to the conversion of farmland of concern under CEQA and Williamson Act properties to non-agricultural uses.</p>	<p>Significant and unavoidable</p>	<p>additional mitigation is available, this would result in a <i>significant and unavoidable</i> impact.</p>	<p>Significant and unavoidable</p>
		<p>Land Use (LU): LU-P1.2, LU-P1.3, LU-P1.4, LU-P1.9, LU-A1.4, LU-3.1, LU-P4.5, LU-P6.4, LU-A6.3, P-A5.1, P-P7.1, P-P7.2, P-P7.3, P-P7.4, P-P7.7, P-A7.1, and P-A7.2.</p> <p>Public Facilities and Services (PFS): PFS-P3.6</p> <p>Mitigation Considered but Found to be Infeasible: Replacement of Agricultural Lands, Transfer of Development Rights, and Relocation of Prime Farmland Topsoil. See Chapter 4.2 for a detailed discussion.</p> <p>As described in Chapter 4.2, implementation of the proposed project would result in significant impacts related to the conversion of farmland of concern under CEQA and Williamson Act properties to non-agricultural uses. As such, the proposed project would contribute to the cumulative impact described in the Merced County General Plan EIR. Although the goals, policies, and actions in the General Plan 2042 would reduce and partially offset regional agricultural impacts, as well as consideration of mitigation measures to preserve agricultural lands, the only way to fully avoid the agricultural impact of the proposed General Plan is to not allow development on state-designated farmland, thereby eliminating the agricultural impact. However, this would be infeasible and inconsistent with City planning goals and objectives. Further, the amount of growth foreseen in the region and the decisions of Merced County and other surrounding counties regarding conversion of agricultural land are outside the control of the City of Los Banos. Therefore, this impact would be <i>significant and unavoidable</i>.</p>	
4.3 AIR QUALITY (AIR)			
<p>AIR-1: Implementation of the General Plan 2042 would result in the generation of substantial operational (long-term) criteria air pollutant emissions that would exceed the San Joaquin Valley Unified Air Pollution Control District regional significance thresholds and would therefore not be considered consistent with the existing Air Quality Management Plans.</p>	<p>Significant</p>	<p>MM AIR-1: Implement Mitigation Measures AIR-2a and AIR-2b.</p>	<p>Significant and unavoidable</p>

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TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>AIR-2a: Operation of development projects that could occur from implementation of the General Plan 2042 would generate emissions that would exceed the San Joaquin Valley Unified Air Pollution Control District regional significance thresholds for volatile organic compounds (VOC), nitrogen oxides (NO_x), and carbon monoxide (CO).</p>	Significant	<p>Land Use (LU): LU-P4.8</p> <hr/> <p>Circulation (C): C-P2.6, C-P3.2, C-P3.3, C-P4.1, C-P4.6, and C-P7.2</p> <hr/> <p>Parks, Open Space, and Conservation (P): P-P11.1, P-P11.2, P-P11.4, P-P11.5, P-P11.7, P-P11.8, P-A11.1, P-A11.2, P-P12.1, P-P12.2, and P-P12.3</p> <hr/> <p>MM AIR-2a: Prior to discretionary approval by the City for development projects subject to California Environmental Quality Act (CEQA) review (i.e., non-exempt projects), project applicants shall prepare and submit a technical assessment evaluating potential project operation phase-related air quality impacts to the City of Los Banos for review and approval. The evaluation shall be prepared in conformance with San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) methodology in assessing air quality impacts. If operation-related air pollutants are determined to have the potential to exceed the SJVAPCD-adopted thresholds of significance, as identified in the <i>Guidance for Assessing and Mitigating Air Quality Impacts</i>, the City of Los Banos Planning and Engineering Division shall require that applicants for new development projects incorporate mitigation measures to reduce air pollutant emissions during operational activities. The identified measures shall be included as part of the conditions of approval. Possible mitigation measures to reduce operational (long-term) emissions can include, but are not limited to the following:</p> <ul style="list-style-type: none"> ▪ For site-specific development that requires refrigerated vehicles, the construction documents shall demonstrate an adequate number of electrical service connections at loading docks for plug-in of the anticipated number of refrigerated trailers to reduce idling time and emissions. ▪ Applicants for manufacturing and light industrial uses shall consider energy storage and combined heat and power in appropriate applications to optimize renewable energy generation systems and avoid peak energy use. ▪ Site-specific developments with truck delivery and loading areas and truck parking spaces shall include signage as a reminder to limit idling of vehicles while parked for loading/unloading in accordance with Section 2485 of 13 California Code of Regulations Chapter 10. ▪ Provide changing/shower facilities as specified, at minimum, or greater than in the guidelines of the Nonresidential Voluntary Measures of the California Green Building Standards Code (CALGreen located in Part 11 of Title 24). 	Significant and unavoidable

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Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>AIR-2b: Construction activities associated with buildout of the General Plan 2042 would generate substantial short-term criteria air pollutant emissions that would exceed the San Joaquin Valley Unified Air Pollution Control District regional significance thresholds and cumulative contribute to the nonattainment designations of the San Joaquin Valley Air Basin.</p>	Significant	<p>Parks, Open Space, and Conservation (P): P-P11.6</p> <p>MM AIR-2b: Prior to issuance of any construction permits for development projects subject to California Environmental Quality Act (CEQA) review (i.e., non-exempt projects), development project applicants shall prepare and submit to the City of Los Banos a technical assessment evaluating potential project construction-related air quality impacts. The evaluation shall be prepared in conformance with San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) methodology in assessing air quality impacts. The prepared evaluation for projects that meet the SJVAPCD Small Projects Analysis Level (SPAL) screening criteria shall at minimum identify the primary sources of construction emissions and include a discussion of the applicable SJVAPCD rules and regulations and SPAL screening criteria to support a less-than-significant conclusion.</p>	Significant and unavoidable

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Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
		<p>For projects that do not meet the SPAL screening criteria, project-related construction emissions shall be quantified. If construction-related criteria air pollutants are determined to have the potential to exceed the SJVAPCD adopted thresholds of significance, as identified in the Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI), the City of Los Banos shall require that applicants for new development projects incorporate mitigation measures to reduce air pollutant emissions during construction activities to below these thresholds. These identified measures shall be incorporated into appropriate construction documents (e.g., construction management plans) submitted to the City of Los Banos. Mitigation measures to reduce construction-related emissions could include, but are not limited to:</p> <ul style="list-style-type: none"> ▪ Using construction equipment rated by the United States Environmental Protection Agency as having Tier 4 interim (model year 2008 or newer) emission limits, applicable for engines between 50 and 750 horsepower. A list of construction equipment by type and model year shall be maintained by the construction contractor on-site, which shall be available for City review upon request. ▪ Ensuring construction equipment is properly serviced and maintained to the manufacturer’s standards. ▪ Use of alternative-fueled or catalyst-equipped diesel construction equipment, if available and feasible. ▪ Clearly posted signs that require operators of trucks and construction equipment to minimize idling time (e.g., five-minute maximum). ▪ Preparation and implementation of a fugitive dust control plan that may include the following measures: <ul style="list-style-type: none"> ▪ Disturbed areas (including storage piles) that are not being actively utilized for construction purposes shall be effectively stabilized using water, chemical stabilizer/suppressant, or covered with a tarp or other suitable cover (e.g., revegetated). ▪ On-site unpaved roads and offsite unpaved access roads shall be effectively stabilized using water or chemical stabilizer/suppressant. ▪ Land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled utilizing application of water or by presoaking. 	

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Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>AIR-3a: Implementation of the General Plan 2042 could expose air quality sensitive receptors to substantial toxic air contaminant concentrations from non-permitted sources during operation.</p>	Significant	<p>Parks, Open Space, and Conservation (P): P-P13.1, P-P13.2, P-P13.3, P-P13.4, P-P13.1, and P-P13.7</p>	Significant and unavoidable

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Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
		<p>MM AIR-3a: Prior to discretionary approval by the City of Los Banos for development projects subject to California Environmental Quality Act (CEQA) review (i.e., non-exempt projects), applicants for industrial or warehousing land uses in addition to commercial land uses that would generate substantial diesel truck travel (i.e., 100 diesel trucks per day or 40 or more trucks with diesel-powered transport refrigeration units per day based on the California Air Resources Board recommendations for siting new sensitive land uses) shall prepare an operational health risk assessment (HRA) to the City of Los Banos for review and approval. If the operational health risk assessment determines the new development poses health hazards that increase the incremental cancer risk above the threshold established by the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD), project-specific mitigation measures shall be integrated to reduce cancer and acute risk below the SJVAPCD threshold.</p> <p>The operational HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and the SJVAPCD. If the operational HRA shows that the incremental cancer risk exceeds 20 in a million, the appropriate noncancer hazard index exceeds 1.0; or the thresholds as determined by the SJVAPCD at the time a project is considered, the project applicant will be required to identify and demonstrate that measures are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms.</p> <p>Measures to reduce risk impacts may include but are not limited to:</p> <ul style="list-style-type: none"> ▪ Restricting idling onsite beyond Air Toxic Control Measures idling restrictions, as feasible. ▪ Electrifying warehousing docks. ▪ Requiring use of newer equipment and/or vehicles. ▪ Restricting offsite truck travel through the creation of truck routes. <p>The operational HRA shall be submitted to the City of Los Banos. Measures identified in the operational HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the proposed project.</p>	

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TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
AIR-3b: Construction activities associated with potential future development from implementation of the General Plan 2042 could expose nearby air quality sensitive receptors to substantial concentrations of toxic air contaminants during construction.	Significant	MM AIR-3b: Implement Mitigation Measure AIR-2b.	Significant and unavoidable
AIR-4: Operation of new industrial land uses accommodated under the proposed General Plan 2042 has the potential to create objectionable odors that could affect a substantial number of people.	Significant	<p>MM AIR-4: Prior to project approval, if it is determined during project-level environmental review that a project has the potential to emit nuisance odors beyond the property line, an Odor Management Plan shall be prepared and submitted by the project applicant prior to project approval to ensure compliance with San Joaquin Valley Unified Air Pollution Control District Rule 4102. The following facilities that are within the buffer distances specified from sensitive receptors (in parentheses) have the potential to generate substantial odors:</p> <ul style="list-style-type: none"> ▪ Wastewater Treatment Plant (2 miles) ▪ Sanitary Landfill (1 mile) ▪ Transfer Station (1 mile) ▪ Composting Facility (1 mile) ▪ Petroleum Refinery (2 miles) ▪ Asphalt Batch Plant (1 mile) ▪ Chemical Manufacturing (1 mile) ▪ Fiberglass Manufacturing (1 mile) ▪ Painting/Coating Operations (1 mile) ▪ Food Processing Facility (1 mile) ▪ Feed Lot/ Dairy (1 mile) ▪ Rendering Plant (1 mile) <p>The Odor Management Plan shall be submitted to the City of Los Banos. The Odor Management Plan prepared for these facilities shall identify control technologies that will be utilized to reduce potential odors to acceptable levels, including appropriate enforcement mechanisms. Control technologies may include but are not limited to scrubbers (e.g., air pollution control devices) at an industrial facility. Control technologies identified in the odor management plan shall be identified as mitigation measures in the environmental document and/or incorporated into the site plan.</p>	Less than significant

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Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>AIR-5: Implementation of the General Plan 2042 would generate a substantial increase in emissions that exceeds the San Joaquin Valley Unified Air Pollution Control District significance thresholds and would cumulatively contribute to the nonattainment designations and health risk in the San Joaquin Valley Air Basin.</p>	Significant	<p>Land Use (LU): LU-P4.8</p> <hr/> <p>Circulation (C): C-P2.6, C-P3.2, C-P3.3, C-P4.1, C-P4.6, and C-P7.2</p> <hr/> <p>Parks, Open Space, and Conservation (P): P-P11.1, P-P11.2, P-P11.4, P-P11.5, P-P11.7, P-P11.8, P-A11.1, P-A11.2, P-P12.1, P-P12.2, and P-P12.3</p> <hr/> <p>MM AIR-5: Implement Mitigation Measures AIR-2a, AIR-2b, AIR-3a, AIR-3b, and AIR-4</p>	Significant and unavoidable
4.8 GREENHOUSE GAS EMISSIONS (GHG)			
<p>GHG-1: Implementation of the General Plan 2042 would not meet the long-term greenhouse gas emissions reduction goals or substantial progress toward carbon neutrality goals under applicable statewide legislative GHG emission reduction requirements.</p>	Significant	<p>Economic Development (ED): ED-P1.1, ED-A1.1, ED-A2.1, ED-A2.2, and ED-A2.3</p> <p>Land Use (LU): LU-P1.1, LU-P1.3, LU-P2.11, LU-P2.15, LU-P4.8, LU-P5.2, LU-P5.3, LU-P5.6, and LU-P5.7</p> <p>Parks, Open Space, and Conservation (P): P-P12.1, P-P12.2, P-P12.3, P-P12.4, P-P12.5, P-P13.1, P-P13.2, P-P13.3, P-P13.4, P-P13.5, P-P13.6, P-P13.7, and P-A13.1</p> <p>Circulation (C): C-P1.1, C-P1.2, C-P1.3, C-A1.3, C-P2.5, C-P2.6, C-P2.8, C-A2.1, C-A2.2, C-P3.1, C-P3.2, C-P3.3, C-A3.1, C-P4.1, C-P4.2, C-P4.3, C-P4.4, C-P4.5, C-P4.6, C-P4.7, C-P4.8, C-P4.9, C-P7.1, C-P7.2, C-P7.4, and C-P7.5</p> <p>MM GHG-1: The City of Los Banos shall prepare a Climate Action Plan (CAP) to achieve the GHG reduction targets of Senate Bill 32 for year 2030 and the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP. The CAP shall be completed within 24 months of certification of the General Plan EIR. The CAP shall be updated every five years to ensure the City is monitoring the plan’s progress toward achieving the City’s greenhouse gas (GHG) reduction target and to require amendment if the plan is not achieving specified level. The update shall consider a trajectory consistent with the GHG emissions reduction goal established under Executive Order (EO) S-03-05 for year 2050 and the latest applicable statewide legislative GHG emission reduction that may be in effect at the time of the CAP update (e.g., Senate Bill 32 for year 2030). The CAP update shall include the following:</p> <ul style="list-style-type: none"> ▪ GHG inventories of existing and forecast year GHG levels. ▪ Tools and strategies for reducing GHG emissions to achieve the GHG reduction goals of Senate Bill 32 for year 2030 and the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP update. 	Significant and unavoidable

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TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>GHG-3: Implementation of the General Plan 2042 would not meet the long-term greenhouse gas emission reduction goal under Executive Order (EO) S-03-05 or substantial progress toward carbon neutrality goals under EO B-55-18.</p>	Significant	<ul style="list-style-type: none"> ▪ Tools and strategies for reducing GHG emissions to ensure a trajectory with the long-term GHG reduction goal of the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP update. ▪ Plan implementation guidance that includes, at minimum, the following components consistent with the proposed CAP: <ul style="list-style-type: none"> ▪ Administration and Staffing ▪ Finance and Budgeting ▪ Timelines for Measure Implementation ▪ Community Outreach and Education ▪ Monitoring, Reporting, and Adaptive Management ▪ Tracking Tools <hr/> <p>Economic Development (ED): ED-P1.1, ED-A1.1, ED-A2.1, ED-A2.2, and ED-A2.3</p> <p>Land Use (LU): LU-P1.1, LU-P1.3, LU-P2.11, LU-P2.15, LU-P4.8, LU-P5.2, LU-P5.3, LU-P5.6, and LU-P5.7</p> <hr/> <p>Parks, Open Space, and Conservation (P): P-P12.1, P-P12.2, P-P12.3, P-P12.4, P-P12.5, P-P13.1, P-P13.2, P-P13.3, P-P13.4, P-P13.5, P-P13.6, P-P13.7, and P-A13.1</p> <hr/> <p>Circulation (C): C-P1.1, C-P1.2, C-P1.3, C-A1.3, C-P2.5, C-P2.6, C-P2.8, C-A2.1, C-A2.2, C-P3.1, C-P3.2, C-P3.3, C-A3.1, C-P4.1, C-P4.2, C-P4.3, C-P4.4, C-P4.5, C-P4.6, C-P4.7, C-P4.8, C-P4.9, C-P7.1, C-P7.2, C-P7.4, and C-P7.5</p> <hr/> <p>MM GHG-3: Implement Mitigation Measure GHG-1.</p>	Significant and unavoidable
4.12 NOISE (NOI)			
<p>NOI-1a: Construction activities associated with potential future development projects from implementation of the General Plan 2042 could expose noise sensitive receptors in close proximity to a construction site to construction noise that exceeds 80 a-weighted decibel (dBA) equivalent continuous noise level over an 8-hour period ($L_{eq(8hr)}$)</p>	Significant	<p>Safety and Noise (S): S-P8.5, S-P8.6, and S-A8.3</p> <hr/> <p>As discussed in Chapter 4.12, implementation of the General Plan 2042 Action S-A8.3 would ensure that construction noise impacts are reduced to the degree feasible. Because construction activities associated with any individual development may occur near noise-sensitive receptors and because, depending on the project type, equipment list, time of day, phasing and overall construction durations, noise disturbances may occur for prolonged periods of time, during the more sensitive nighttime hours, or may exceed 80 dBA $L_{eq(8hr)}$ even with project-level mitigation, construction noise impacts associated with</p>	Significant and unavoidable

EXECUTIVE SUMMARY

TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>NOI-1b: Implementation of the General Plan 2042 traffic noise level increases of up to 2.6 a-weighted decibel (dBA) community noise equivalent level (CNEL) are estimated along State Route 152 between Badger Flat Road and Ortigalita Road which would exceed the City’s 1.5 dBA increase threshold.</p>	Significant	<p>implementation of the proposed project are considered <i>significant and unavoidable</i>.</p> <p>Safety and Noise (S): S-P8.3, S-P8.4, and S-A8.1</p> <p>MM NOI-1b: The City of Los Banos shall work with the California Department of Transportation (Caltrans) and request that Caltrans install “quiet pavement” materials to reduce traffic noise levels to below the City’s 1.5 dBA increase threshold along State Route 152 between Badger Flat Road and Ortigalita Road.</p>	Significant and unavoidable
<p>NOI-2a: Construction activities associated with potential future development projects from implementation of the General Plan 2042 could generate excessive short-term vibration levels during project construction resulting in human annoyance or building damage.</p>	Significant	<p>MM NOI-2a: Prior to issuance of a building permit for a project requiring pile driving during construction that is within 135 feet of fragile structures such as older or historical resources, 100 feet of non-engineered timber and masonry buildings (e.g., most residential buildings), or within 75 feet of engineered concrete and masonry (no plaster); or a vibratory roller within 25 feet of any structure, the project applicant shall prepare a noise and vibration analysis to assess and mitigate potential noise and vibration impacts related to these activities. This noise and vibration analysis shall be conducted by a qualified and experienced acoustical consultant or engineer. The vibration levels shall not exceed Federal Transit Administration (FTA) architectural damage thresholds (e.g., 0.12 inches per second (in/sec) peak particle velocity (PPV) for fragile or historical resources, 0.2 in/sec PPV for non-engineered timber and masonry buildings, and 0.3 in/sec PPV for engineered concrete and masonry). If vibration levels would exceed these thresholds, alternative uses such as drilling piles as opposed to pile driving and static rollers as opposed to vibratory rollers shall be used. If necessary, construction vibration monitoring shall be conducted to ensure vibration thresholds are not exceeded.</p>	Less than significant
<p>NOI-2b: The operation of future projects with implementation of the General Plan 2042 could generate excessive long-term vibration levels.</p>	Significant	<p>MM NOI-2b: During the project-level process for industrial developments or other projects that could generate substantial vibration levels near sensitive uses, a noise and vibration analysis shall be conducted to assess and mitigate potential noise and vibration impacts related to the operations of that individual development. This noise and vibration analysis shall be conducted by a qualified and experienced acoustical consultant or engineer and shall follow the latest California Environmental Quality Act guidelines, practices, and precedents.</p>	Less than significant

EXECUTIVE SUMMARY

TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>NOI-4a: The General Plan 2042, in combination with past, present, and reasonably foreseeable projects, could result in a significant cumulative impact with respect to construction noise.</p>	Significant	<p>Safety and Noise (S): S-P8.5, S-P8.6, and S-A8.3</p> <hr/> <p>As described in Chapter 4.12 in impact discussion NOI-1, because construction activities associated with any individual development may occur near noise-sensitive receptors and because, depending on the project type, equipment list, time of day, phasing and overall construction durations, noise disturbances may occur for prolonged periods of time, during the more sensitive nighttime hours, or may exceed 80 dBA $L_{eq(8hr)}$ even with project-level mitigation, cumulative construction noise impacts associated with implementation of the proposed General Plan 2042 are considered <i>significant and unavoidable</i> at the program level.</p>	Significant and unavoidable
<p>NOI-4b: The General Plan 2042, in combination with past, present, and reasonably foreseeable projects, could result in a significant cumulative impact with respect to roadway noise on State Route 152 between Badger Flat Road and Ortigalita Road.</p>	Significant	<p>Safety and Noise (S): S-P8.3, S-P8.4, and S-A8.1</p> <hr/> <p>MM NOI-4b: Implement Mitigation Measure NOI-1b.</p>	Significant and unavoidable
4.15 Transportation (TRAN)			
<p>TRAN-2: Implementation of the General Plan 2042 would result in a significant vehicle mile traveled (VMT) impact for VMT per service population due to forecast land use growth through 2042, based on a comparison of the VMT rate increment for VMT per service population to the corresponding average baseline rates for the Merced County region.</p>	Significant	<p>Economic Development (ED): ED-P1.1, ED-A1.1, ED-A2.1, ED-A2.2, and ED-A2.3</p> <hr/> <p>Land Use (LU): LU-P1.1, LU-P1.3, LU-P2.11, LU-P2.15, LU-P5.2, LU-P5.3, LU-P5.6, and LU-P5.7</p> <hr/> <p>Circulation (C): C-P1.1, C-P1.2, C-P1.3, C-A1.3, C-P2.5, C-P2.6, C-P2.8, C-A2.1, C-A2.2, C-P3.1, C-P3.2, C-P3.3, C-A3.1, C-P4.1, C-P4.2, C-P4.3, C-P4.4, C-P4.5, C-P4.6, C-P4.7, C-P4.8, C-P4.9, C-P7.1, C-P7.2, C-P7.4, and C-P7.5</p> <hr/> <p>As discussed in Chapter 4.15, implementation of the General Plan 2042 policies and actions would ensure that VMT are reduced to the degree feasible. Policy C-P2.5 requires the City to achieve State-mandated VMT reductions by requiring development and transportation projects to meet specific VMT metrics at the project level, and in the event a proposed project does not meet these metrics, require measures to reduce the additional VMT associated with the project, consistent with City’s adopted thresholds. Policy C-P2-6 requires the City to reduce VMT by pursuing improvements to public transportation and carpooling and offering safe routes for pedestrians and bicyclists. Action C-A2.1 requires the City to participate in regional efforts to develop guidelines for calculating the projected VMT associated with future development projects and transportation improvements. The guidelines also should cover administration, screening criteria, and appropriate Transportation Demand Management</p>	Significant and unavoidable

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TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>TRAN-5: Implementation of the General Plan 2042 would cumulatively contribute to regional VMT.</p>	<p>Significant</p>	<p>measures and monitoring procedures, and routinely reassessed and revised as needed to reflect changing conditions. Action C-A2.2 requires the City to reduce VMT and the City shall study the feasibility of a Trip Reduction Ordinance to support achievement of the VMT reduction standard that reflects General Plan 2042 Policy C-P2.5. In addition, as listed in impact discussion TRAN-1, the City has numerous policies to promote safe and user-friendly transit and improve the bicycle and pedestrian network in Los Banos, all which would serve to promote alternative forms of transportation and reduce VMT.</p> <p>Impacts for VMT per service population are considered significant and unavoidable. This is because even with the proposed General Plan 2042 policies and action, the City of Los Banos may not achieve the overall VMT threshold reduction level as the effectiveness of VMT reductions strategies is not certain. This program-level land use impact for VMT per service population does not preclude the finding of less-than-significant impacts for subsequent development projects that achieve applicable VMT thresholds of significance. However, due to the programmatic nature of the proposed project, no additional mitigation measures are available, and the impact is considered <i>significant and unavoidable</i>.</p> <p>Economic Development (ED): ED-P1.1, ED-A1.1, ED-A2.1, ED-A2.2, and ED-A2.3</p> <p>Land Use (LU): LU-P1.1, LU-P1.3, LU-P2.11, LU-P2.15, LU-P5.2, LU-P5.3, LU-P5.6, and LU-P5.7</p> <p>Circulation (C): C-P1.1, C-P1.2, C-P1.3, C-A1.3, C-P2.5, C-P2.6, C-P2.8, C-A2.1, C-A2.2, C-P3.1, C-P3.2, C-P3.3, C-A3.1, C-P4.1, C-P4.2, C-P4.3, C-P4.4, C-P4.5, C-P4.6, C-P4.7, C-P4.8, C-P4.9, C-P7.1, C-P7.2, C-P7.4, and C-P7.5</p> <p>Even with the General Plan policies and actions described in impact TRAN-2 listed above, the City of Los Banos may not be able to achieve the VMT rate reductions specified in Policy C-P2.5 and the effectiveness of VMT reduction strategies is not certain. As such, the cumulative impact on VMT with mitigation is considered <i>significant and unavoidable</i>.</p>	<p>Significant and unavoidable</p>

EXECUTIVE SUMMARY

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3. List of Commenters

Comments on the Draft EIR were received from the following agencies and organizations. Each comment letter and comment has been assigned a letter and a number as indicated below. The comments are organized and categorized by agencies (GOV) and private organizations (ORG).

3.1 AGENCIES

GOV1 Julie A. Vance, California Department of Fish and Wildlife, July 28, 2022

GOV2 Bill Nicholson, County of Merced Local Agency Formation Commission, August 8, 2022

3.2 PRIVATE ORGANIZATIONS

ORG1 Jarrett Martin, Central California Irrigation District, July 25, 2022

ORG2 Breanne Vandenberg, Merced County Farm Bureau, August 1, 2022

ORG3 Ricardo Ortega, Grassland Water District, August 1, 2022

LIST OF COMMENTERS

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4. Comments and Responses

This chapter includes a reproduction of, and responses to, each significant environmental issue raised during the public review period. Comments are presented in their original format in Appendix J, *Comment Letters*, of this Final Environmental Impact Report (EIR), along with annotations that identify each comment number. Comment letters in this chapter follow the same order as listed in Chapter 3, *List of Commenters*, of this Final EIR. The comments are organized and categorized by agencies (GOV) and private organizations (ORG).

Responses to those individual comments are provided in this chapter alongside the text of each corresponding comment. Letters are identified by category and each comment is labeled with the comment reference number in the margin. Where the same comment has been made more than once, a response may direct the reader to another numbered comment and response. Where a response requires revisions to analysis presented in the Draft EIR, these revisions are explained and shown in Chapter 5, *Revisions to the Draft EIR*, of this Final EIR.

All comments included in this document are formally acknowledged for the record and will be forwarded to the decision-making bodies as part of this Final EIR for their consideration in reviewing the project.

Certain topics raised by commenters require a lengthy response, and certain topics addressed in this Final EIR require a detailed explanation. In addition, certain topics were raised repeatedly, albeit in slightly different forms, in comments on the Draft EIR. In order to minimize duplication and to provide a more comprehensive discussion, “master responses” have been prepared for some of these issues. Responses to individual comments reference these master responses as appropriate. A particular master response may provide more information than requested by any individual comment. Conversely, the master response may not provide a complete response to a given comment, and additional information may be contained in the individual response to that comment. Master responses in this Final EIR address the project merits, speculation without substantial evidence, and additional analysis.

4.1 PROJECT MERITS

Often during review of an EIR, commenters raise issues that relate to qualities of the project itself (in this case, the project includes General Plan 2042 and the Annexation Ordinance) or the project’s community consequences or benefits, personal wellbeing and quality of life, and economic or financial issues (referred to here as “project merits”), rather than the environmental analyses or impacts and mitigations raised in the EIR. However, consistent with the California Environmental Quality Act (CEQA) Guidelines Section 15131, *Economic and Social Effects*, the Draft EIR is not meant to address these project merits, rather, the purpose of CEQA and the Draft EIR is to fully analyze and mitigate the project’s potentially significant physical impacts on the environment to the extent feasible.

COMMENTS AND RESPONSES

In accordance with Sections 15088 and 15132 of the CEQA Guidelines, a Final EIR must include a response to comments on the Draft EIR pertaining to environmental issues analyzed under CEQA. Several of the comments provided in response to the Draft EIR express an opinion for or against the components of the project, but do not address the adequacy of the analysis or conclusions in the Draft EIR. Rather, these opinions relate to the merits of the project.

Lead Agency review of environmental issues and project merits are both important in the decision of what action to take on a project, and both are considered in the decision-making process for a project. However, as part of the environmental review process, a lead agency is only required by CEQA to respond to environmental issues that are raised. The City of Los Banos (City) will hold a publicly noticed hearing to consider action on the merits of the proposed project for approval or disapproval. The City will consider both the EIR and project merit issues that have been raised prior to acting to approve or disapprove the proposed project.

Section 15204(a), Focus of Review, of the State CEQA Guidelines provides direction for parties reviewing and providing comment on a Draft EIR, as follows:

In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

Therefore, in accordance with CEQA Guidelines Section 15204(a), the City is not required to respond to comments that express an opinion about the project merits, but do not relate to environmental issues covered in the Draft EIR. Although such opinions and comments on the project merits that were received during the EIR process do not require responses in the EIR, as previously noted, they do provide important input to the process of reviewing the project overall. Therefore, merits and opinion-based comment letters are included in the EIR to be available for consideration by the City decision-makers at the merits stage of the project. City decision-makers may consider these letters and issues as part of their deliberations on the merits of the project and whether to approve, modify, or disapprove the project.

4.2 SPECULATION WITHOUT SUBSTANTIAL EVIDENCE

Various commenters assert or request that impacts should be considered significant or that significance conclusions of the EIR should be revised, but fail to provide substantial evidence in support of their assertion. Predicting the project's physical impacts on the environment without substantial evidence based on facts to support the analysis would require a level of speculation that is inappropriate for an EIR.

COMMENTS AND RESPONSES

CEQA Section 21082.2(a), *Significant Effect on Environment; Determination; Environmental Impact Report Preparation*, requires that the lead agency “shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record.” CEQA Guidelines Section 15384(a), *Substantial Evidence*, clarifies that “ ‘substantial evidence’... means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment, does not constitute substantial evidence.” CEQA Guidelines Section 15384(b) goes on to state that “substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.” Where there are no facts available to substantiate a commenter’s assertion that the physical environment could ultimately be significantly impacted as a result of the project, the City acting as the lead agency, is not required to analyze that effect, nor to mitigate for that effect. Section 15204(c) of the CEQA Guidelines advises reviewers that comments should be accompanied by factual support:

Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

Under CEQA, the decision as to whether an environmental effect should be considered significant is reserved to the discretion of the lead agency based on substantial evidence in the record as a whole. The analysis of the Draft EIR is based on scientific and factual data, which has been reviewed by the lead agency and reflects its independent judgment and conclusions. CEQA permits disagreements of opinion with respect to environmental issues addressed in an EIR. As Section 15151, *Standards for Adequacy of an EIR*, of the CEQA Guidelines states, even “[d]isagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among experts.”

CEQA Guidelines Section 15145, *Speculation*, provides that:

If, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.

4.3 ADDITIONAL ANALYSIS

During the review period for the Draft EIR, some commenters requested additional analysis, mitigation measures, or revisions that are not provided in this Final EIR for reasons more specifically addressed in the individual comments. As described above, Section 15204(a) of the CEQA Guidelines provides that CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters.

Section 15003, *Policies*, of the CEQA Guidelines, also explains the emphasis of CEQA upon good-faith efforts at full disclosure rather than technical perfection:

COMMENTS AND RESPONSES

(i) CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure. A court does not pass upon the correctness of an EIR's environmental conclusions, but only determines if the EIR is sufficient as an informational document. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692).

(j) CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement. (*Laurel Heights Improvement Assoc. v. Regents of U.C.* (1993) 6 Cal.4th 1112 and *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553).

Sections 15204(a) and 15003 reflect judicial interpretation of CEQA. Under CEQA, lead agencies need only respond to significant environmental issues, and do not need to provide all information requested by reviewers, so long as a good-faith effort at full disclosure is made in the EIR.

4.4 INDIVIDUAL RESPONSES

Responses to individual comments on the Draft EIR are presented in Table 4-1, *Responses to Comments on the Draft EIR*. Individual comments are reproduced from the original versions in Appendix J, *Comment Letters*, of this Final EIR, along with the comment numbers shown in Appendix J, followed by the response.

COMMENTS AND RESPONSES

TABLE 4-1 RESPONSES TO COMMENTS ON THE DRAFT EIR

Comment #	Comment	Response
A. Governmental Agencies		
GOV1	Julie A. Vance, California Department of Fish and Wildlife	
GOV1-1	<p>The California Department of Fish and Wildlife (CDFW) received an NOP from the City of Los Banos Community & Economic Development Department for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<i>[footnote 1]</i></p> <p>Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.</p> <p>CDFW ROLE</p> <p>CDFW is California’s Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (<i>Id.</i>, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources.</p> <p>CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, §</p>	<p>The comment serves as an opening remark. See Appendix A, <i>Notice of Preparation and Comment Letters</i>, of the Draft EIR, for a copy of the CDFW NOP comment letter. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>

COMMENTS AND RESPONSES

TABLE 4-1 RESPONSES TO COMMENTS ON THE DRAFT EIR

Comment #	Comment	Response
	<p>15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project activities may be subject to CDFW’s lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.</p> <p>Footnote 1: CEQA is codified in the California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.</p>	
GOV1-2	<p>PROJECT DESCRIPTION SUMMARY</p> <p>Proponent: City of Los Banos Community & Economic Development Department</p> <p>Objective: The Project is a targeted update to the current General Plan 2030 and will bring the general plan up to date with the latest State and federal legislation around urban development, transportation, climate resilience, and safety and address the city’s growth, economic development, sustainability, and conservation of open space and land resources. The Project intends to respond to local and regional housing needs, promote economic growth, foster local job creation, enhance quality of life, and protect natural and agricultural resources. In addition to citywide planning issues, the Project will provide goals and policies for enhancing downtown Los Banos as the vibrant center of the city and community.</p>	<p>The comment summarizes the proposed project. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>

COMMENTS AND RESPONSES

TABLE 4-1 **RESPONSES TO COMMENTS ON THE DRAFT EIR**

Comment #	Comment	Response
GOV1-3	<p>Location: The Project encompasses all land within the city limits, urban growth boundary, and adjacent land of Los Banos.</p> <p>Timeframe: Until 2042.</p> <p>COMMENTS AND RECOMMENDATIONS</p> <p>The DEIR states that compliance with Section 4.4.1.1, <i>Regulatory Framework</i>, will protect biological resources. CDFW finds that the mitigation measures in Section 4.4.1.1 of the DEIR are inadequate. Given the city-wide implications of the Project, subsequent projects (hereafter, “projects”) tiering from the Program EIR could impact special-status species including, but not limited to, the State threatened and federally endangered San Joaquin kit fox (<i>Vulpes macrotis mutica</i>), the State threatened Swainson’s hawk (<i>Buteo swainsoni</i>), the State threatened tricolored blackbird (<i>Agelaius tricolor</i>), and the species of special concern burrowing owl (<i>Athene cunicularia</i>).</p> <p>CDFW previously commented on the Notice of Preparation for the Project in a letter dated February 24, 2022. Our February 24, 2022 letter (Attachment 1) provided recommendations for listed wildlife species, and concerns for project impacts to waterways/waterbodies. CDFW advise that the recommendations from that letter be incorporated into the DEIR for the Project. CDFW maintains the same recommendations for advised survey methods and mitigations measures from our February 24, 2022 letter.</p>	<p>The proposed General Plan 2042 is a policy-level document that does not include any development projects. The certification of the EIR or the approval of the proposed General Plan 2042 does not approve or deny any potential future development in the City of Los Banos or the EIR Study Area.</p> <p>As described in Section 3.9, <i>Intended Uses of the EIR</i>, in Chapter 3, <i>Project Description</i>, of the Draft EIR, this EIR is intended to review potential environmental impacts associated with the adoption and implementation of the proposed project and determine corresponding mitigation measures, as necessary. This EIR is a program-level EIR and does not evaluate the impacts of specific, individual developments that may occur under the buildout horizon of the proposed General Plan 2042. Each specific future project will conduct separate environmental review, as required by CEQA, to secure the necessary discretionary development permits. Therefore, while subsequent environmental review may be tiered off this EIR, this EIR is not intended to address impacts of individual projects. Subsequent projects will be reviewed by the City for consistency with the General Plan 2042 and this EIR. Because the General Plan 2042 is a program level evaluation, the specific details of future projects and the conditions at the time they are proposed are not known, it would be speculative to estimate any potential long-term or permanent changes, including those to the regulatory setting, and CEQA does not condone speculation (CEQA Guidelines Section 15145).</p>

COMMENTS AND RESPONSES

TABLE 4-1 RESPONSES TO COMMENTS ON THE DRAFT EIR

Comment #	Comment	Response
		<p>While the commenter correctly identifies that the Draft EIR states that mandatory compliance with federal, State, and local regulations described in Section 4.4.1.1, <i>Regulatory Framework</i>, of Chapter 4.4, <i>Biological Resources</i>, of the Draft EIR, would reduce impacts to biological resources, the commenter does not acknowledge the specific mandatory General Plan 2042 policies that would also reduce impacts to biological resources, including the State threatened and federally endangered species listed by the commenter and in their comment letter (referenced by the commenter) that was provided during the NOP commenting period.</p> <p>As described in Chapter 1, <i>Introduction</i>, of the Draft EIR, on page 1-5, when a new development project is filed with the City, it is reviewed for completeness and consistency with the General Plan goals, policies, and actions, and City codes and practices. Because City policies, actions, and codes, presented in this program EIR will minimize impacts, development projects will inherently implement these measures to: (a) mitigate environmental impacts and (b) achieve consistency with the General Plan and compliance with City codes. Pursuant to CEQA and the CEQA Guidelines, where the “project” subject to CEQA is a “plan, policy, regulation, or other public project,” the obligation to mitigate impacts can be effectuated “by incorporating the mitigation measures into the plan, policy, regulation, or project design.” (Public Resources Code, Section 21081.6(b); CEQA Guidelines, Section 15126.4(a)(2)).</p> <p>Proposed General Plan 2042 policies are required to reduce impacts to biological resources, including special-status species, nesting birds, and sensitive habitat such as streams, creeks, and wetlands, on a project-by-project basis to a less-than-significant level. These policies are based in part on the suggestions from the CDFW</p>

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Comment #	Comment	Response
		<p>comment letter provided at the time of the Notice of Preparation (NOP) dated February 24, 2022, as well as on the recommendations of the professional biologists who were part of the General Plan 2042 team. Specific General Plan 2042 policies that address potential impacts to biological resources, including those identified by the commenter, are as follows:</p> <ul style="list-style-type: none"> ▪ Policy P-P6.1 requires the City to protect species that are federally or state listed as rare, threatened, endangered, or sensitive. ▪ Policy P-P6.2 requires assessments of biological resources prior to approval of any development within 300 feet of any creeks, wetlands, sensitive habitat areas, or areas of potential special-status species. Protect sensitive habitat areas and special-status species in the following order: (1) avoidance, (2) on-site mitigation, and (3) off-site mitigation. ▪ Policy P-P6.3 requires the City to review development proposals in accordance with applicable federal and state laws protecting special-status species and jurisdictional wetlands and use the California Natural Diversity Database and field reconnaissance, where necessary, to confirm habitat value, to assist in identifying potential conflicts with sensitive habitats or special-status species and establishing appropriate mitigation and monitoring requirements. ▪ Policy P-P6.5 requires project applicants to avoid nests of native birds in active use, in compliance with state and federal regulations. For new development sites where nesting birds may be present, initiate vegetation clearing and construction outside the bird nesting season (March 1 through August 31) or conduct preconstruction surveys by a qualified biologist in advance of any disturbance. If active nests are encountered, establish appropriate buffer zones based on recommendations by the

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TABLE 4-1 RESPONSES TO COMMENTS ON THE DRAFT EIR

Comment #	Comment	Response
		<p>qualified biologist and maintain the buffer zones until any young birds have successfully left the nest.</p> <ul style="list-style-type: none"> ▪ Action P-A6.1 requires the City to develop buffer zones around Los Banos Creek Corridor and the grassland wetland areas to the east to enhance groundwater recharge and minimize impacts to habitat species. ▪ Policy P-P5.1 requires the City to protect and enhance the natural habitat features and open space corridors within and around the Planning Area. ▪ Policy P-P5.2 requires degraded open space areas be restored to an environmentally sustainable condition as part of development approval where these lands are proposed as permanent open space in new development. ▪ Policy P-P5.3 require the preservation of mature trees and encourage the planting of drought-resistant street and shade trees in all new developments. ▪ Action P-A5.1 requires the City to establish priorities for open space preservation and acquisition based on an evaluation of: <ul style="list-style-type: none"> ▪ Significant natural areas that are historically, ecologically, or scientifically unique or are outstanding, important, or threatened; ▪ Wildlife habitats and fragile ecosystems in need of protection; ▪ Watersheds or significant water recharge areas; ▪ Open space for safety and public health; ▪ Lands suitable for recreation, such as biking, photography or nature study; ▪ Preserving or restoring natural features and ecosystem processes that can increase resiliency to climate change; and ▪ Land suitable for agricultural production.

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Comment #	Comment	Response
		<ul style="list-style-type: none"> ▪ Action P-A5.2. requires the City to establish and maintain a protection zone around wetlands, riparian corridors, and identified habitat areas where development shall not occur, except as part of a parkway enhancement program (e.g., trails and bikeways). ▪ Action P-A5.3 requires the City to work with the Grassland Water District to create a greenbelt/open space buffer around the perimeter of the city that provides a clear sense of identity and protects the Grassland Ecological Area. ▪ Action P-A5.4 requires the City to work with the Grassland Water District to establish a “no net loss” policy for wetlands and vernal pools within and adjacent to the Planning Area. ▪ Policy LU-P1.2 requires the City to maintain a well-defined compact urban form, with a defined urban growth boundary and development intensities on land designated for urban uses. ▪ Policy LU-P1.3 requires that any land requested to be annexed be contiguous with the existing city limits, within the urban growth boundary, and within the sphere of influence. ▪ Policy LU-P4.12 requires development proposals to incorporate bird-safe design measures including the following design considerations and best management practice strategies: <ul style="list-style-type: none"> ▪ Avoid the use of highly reflective glass as an exterior treatment, which appears to reproduce natural habitat and can be attractive to some birds, ▪ Limit reflectivity and prevent exterior glass from attracting birds in building plans by utilizing low-reflectivity glass and providing other non-attractive surface treatments, ▪ For commercial buildings, interior light “pollution” should be reduced during evening hours through the use of a lighting control system,

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Comment #	Comment	Response
		<ul style="list-style-type: none"> ▪ Exterior lighting should be directed downward and screened to minimize illuminating the exterior of the building at night, except as needed for safety and security, ▪ Freestanding glass walls, and transparent building corners should not be allowed, ▪ Transparent glass should not be allowed at the rooflines of buildings, and ▪ All roof mechanical equipment should be covered by low-profile angled roofing so that obstacles to bird flight are minimized <p>The CDFW comment letter provided at the time of the NOP dated February 24, 2022 advised the City to include mitigation measures to protect the San Joaquin kit fox (<i>Vulpes macrotis mutica</i>), the State threatened Swainson’s hawk (<i>Buteo swainsoni</i>), the State threatened tricolored blackbird (<i>Agelaius tricolor</i>), the species of special concern burrowing owl (<i>Athene cunicularia</i>), nesting birds, federally listed species, and the effects from lake and streambed alterations. While each of the General Plan 2042 polices and actions listed above require local planning and development decisions to consider impacts to biological resources, Policy P-P6.2, Policy P-P6.5, and Policy LU-P4.12 are specifically in alignment with the comments provided by CDFW at the time of the NOP. Policy P-P6.2 requires project-specific biological resource assessments that would determine what site- and project-specific mitigation measures would be required for sensitive natural communities at the time of the proposed development throughout the 20-year buildout horizon (2022 to 2042) to ensure sensitive resources identified at the time of future project developments are adequately protected or appropriate project-specific compensatory</p>

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Comment #	Comment	Response
		<p>mitigation is provided as part of new development to reduce impacts to a less-than-significant level, which is appropriate for a city-wide program-level EIR. Site-specific biological resources assessments and field surveys prepared by qualified biologists would follow the agency-promulgated protocols and recommended methods and standards of review including the consultation with CDFW and the United States Fish and Wildlife Service (USFWS), and rely on standard protocol sources noted by the commenter and in the Biological Resource Assessment prepared for the proposed General Plan 2042 included in Appendix C, <i>Biological Resources Data</i>, of the Draft EIR, including, but not limited to, the <i>San Joaquin Kit Fox Survey Protocol for the Northern Range</i>; USFWS <i>Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance</i>; <i>Annual Report on the Status of California State Listed Threatened and Endangered Animal and Plants</i>; <i>Recovery Plan for Upland Species of the San Joaquin Valley, California</i>; <i>CDFW Staff Report on Burrowing Owl Mitigation</i>; <i>Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015</i>; <i>USFWS Survey Guidelines for the Listed Large Branchiopods</i>; and <i>USFWS Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle</i>). An example of project-specific mitigation measures for the protection of the Burrowing Owl Survey Protocol (Mitigation Measure BIO-1a), Swainson’s hawk (Mitigation Measure BIO-1b), nesting birds (Mitigation Measure BIO-1c), and the San Joaquin Kit Fox (Mitigation Measure BIO-1d) is provided in the Los Banos Walmart Expansion Project EIR (SCH No. 2008111078) (Walmart EIR) prepared and certified by the City. Here, Mitigation Measure BIO-1a included specific requirements in accordance with the CDFW and Burrowing Owl Survey Protocol and Mitigation Guidelines by the California Burrowing Owl Consortium;</p>

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Comment #	Comment	Response
		<p>Mitigation Measure BIO-1b included requirements from CDFW’s Staff Report Regarding Mitigation for Impacts to Swainson’s hawk in the Central Valley of California; Mitigation Measure BIO-1c included specific time frames and distances for ground clearing and removal of vegetation for the protection of nesting birds; and Mitigation Measure BIO-1d included specifics for construction vehicle speed limits, covering of construction holes or trenching, disposal of food waste, prevention of harassment of domestic pets, and other project specific details that would protect the San Joaquin Kit Fox. Project-specific mitigation measures such as these are the result of a project-specific Biological Resources Assessment included in Appendix D of the Walmart EIR that was prepared at the time of the project.</p> <p>Policy P-P6.5 addresses the possible presence of bird nests in active use, which are protected under the federal MBTA and California Fish and Game Code. Policy P-P6.5 requires potential new development sites where nesting birds may be present, initiate vegetation clearing and construction outside the bird nesting season or conduct preconstruction surveys by a qualified biologist in advance of any disturbance. If active nests are encountered, establish appropriate buffer zones based on recommendations by the qualified biologist and maintain the buffer zones until any young birds have successfully left the nest.</p> <p>Policy LU-P4.12 requires development proposals to incorporate bird-safe design measures including the design considerations and best management practice strategies to further reduce impacts to special-status bird species.</p>

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Comment #	Comment	Response
		<p>The commenter’s suggestion for future projects to comply with California Fish and Game Code that requires that a Streambed Alteration Agreement (SAA) be obtained from CDFW for “any activity that may substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake” and compliance with the federal and State ESAs is acknowledged in Section 4.4.1.1, <i>Regulatory Framework</i>, of Chapter 4.4, <i>Biological Resources</i>, of the Draft EIR.</p> <p>While the commenter recommended that habitat identification and quantification of the San Joaquin kit fox (<i>Vulpes macrotis mutica</i>) be conducted for the Draft EIR, this level of evaluation is not appropriate for a long-range policy document such as the General Plan 2042. Buildout development potential of the General Plan 2042 will occur over at least the next twenty years, during which time habitat conditions could change substantially. Habitat identification and quantification conducted now as part of the Draft EIR would quickly become outdated and obsolete. In order to provide an accurate and current basis for mitigation of impacts to the kit fox, habitat identification and quantification will need to be conducted at the time of project consideration, even if a speculative analysis of the entire Study Area had been completed in 2021. Therefore, Policy P-P6.3 requires the City to review development proposals in accordance with applicable federal and state laws protecting special-status species and jurisdictional wetlands and use the California Natural Diversity Database and field reconnaissance, where necessary, to confirm habitat value, to assist in identifying potential conflicts with sensitive habitats or special-status species and establishing appropriate mitigation and monitoring requirements. When future development applications are submitted to the City, the implementation of General Plan</p>

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Comment #	Comment	Response
		<p>policies would ensure that appropriate site- and project-specific construction and operational protocols are established to protect biological resources.</p> <p>In response to this comment, revisions have been made to Chapter 4.4, <i>Biological Resources</i>, of the Draft EIR, as shown in Chapter 5, <i>Revisions to the Draft EIR</i>, of this Final EIR. These revisions add that the required biological resource assessments must be conducted by a qualified biologist and also extend the bird breeding season for consistency with CDFW recommendations. The revisions to Policy P-P6.2 and Policy P-P6.5 are as follows:</p> <ul style="list-style-type: none"> ▪ Policy P-P6.2. Require assessments of biological resources <u>by a qualified biologist</u> prior to approval of any development within 300 feet of any creeks, wetlands, sensitive habitat areas, or areas of potential special-status species. Protect sensitive habitat areas and special-status species in the following order: (1) avoidance, (2) on-site mitigation, and (3) off-site mitigation. <u>Refer to the recommendations of the Biological Resources Assessment in Attachment C to minimize impacts to habitat and special-status species.</u> ▪ Policy P-P6.5. Require project applicants to avoid nests of native birds in active use, in compliance with state and federal regulations. For new development sites where nesting birds may be present, initiate vegetation clearing and construction outside the bird nesting season (March 1 through August 31 <u>February 1 through September 15</u>) or conduct preconstruction surveys by a qualified biologist in advance of any disturbance. If active nests are encountered, establish appropriate buffer zones based on recommendations by the qualified biologist and maintain the buffer zones until any young birds have successfully left the nest.

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Comment #	Comment	Response
GOV1-4	<p>ENVIRONMENTAL DATA CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during project surveys to CNDDDB. The CNDDDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals.</p>	<p>These revisions do not affect any conclusions or significance determinations in the Draft EIR. Therefore, no recirculation of the Draft EIR is required pursuant to Section 15088.5(a), Recirculation of an EIR Prior to Certification.</p> <p>The City appreciates the input from CDFW in both of their comment letters and will rely on their expertise if and when future development is proposed throughout 2042.</p> <p>Note that the attachment identified in this comment was not included with this comment letter. Please see Appendix A, <i>Notice of Preparation and Comment Letters</i>, of the Draft EIR for a copy of the CDFW NOP comment letter dated February 24, 2022.</p> <p>This comment provides information on how to submit data resulting from any special-status species and natural communities detected during project surveys to CNDDDB. The City of Los Banos routinely complies with all required federal, State, and local regulations, including those of CDFW, and will continue this practice in the future. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>
GOV1-5	<p>FILING FEES If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of</p>	<p>This comment provides information on how to pay CDFW filing fees in the event that potential future development has the potential to impact biological resources. The City of Los Banos routinely complies with all required federal, State, and local regulations,</p>

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	<p>Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).</p> <p>CDFW appreciates the opportunity to comment on the Project to assist the City of Los Banos Community & Economic Development Department in identifying and mitigating the Project’s impacts on biological resources.</p> <p>More information on survey and monitoring protocols for sensitive species can be found at CDFW’s website (https://www.wildlife.ca.gov/Conservation/Survey-Protocols). If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3203, or by electronic mail at Jim.Vang@wildlife.ca.gov.</p>	<p>including those of CDFW, and will continue this practice in the future. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>
GOV2	Bill Nicholson, County of Merced Local Agency Formation Commission	
GOV2-1	<p>Thank you for including Merced LAFCo in the review of the City's General Plan 2042 environmental review process. As noted in the Appendix to the City's Draft EIR released on June 17, 2022, the City received comments from Merced LAFCo on the Notice of Preparation (NOP) for the CEQA process. Based on a review of the Draft EIR, many of the comments in the LAFCo NOP response letter are still valid concerns.</p>	<p>The comment serves as an opening remark and identifies that their comments provide at the time of the NOP are still represent their concerns. See Appendix A, <i>Notice of Preparation and Comment Letters</i>, of the Draft EIR, for a copy of NOP comment letter. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>
GOV2-2	<p>As the City is aware, LAFCo will rely on City's EIR document to act on the future request for update to the Sphere of Influence (SOI) and for the large SOI boundary expansion identified in the General Plan. The SOI update will also involve a parallel processing of a municipal service review (MSR) in compliance with Government Code section 56340(e). While MSR documents</p>	<p>The comment summarizes the Merced LAFCo role in approving the SOI and their future use of the EIR. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>

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Comment #	Comment	Response
	<p>are not directly subject to CEQA, the determinations LAFCo will be required to consider identify issues that are similar with many impact areas identified in the Draft EIR. In addition, the City's General Plan EIR will also serve as the foundation for future project level CEQA documents that will be prepared and adopted by the City for future annexation applications, both on an individual parcel basis and for larger specific plan annexations. Merced LAFCo will use these CEQA documents in the role of a Responsible Agency.</p>	
<p>GOV2-3</p>	<p>Projected City Growth: The City identifies an Urban Growth Boundary (UGB) which can accommodate approximately 8,900 new residential dwelling units over the 20-year Plan horizon to Year 2042. The UGB is smaller than the proposed SOI by approximately 2,300 acres, with most of the additional SOI area proposed as buffers for the City. While the City's Housing Element was not updated as part of this General Plan 2042, efforts are underway with the Merced County Association of Governments (MCAG) to identify the Regional Housing Needs Allocation for the all [sic] City and County Housing Element Updates due in 2024.</p> <p>In a preliminary recommendation from the MCAG Technical Planning Committee in June 2022, Los Banos was proposed to receive an allocation of 3,132 units (Table 6 in the June 21, 2022, MCAG <i>Draft Regional Housing Needs Allocation (RHNA) Methodology Framework Memorandum</i>). There is more than enough land identified within the UGB for this Housing Element Update and at least the next update. For example, if the 3,132 unit allocation were adopted, and this number of planned units in low- to high-density development projects were constructed by the Housing Element horizon year of 2032, the City would still have an inventory of land available to accommodate an additional</p>	<p>The commenter correctly identifies the estimated number of new residential dwelling units over the 20-year General Plan buildout horizon year (2042) is 8,900. Additionally, the commenter correctly states that the proposed UGB at approximately 12,200 acres is approximately 2,300 acres smaller than the proposed SOI at approximately 14,500 acres.</p> <p>The commenters opinion on the RHNA housing allocation for the City is acknowledged. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>

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GOV2-4	<p>5,770 dwelling units during the following 8-year Housing Element cycle (2032 to 2040) and beyond.</p> <p>Proposed Annexation Code: A unique component of the General Plan 2042 identified in the City's EIR is amendment of the City's Municipal Code in Chapter 9, regarding addition of a new chapter titled "Annexation Code" (DEIR page 3-21). This Municipal Code amendment will be addressed in this comment letter as it has a direct bearing on future annexation applications the City will submit to LAFCo.</p> <p>Under proposed Section 9-3.2335 of the City Municipal Code, in a new Section 7 titled "Annexations" the City proposes new "application eligibility criteria" with corresponding text in the General Plan update under Policy LU-3.1 of Goal LU-3 (Page 4.2-12 of the DEIR).</p> <p>Under subsection (a), the Code will allow for annexation applications which include at least 75% of the territory being located within the City's SOI and an additional 25% can be located outside the City's SOI. This is not appropriate or consistent with State law. LAFCO would not be able to process an annexation request unless the entire annexation boundary is within the City's SOI in accordance with Government Code section 56375.5. This proposed new Municipal Code section along with corresponding Policy LU-3.1 (a) should be modified to require 100% of the annexation territory to be located within the SOI, and if not, this should be identified as a significant unavoidable impact in the EIR since it promotes urban planning and land use designations inconsistent with State law.</p> <p>If the intent of the City is to accept applications for annexation on the fringe of the proposed new expanded SOI boundary but to</p>	<p>As described in Chapter 3, <i>Project Description</i>, of the Draft EIR, the SOI is considered the City's ultimate potential area for future annexation and provision of City services. Establishment of this boundary is necessary to determine which governmental agencies can provide services in the most efficient way to the people and property in the area. If land within the City's SOI is annexed by the City in the future, it would then be within the city limits and under the jurisdiction of Los Banos at that time.</p> <p>While the City determined that the proposed SOI is appropriate, the City also recognizes that future projects may require changes to the proposed SOI. Accordingly, the proposed General Plan 2042 Policy LU-3.1 and Annexation Ordinance, shown below, included a requirement that 75 percent of the land must be in the SOI:</p> <ul style="list-style-type: none"> ▪ Policy LU-3.1. Annexation proposals are required to meet the following basic requirements: <ul style="list-style-type: none"> a. Location. Require that any land requested to be annexed be contiguous with the existing City limits, within the urban growth boundary, and at least 75 percent within the sphere of influence. ▪ Annexation Ordinance Section 9-3.2335, <i>Application eligibility criteria</i>. <ul style="list-style-type: none"> (a) Any land requested to be annexed must be contiguous with existing city limits, within the Urban Growth Boundary, and at least 75 percent within the Sphere of Influence. <p>An application with any portion of the lands outside of the SOI would necessarily include a change to the City's proposed SOI and entail additional environmental review, which is not inconsistent with State law.</p>

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	<p>allow processing of a SOI amendment by the City parallel with processing of a corresponding annexation application, then the policy is still misguided. The City's 2042 General Plan has a 20 year planning horizon and a proposed SOI that is 13 square miles greater than the current City limits (which is 10 square miles according to Table 3-1 on Page 3-7). The City should recognize that a SOI is more than just a mapping boundary: As defined in Government Code section 56076, a sphere is " ... a <i>plan for the probable physical boundary and service area of a local agency, as determined by the Commission.</i>" Now is the time for the City to propose a SOI boundary for the life of this General Plan, and not seek annexation applications that will require an update or amendment to the SOI.</p> <p>There is also a discrepancy within the Draft EIR as a basis for the Municipal Code amendment and General Plan 2042: Specifically, Policy LU-3.1 (c) would allow consideration of annexation applications which extend beyond the SOI while the basis of Draft EIR analysis of impacts has been evaluated relying on the SOI boundary as proposed in the Draft General Plan and shown on Figure 3-2 (Page 3-5). Significant impacts to agricultural and other open space lands, the adequacy of public services, and all other impact areas evaluated in the EIR do not take a larger SOI into consideration. If it is the City's intent to consider annexation applications beyond this boundary based on the General Plan 2042, the impact needs to be evaluated in this EIR and appropriate mitigation identified, with recirculation of the revised Draft EIR to all responsible and trustee agencies.</p>	<p>The comments on Policy LU-3.1 and the proposed Annexation Ordinance do not address the adequacy of the Draft EIR, nor do the commenter's opinion on the size of the proposed SOI, and therefore, do not require any further response. See Section 4.1, <i>Project Merits</i>.</p> <p>The assertion that future projects that could occur outside of the EIR Study Area, which is contiguous with the proposed SOI, are not addressed in the Draft EIR and therefore the Draft EIR needs to be revised and recirculated, is not accurate. As described in Section 3.9, <i>Intended Uses of the EIR</i>, in Chapter 3, <i>Project Description</i>, of the Draft EIR, this EIR is intended to review potential environmental impacts associated with the adoption and implementation of the proposed project and determine corresponding mitigation measures, as necessary. As described in the Draft EIR and summarized in Response to Comment GOV1-3, this EIR is a program-level EIR and does not evaluate the impacts of specific, individual developments that may occur during the buildout horizon of the proposed General Plan 2042. Each specific future project, including those requesting an expansion of the SOI, will be required to conduct separate environmental review, as required by CEQA, to secure the necessary discretionary development permits. Therefore, while subsequent environmental review may be tiered off this EIR, this EIR is not intended to address impacts of individual projects. Because the General Plan 2042 is a program-level evaluation, the specific details of future projects and the conditions at the time they are proposed are not known, it would be speculative to estimate any potential long-term or permanent changes and CEQA does not condone speculation (CEQA Guidelines Section 15145). See Section 4.2, <i>Speculation without Substantial Evidence</i>.</p>

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		<p>As described in Chapter 1, <i>Introduction</i>, of the Draft EIR, on page 1-5, when a new development project is filed with the City, it is reviewed for completeness and consistency with the General Plan goals, policies, and actions, and City codes and practices. Because City policies, actions, and codes, presented in this program EIR will minimize impacts, development projects will inherently implement these measures to: (a) mitigate environmental impacts and (b) achieve consistency with the General Plan and compliance with City codes. Where projects are not consistent with the General Plan or outside the scope of the Draft EIR, those proposals would necessarily require additional environmental review.</p> <p>In response to this comment, revisions have been made to the proposed Annexation Ordinance presented in Chapter 3, <i>Project Description</i>, of the Draft EIR, and Policy PFS-P3.1 as shown in Chapter 5, <i>Revisions to the Draft EIR</i>, of this Final EIR. These revisions clarify parts of the annexation proposal requirements as follows:</p> <ul style="list-style-type: none"> ▪ Policy LU-3.1. Annexation proposals are required to meet the following basic requirements: <ul style="list-style-type: none"> a. Location. Require that any land requested to be annexed be contiguous with the existing City limits, within the urban growth boundary, and at least 75 percent within the sphere of influence. ▪ Annexation Ordinance Section 9-3.2335, <i>Application eligibility criteria</i>. <ul style="list-style-type: none"> (a) Any land requested to be annexed must be contiguous with existing city limits, within the Urban Growth Boundary, and at least 75 percent within the Sphere of Influence.

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GOV2-5	<p>Another problem concerns proposed subsection (c) and corresponding Policy IU-3.1(c) [sic] which states that "Existing water supplies must remain with the land and be transferred to the City upon annexation, .. " (emphasis added). (DEIR Page 3-22) This reflects a misunderstanding of water rights by the City as most agricultural land surrounding the City is within the boundary of the Central California Irrigation District (CCID). As indicated in the letter from CCID and the Grasslands Water District (dated 2/16/2022) on the Notice of Preparation, CCID has some of the strongest and most secure water rights within the County and larger Central Valley as an "exchange contractor" with historic San Joaquin River water rights. Not only is it incorrect to assume the City could take over these rights from another public agency, but it also reinforces the significance of the prime and productive agricultural lands surrounding the City which have one of the most reliable and affordable water rights in the region, which will be permanently lost upon annexation and development. The DEIR accurately recognizes that the groundwater which the current Los Banos City wells rely upon to serve residents and businesses within the City is maintained and recharged by CCID and the Grasslands Water District's through their delivery of surface water into the region for agricultural irrigation and wetland habitat.</p> <p>Proposed Policy PFS-P.3.6 includes the policy to attempt to retain water rights in all annexed areas until development occurs, and reads as follows:</p>	<p>These revisions do not affect any conclusions or significance determinations in the Draft EIR. Therefore, no recirculation of the Draft EIR is required pursuant to Section 15088.5(a), Recirculation of an EIR Prior to Certification.</p> <p>The commenters opinion on water rights is acknowledged. While the comment does not address the adequacy of the Draft EIR, and no further response is required (see Section 4.1, <i>Project Merits</i>) in response to this comment and other comments, revisions have been made to the proposed Annexation Ordinance presented in Chapter 3, <i>Project Description</i>, of the Draft EIR, and Policy PFS-P3.6 of the General Plan, as shown in Chapter 5, <i>Revisions to the Draft EIR</i>, of this Final EIR. These revisions clarify potential changes of water rights. The revisions are as follows:</p> <ul style="list-style-type: none"> ▪ Section 9-3.2335, Application eligibility criteria. <ul style="list-style-type: none"> (a) Any land requested to be annexed must be contiguous with existing city limits, within the Urban Growth Boundary, and at least 75 percent within the Sphere of Influence. (b) Annexation must be consistent with the policies of the City's general plan and all appropriate City development standards and must be processed under an application for a specific plan funded fully by the applicant that includes zoning for the subject area and that may also include a development agreement. (c) Existing <u>ground water supplies infrastructure</u> must remain with the land and be transferred to the City upon annexation; no new wells or septic systems shall be allowed. <u>Water supplies controlled by special water districts will remain with the special district.</u> ▪ Section 9-3.2336, Findings necessary for approval.

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Comment #	Comment	Response
	<p>• Attempt to retain water rights in all annexed areas so that agricultural production can continue on annexed land until the time of development. These rights will then be made available to meet urban water demands, or where feasible, be exchanged for groundwater recharge opportunities as part of a comprehensive water recharge program. (DEIR Page 4.16-18)</p> <p>The City should consult with CCID representatives to confirm this relationship and then amend the General Plan, Annexation Ordinance and EIR accordingly. Merced LAFCo held extensive negotiations with CCID in 2016 during the Southeast Gustine Annexation to try and allow the farmers to keep their "Class I" irrigation water rights after annexation, up until the time of development of the property. However, the CCID Board of Directors adopted an alternative position: They require the farmer to apply to LAFCo to detach the property from CCID district boundary at the time of annexation to the City, however, they allow the landowner to receive "Class II" water rights up to the time of development. Class II water rights have a higher cost per acre foot and may not be available during drought or low water supply years. Class II water is still preferable to completely losing their CCID supply. This policy can be accessed at: https://www.lafcomerced.org/pdfs/meetings/2016/12-14/item vi b ccid/policy-water.pdf</p>	<p>(a) Adequate city utilities and public safety services must be able to be provided.</p> <p>(b) The new development must fully fund construction of all improvements needed both on- and off-site to mitigate its impacts on public safety services, utility and transportation infrastructure, and parks, recreation and educational facilities.</p> <p><u>(c) Upon annexation, the land must be detached from a special water district as may be required by the policies of that district.</u></p> <p>■ Policy PFS-P.3.6. Attempt to retain water rights <u>Work with the Central California Irrigation District (CCID) in all annexed areas so that agricultural production can continue on annexed land until the time of development. These rights will then be made available to meet urban water demands, or where feasible, be exchanged for groundwater recharge opportunities as part of a comprehensive water recharge program.</u></p> <p>These revisions do not affect any conclusions or significance determinations in the Draft EIR. Therefore, no recirculation of the Draft EIR is required pursuant to Section 15088.5(a), Recirculation of an EIR Prior to Certification.</p> <p>The comment does not address the adequacy of the Draft EIR, and no further response is required.</p>
GOV2-6	<p>Agricultural Resources: The General Plan contains some appropriate Goals and Policies to promote protection of agricultural and open space resources, however, they don't lead to the actual mitigation for the conversion of 4,892 acres of productive farmland- including the conversion of 3,095 acres of prime farmland- identified in Table</p>	<p>This comment expresses an opinion about the merits of the proposed General Plan goals, policies and actions, and mitigation measures considered to reduce impacts related to the conversion of qualifying agricultural land (Prime Farmland, Farmland of Statewide Importance, or Unique Farmland) to non-agricultural land uses as presented in Chapter 4.2, <i>Agricultural Resources</i>, of the Draft EIR.</p>

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TABLE 4-1 RESPONSES TO COMMENTS ON THE DRAFT EIR

Comment #	Comment	Response
	<p>4.2-2 (Page 4.2-11). These Goals and Policies are highlighted here for reference:</p> <ul style="list-style-type: none"> • Goal P-7: Protect and preserve agricultural resources around Los Banos. • Policy P-P7.2: Work with the County and with the Grassland Water District to preserve agricultural uses outside the urban growth boundary. • Policy P-P7.3. Support agricultural conservation easement programs managed by other public, private, and non-profit organizations. • Policy P-P7.4. Require developers of residential developments adjoining agricultural land to provide, fund, and maintain a physical buffer to ensure that agricultural practices will not be adversely affected. • Policy P-P7.6. Require applicants of annexation proposals that would result in the conversion of 50 or more acres of Prime Farmland, Farmland of Statewide Importance, or Unique Farmland to do the following: <ul style="list-style-type: none"> o Prepare an inventory of vacant land within the City that can accommodate the next 12 years of projected growth for the same type of land use, o Prepare project phasing to minimize conversion of the best soils and encourage development adjacent to existing development, and o Use major land features for annexation boundaries to buffer agricultural land. <p>In terms of Action Plans (Implementation) Action Plan P-A7.1 implies the City or developers are to explore mitigation options, but does not require them:</p>	<p>While the commenter identifies some of the General Plan policies and actions that support Goal P-7, the comment does not acknowledge all the General Plan goals, policies, and actions, and land use designations that work to reduce potential impacts related to the conversion of qualifying agricultural land to non-agricultural land uses. Please see pages 4.2-12 through 4.2-14 of the Draft EIR for a complete list of General Plan goals, policies and actions, and land use designations that are required to be implemented by the City to reduce impacts related to the potential conversion of qualifying agricultural land to non-agricultural land uses. Also, please see Chapter 5, <i>Revisions to the Draft EIR</i>, of this Final EIR, for modifications to some of the listed policies and actions. For example, Policy LU-P1.2 requires the City to maintain a well-defined compact urban form, with a defined urban growth boundary and development intensities on land designated for urban uses. Policy LU-P6.4 requires the City to incentivize and encourage infill development, adaptive reuse of structures, and development on underutilized land to serve a variety of uses. Action LU-A6.3 requires the City to target individual vacant and underutilized infill sites that are not part of larger neighborhood developments for additional high-density residential development. Action P-A5.1 requires the City to establish priorities for open space preservation and acquisition based on an evaluation of: significant natural areas that are historically, ecologically, or scientifically unique or are outstanding, important or threatened; wildlife habitats and fragile ecosystems in need of protection; watersheds or significant water recharge areas; open space for safety and public health; lands suitable for recreation such as biking, photography or nature study; preserving or restoring natural features and ecosystem processes that can increase resiliency to climate change; and land suitable for agricultural production.</p>

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	<p>• Action P-A 7.1. Explore feasible and implementable policies and mitigation measures to address impacts to agricultural land, including:</p> <ul style="list-style-type: none"> o Participating in a County-established agricultural mitigation program that preserves one acre of farmland for every acre converted. o Establishing or participating in a program to restore or improve land in Merced County to a level that meets the criteria of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, in order to create new farmland in addition to preserving existing farmland. o Establishing a local right-to-farm ordinance. <p>Unfortunately, when the City's DEIR identifies mitigation measures, it doesn't take these policies and action measures at face value. The EIR should identify as appropriate mitigation for the loss of productive farmland the obtaining a conservation easement on productive agricultural land within the County at a 1:1 ratio at the equivalent quality of productive agricultural land being converted, through adoption of a mitigation ordinance similar to Merced County's existing ordinance. Instead of this common type of mitigation measure, the DEIR proposes three "creative" actions which are not common practice across communities within California, and are inconsistent with the first General Plan Policy option listed under Action P-A7.1 to participate in a County-established agricultural mitigation program at a 1 :1 mitigation ratio.</p> <p>The unorthodox measures listed under Impact AG-1 on Pages 4.2-15 and 16 of the DEIR, include:</p> <ul style="list-style-type: none"> o Replacing the converted farmland by finding other land not presently being farmed and bringing it into production. 	<p>The land use designations in the Land Use Element increase allowed densities above what is currently permitted. Specifically, the maximum density for Medium-Density Residential would increase from 18 to 20 dwelling units per acre, the minimum density for High-Density Residential would increase from 12 to 20 dwelling units per acre, and the maximum density for Downtown Mixed Use would increase from 18 to 30 dwelling units per acre. Allowing greater residential density within these designations will help to provide additional residential capacity within the already-urbanized area of Los Banos, absorbing a greater proportion of residential demand through infill development and reducing pressure on agricultural land to convert to residential use.</p> <p>Together these policies reduce the need for potential future development to occur on agricultural lands and encourage development on lands other than agricultural lands; however, like the policies and actions identified by the commenter and in the Draft EIR, they do not prohibit the conversion of qualifying agricultural lands nor do they mitigate the loss of agricultural lands to a less-than-significant level. This is because, as described in Chapter 4.2, the CEQA standard of significance is the conversion or loss of <u>any</u> qualifying farmlands (Prime Farmland, Unique Farmland, or Farmland of Statewide Importance) to non-agricultural lands would constitute a significant impact under CEQA.</p> <p>As described in Chapter 4.2 starting on page 4.2-15, in compliance with CEQA, "each public agency shall mitigate or avoid the significant effects on the environment of the project it carries out or approves whenever it is feasible to do so." (Public Resources Code, Section 21002.1(b)). The term "feasible" is defined in CEQA to mean, "capable of being accomplished in a successful manner</p>

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	<p>o Transfer of development rights from one vacant parcel to another which the DEIR even admits would still result in the conversion of the same amount of farmland.</p> <p>o Relocating topsoil on prime farmland to other properties with lower quality soil to improve its agricultural productivity.</p> <p>There is no logical reason for Merced LAFCo to argue that any of these unique and unusual measures should be pursued by the City- but there is good reason for LAFCo to consider the implementation of an agricultural mitigation ordinance by the City which mirrors the one adopted by Merced County and which relies on local land trusts to secure and manage conservation easements within the County. Besides Merced County, this more traditional agricultural mitigation through obtaining a conservation easement was recently applied by the City of Atwater for the large Ferrari Annexation in 2018, (LAFCo File No. 0680).</p> <p>While it is acknowledged that a 1 : 1 mitigation ratio does not fully mitigate for the loss of the productive farmland converted through an annexation, the requirement results in a partial mitigation where for the long-term future other agricultural land in Merced County (and possibly within the CCID boundary with its exceptional agricultural water rights), would remain in agricultural production. Efforts by the California Farmland Trust seek to acquire easement land contiguous with other existing easements creating a more viable agricultural resource boundary that can be sustained into the future. As of 2020 this land trust held 11,089 acres of easements in Merced County, and in 2021 they acquired an easement on 327 acres of land owned by the historic Los Banos farming operation Bowles Farming Company. Visit the Trust website for more information at: www.cafarmtrust.org and to</p>	<p>within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” (Public Resources Code, Section 21061.1) CEQA Guidelines Section 15370 defines “mitigation” as including: (1) avoiding the impact altogether by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of an action and its implementation; (3) rectifying the impact by repairing, rehabilitating, or restoring the impacted environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and (5) compensating for the impact by replacing or providing substitute resources or environments. While the commenter disagrees with the Draft EIR’s approach to consider a wide range of mitigation measures for mitigating or avoiding the impact of the conversion of agricultural lands to other uses and describing their infeasibility, doing so is appropriate pursuant to CEQA and the CEQA Guidelines.</p> <p>As described in Chapter 4.2, other mitigating efforts, such as conservation easements, one-to-one preservation, and right-to-farm ordinances, as identified by the commenter, all work to mitigate impacts. Proposed Action P-A7.1 requires the City to explore feasible and implementable policies and mitigation measures to address impacts to agricultural land, including:</p> <ul style="list-style-type: none"> ▪ Participating in a County-established agricultural mitigation program that preserves one acre of farmland for every acre converted. ▪ Establishing or participating in a program to restore or improve land in Merced County to a level that meets the criteria of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, in order to create new farmland in addition to preserving existing farmland. ▪ Establishing a local right-to-farm ordinance.

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	learn more about this common and widely accepted mitigation tool.	<p>However, as described in Chapter 4.2, the only way to fully avoid the agricultural impact from implementation of the proposed General Plan is to not allow development on state-designated Prime Farmland, Farmland of Statewide Importance, or Unique Farmland, thereby eliminating the agricultural impact. However, doing so is not feasible or practical as the City has a responsibility to meet other conflicting obligations, including increases in the number and type of jobs available in Los Banos and to reduce the need for residents to commute to high-quality jobs. These measures are critical to reducing single-occupant vehicle travel to and from Los Banos and meeting State targets for greenhouse gas reduction. The City needs to promote both economic development and corresponding residential development, as required by State housing law, within its adopted growth boundary. While possible forms of mitigation for, or avoidance of, conservation of agricultural lands in the EIR Study Area would be implemented by the City through its General Plan policies and actions, doing so to reduce impacts to a less-than-significant level would be infeasible and inconsistent with City planning goals and objectives.</p>
		<p>In response to this comment, revisions have been made to Chapter 4.2, <i>Agricultural Resources</i>, of the Draft EIR, as shown in Chapter 5, <i>Revisions to the Draft EIR</i>, of this Final EIR. These revisions add a new policy to the Parks, Open Space, and Conservation Element and modify Action P-A7.1 as follows:</p>
		<ul style="list-style-type: none"> <li data-bbox="1157 1268 1955 1448">▪ <u>Policy P-P7.3.</u> <u>Protect productive agricultural areas from conversion to non-agricultural uses by establishing and implementing an agricultural mitigation program, with consistent standards based on Merced County’s Agricultural Land Mitigation policy, that matches acres converted with</u>

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		<p><u>farmland acres preserved at a 1:1 ratio. The Land Evaluation and Site Assessment Model (LESA model), or equivalent modeling tool shall be used to determine whether the conservation land is of equal or greater value than the land being converted.</u></p> <ul style="list-style-type: none"> ▪ Action P-A7.1. Explore feasible and implementable policies and mitigation measures to address impacts to agricultural land, including: <ul style="list-style-type: none"> ▪ Participating in a <u>future Countywide-established</u> agricultural mitigation program, <u>if established</u>, that preserves one acre of farmland for every acre converted. ▪ Establishing or participating in a program to restore or improve land in Merced County to a level that meets the criteria of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, in order to create new farmland in addition to preserving existing farmland. ▪ Establishing a local right-to-farm ordinance. <p>These revisions do not affect any conclusions or significance determinations in the Draft EIR. Therefore, no recirculation of the Draft EIR is required pursuant to Section 15088.5(a), Recirculation of an EIR Prior to Certification.</p>
GOV2-7	<p>Public Services and Utilities: In terms of public services, the Draft General Plan and EIR reference a variety of goals and policies to identify the need for and provision of various public facilities and services to serve development upon annexation: Chapter 4.14 "Public Services, Parks, and Recreation" and Chapter 4.16 "Utilities and Service Systems." Water supply and relationships with CCID and</p>	<p>The commenters opinion on water supply is acknowledged. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>

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	<p>the Grasslands Water District were discussed earlier, but in the remaining public service and utility topic areas City General Plan policy will require preparation of specific plans for larger annexations that identify the public service needs for the development and require the project sponsors to fund the improvements to meet City standards.</p> <p>However, it is recognized that according to Table 4.16-6, the City has completed an update and expansion of the wastewater treatment plant which can accommodate the full wastewater generated from the land uses identified in the General Plan's proposed Urban Growth Boundaries of 1.41 million gallons per day (mgd). As indicated on Page 4.16-27, the capacity of the treatment plant has been a permitted waste influent flow rate of 4.9 mgd and the projected buildout of the General Plan with 8,900 new residential units and associated commercial and industrial development is only 4.57 mgd, resulting in a reserve capacity of 0.33 mgd.</p> <p>It is also recognized that the City's Stormwater Master Plan identifying existing and planned infrastructure to accommodate growth, and there are existing agreements in place for stormwater discharge into CCID and Grasslands Water District facilities during peak storm events. Compliance with the City's Stormwater Master Plan will mitigate any significant impacts as growth and annexation occur.</p>	
B. Private Companies and Organizations		
ORG-1	Jarrett Martin, Central California Irrigation District	
ORG1-1	<ul style="list-style-type: none"> Page 4.10-21 states that the project “would not substantially decrease groundwater supplies”. Page 4.10-22 states “The City currently has no specific groundwater pumping restriction under SGMA”. 	The statement in the Draft EIR that the proposed project would not substantially decrease groundwater supplies is based on the analysis provided in the Water Supply Assessment (WSA) provided in Appendix I, <i>Water Supply Assessment</i> , and Chapter 4.16, <i>Utilities</i>

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o	<p>There is clarification needed here that the city is currently overdrafting in excess of 2,000 acre-feet/year (2 MGD). The obligation of the City is to offset the current overdraft (as of 2019) over 20 years (note this is because CCID has been willing to “cover” the overdraft while the City works on projects).</p>	<p><i>and Service Systems</i>, of the Draft EIR, the results presented in the San Joaquin River Exchange Contractors (SJREC) Groundwater Sustainability Plan (GSP), and the latest GSP annual reports for water year (WY) 2020 and 2021. In WY 2020, 394,300 acre-feet (AF) of groundwater were extracted from the Delta-Mendota Subbasin, of which 367,100 AF (93 percent) was for agricultural use. In WY 2021, 562,300 AF of groundwater were extracted of which 498,000 AF (89 percent) was for agricultural use. The results indicate that groundwater extraction for agricultural use in the Delta-Mendota Subbasin in the past year has increased significantly by over 40 percent due to drought conditions and a reduction in surface water allotments. However, the amount of groundwater for municipal use decreased from 15,700 AF in WY 2020 to 14,900 AF in WY 2021. The municipal water usage in WY 2021 is only 2.6 percent of the total amount of groundwater extracted from the Subbasin. With an increase in water usage by the City of Los Banos of approximately 4,000 AFY by the year 2042, this would not be a significant impact on groundwater supplies.</p>
o	<p>The WSA talks about how there is not an impact on the aquifer if the city expands since the farmers have historically pumped in that area. The challenge is that under SGMA the City must pump groundwater in accordance with its sustainable yield which is determined to be 0.40 AF/acre-year. For reference, the city’s current demand is about double the Sustainable Yield.</p>	<p>The commenter indicates that the City is currently in overdraft, according to the water budget presented in the GSP. However, it is unclear from the GSP how a sustainable yield of 0.40 acre-feet/acre was derived and how it was subsequently determined that the City is in overdraft by more than 2,000 AF. The methodology provided in the GSP (Figure 28) was used to calculate a water budget for the City of Los Banos in the WSA – Table 8, <i>Groundwater Budget</i>, (see Appendix I of the Draft EIR). The methodology in the GSP includes recharge, which was included in Table 8 of the WSA. The results in Table 8 of the WSA show that the City’s net recharge for both existing conditions and future conditions exceeds the net consumptive use and therefore there is no overdraft. Similarly, the WSA shows that using the sustainable yield of 0.40 acre-feet/acre</p>

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		<p>and the buildout acreage of 14,500 acres, the City would not be in overdraft in 2042 (i.e., the net consumptive use of 5,712 AFY is less than the sustainable yield of 5,800 AFY).</p> <p>According to the GSP, most of the cities and counties that are GSAs in the SJREC region have water budgets that indicate that they are in overdraft. However, the amount of groundwater extracted by the cities and counties is a very small percentage of the total groundwater extracted in the Subbasin. The agricultural sector, including CCID and San Luis Water District, do not have water budgets that are calculated in the SJREC GSP, although they account for most of the groundwater extracted in the region. There are water budgets provided in Appendix S, <i>Hydrogeologic Conceptual Model, Groundwater Conditions, and Water Budget for the City of Los Banos GSA</i>, of the SJREC GSP for CCID and San Luis Water District (SLWD); however, they have not been incorporated into the SJREC GSP.</p> <p>In addition, the latest annual report for the Delta-Mendota Subbasin (WY 2021) indicates that all six GSP regions are on track to meet their sustainability goals in terms of groundwater levels and groundwater storage. While the agricultural groundwater extraction increased by 86 percent from WY 2020 to WY 2021 with a total of 498,000 AF extracted from the Subbasin in WY 2021, the municipal/urban sector groundwater extraction decreased by 5 percent to a total of 14,900 AF in WY 2021. Therefore, the small increase in groundwater extraction by the City by 2042 of approximately 4,000 AFY would not result in a substantial decrease in groundwater supplies.</p>

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Comment #	Comment	Response
ORG2	Breanne Vandenberg, Merced County Farm Bureau	
ORG2-1	<p>The City of Los Banos (the "City") is circulating a 45-day comment period for their General Plan 2042 (GP 2042) and we appreciate the opportunity to comment on such an influential document. As an organization, we have numerous concerns within the proposal that the City is considering. Merced County Farm Bureau (MCFB) is a 105-year-old organization that advocates for farmers, ranchers and dairy families who live and/or work in Merced County.</p>	<p>The comment serves as an opening remark. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>
ORG2-2	<p>General Plan Study Area The City's proposed GP 2042 encompasses 12,200 acres within the Urban Growth Boundary (UGB), a decrease from the 13,000 acres that was adopted in the 2030 General Plan UGB. Although the UGB has decrease [sic], the Sphere of Influence (SOI) has increased steadily as the Merced County Local Agency Formation Commission (LAFCo) last approved SOI is 11,200 acres and the proposal is for 14,500 acres. Lastly, the City has included an Area of Interest (AOI) of 8,000 acres.</p> <p>We fully understand the desire for Los Banos to want to grow for future needs as growth will be necessary in due time, however to the extent that Los Banos is proposing is far too great. We also find that the adoption of the new designation of AOI is a knee jerk reaction to outlandish suggestions made by the consultant. We would advise that this designation not be adopted and would request that the SOI be scaled back.</p>	<p>As described on page 3-12 in Chapter 3, <i>Project Description</i>, of the Draft EIR, the proposed project includes changes to the Urban Growth Boundary (UGB) and Sphere of Influence (SOI) and establishes the new proposed AOI. A comparison of the existing and proposed UGB and SOI boundary changes are shown on Figure 3-4, <i>Existing and Proposed Urban Growth Boundary</i>, and Figure 3-5, <i>Existing and Proposed Sphere of Influence</i>, respectively. As stated in the Draft EIR, the SOI is defined and determined by Merced LAFCO, although the City can propose the area that it would like its SOI to include.</p> <p>The commenter correctly describes the change in area between the proposed UGB (12,200 acres or 19 square miles) and the existing UGB (13,000 acres or 20 square miles). However, the proposed change to the SOI is more nuanced and warrants clarification as the increase from the 2004 SOI to the proposed SOI, while evaluated in the EIR, is part of a formal approval process and not substantially different than what was desired by the City in 2009 when the General Plan was last updated.</p>
		<p>As described in Chapter 3 of the Draft EIR, the City is proposing changes to the currently approved SOI (2004 SOI) and not the SOI shown on the current General Plan 2030 Land Use Map, because in</p>

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		<p>2009 that SOI was never formally approved or denied by Merced LAFCO. As such, the EIR evaluates the change from the 2004 SOI to the proposed SOI. As shown on Figure 3-5, the 2004 SOI is within the current UGB to the north, extends beyond the current UGB and beyond and partially along the Arroyo Canal to the east, extends below Pioneer Road to the south, and is within the current UGB to the west. The 2004 SOI is roughly 11,200 acres or 18 square miles. The proposed SOI would extend further north, east, and west of the 2004 SOI, but would remain contiguous with the 2004 SOI border to the south. The proposed SOI would be approximately 14,500 acres or 23 square miles.</p> <p>While the Draft EIR, as well as the commenter, acknowledge, the change between the approved 2004 SOI and the proposed SOI represents an increase of 3,300 acres or 5 square miles, the difference between what is shown as the City’s desired SOI in the current General Plan 2030 (14,400 acres or 22.5 square miles) and the proposed General Plan 2042 (14,500 acres or 23 square miles) is roughly the same. The point being that although this EIR evaluates the change from the approved 2004 SOI to the proposed SOI, the proposed SOI is not substantially different than what was proposed in 2009 and publicly disclosed through the current General Plan 2030 and that EIR process over 13 years ago.</p> <p>Contrary to the commenter’s opinion regarding the proposed AOI, as described on page 3-3 of Chapter 3 of the Draft EIR, the State of California encourages cities to look beyond their borders when undertaking the sort of comprehensive planning required of a general plan. Under State law, the City can establish a Planning Area that consists of land within the city and, “any land outside its boundaries which, in the planning agency’s judgment, bears relation to its planning” (Government Code, Title 7, <i>Planning and</i></p>

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		<p><i>Land Use, Division 1, Planning and Zoning, Chapter 3, Local Planning, Article 5, Authority for and Scope of General Plans, Section 65300).</i> The Los Banos Planning Area encompasses approximately 22,600 acres (35 square miles), and includes the lands within the city limit, the UGB, SOI, and AOI. Further, the AOI was developed based on suggestions from Merced LAFCO and Merced County staff. As described on page 3-6 in Chapter 3 of the Draft EIR, the AOI is based on Merced LAFCO policies. Merced LAFCO defines the AOI as an area to support cities and Merced County to engage in coordinated planning. Specifically, the Merced County Local Agency Formation Commission’s Policies and Procedures document includes Section B, <i>Sphere of Influence Revision Policies</i>, which identifies Objective II. A is to create an urban land use pattern in the city that provides adequate areas for growth while ensuring the efficient delivery of services and Policy 2, which states that LAFCO will recognize areas outside the sphere of influence boundary that reflect unique coordinated planning areas agreed to between the City, County and/or urban service district which are designated “area of interest”, “joint planning area” or similar designation as identified in the City and County General Plans (see page 5). According to the Merced LAFCO policies, an AOI covers areas outside the SOI boundary, agreed to by the City, Merced County, and/or urban service districts (if applicable), where development may impact City planning efforts. As stated on page 3-6 of Chapter 3 of the Draft EIR, the AOI <u>is not</u> considered for urban development or annexation by the City within the 20-year planning horizon of the General Plan 2042, but rather the City believes these areas bear a relationship to its planning and that the Los Banos community should be able to participate with other relevant agencies in planning decisions within the AOI.</p>

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ORG2-3	<p>Agricultural Mitigation</p> <p>We appreciate the action by the City to "explore feasible and implementable policies and mitigation measures to address impacts to agricultural land." Included in this action is to review establishing or participating in the county's 1:1 agricultural mitigation and adopting a local right-to-farm ordinance. These can be considered helpful tools, however not without fault. While impacted ground is mitigated for, we are still losing agricultural properties at an alarming rate which this GP 2042 is suggesting to ensure. We would recommend that property placed in an agricultural easement not only be a 1:1 ratio, but also be within the Los Banos area with equal water rights.</p> <p>Right-to-Farm ordinances inform the public about purchasing property near agricultural operations, however individuals that move to these areas fail to understand the practices that go along</p>	<p>While the City has consistently maintained a Planning Area outside of the SOI in the City's past two General Plans (1999 and 2030, approved in 2009), as described on page 3-12 in Chapter 3 of the Draft EIR, the proposed AOI is a formal recognition of this area outside of the SOI. The Planning Area in the existing General Plan 2030, which includes lands outside of the SOI but does not refer to this area as an "AOI," comprises approximately 22,000 acres or 34.4 square miles and the proposed Planning Area with a formally named and defined "AOI" is approximately 22,600 acres (35 square miles), which is roughly the same size.</p> <p>The commenter's opinion regarding the proposed SOI and AOI is acknowledged. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p> <p>The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p> <p>With respect to the commenters recommendation that property be placed in an agricultural easement not only be 1:1 ratio, but also be within the Los Banos area with equal water rights, please see Response to Comment GOV2-5 where new General Plan Policy P-P7.3 has been added to the proposed project and requires that the City protect productive agricultural areas from conversion to non-agricultural uses by establishing and implementing an agricultural mitigation program, with consistent standards based on Merced County's Agricultural Land Mitigation policy, that matches acres converted with farmland acres preserved at a 1:1 ratio. The new policy requires that the Land Evaluation and Site Assessment Model (LESA model), or equivalent modeling tool shall be used to determine whether the conservation land is of equal or greater value than the land being converted. Amongst other standards, the</p>

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	with farming. We encourage increased education to prospective buyers as it relates to this ordinance.	LESA Model such as soil resource quality, surrounding agricultural lands, and surrounding protected resource lands, the LESA model evaluates water resource availability. Note that Proposed Action P-A7.1 requires the City to explore feasible and implementable policies and mitigation measures to address impacts to agricultural land, including establishing a local right-to-farm ordinance. The commenter’s suggestions regarding the agricultural policies of the proposed General Plan 2042 are acknowledged.
ORG2-4	<p>Williamson Act The GP 2042 states that "the City considered a measure that would result in the replacement of Williamson Act contract farmland that would place other farmland under Williamson Act contract." It further outlines that this is infeasible due to the length of the current contract, eventually being removed and developed into non-agricultural uses. Realistically, the foremost reason that this cannot be achieved is because Williamson Act contracts are non-transferrable. Additionally, the program has been closed to any new applicants per action taken in 2009 by the Merced County Board of Supervisors as a result of the state decision to halt tax reimbursement payments to counties</p>	The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i> . The City appreciates the information provided by the commenter regarding the mitigation measure considered in the Draft EIR to reduce impacts related to the loss a lands currently under a Williamson Act contract.
ORG2-5	<p>Water We find issue with the amount of water the City projects they have available. For instance, multiple mentions are made that the City has a sustainable yield of 0.40 AFY through the San Joaquin River Exchange Contractors (SJREC) Groundwater Sustainability Plan (GSP). In contrast, the City states that specific criteria for pumping has yet to be determined. We have large concerns that the City has managed to determine an ample water supply is available to them regardless of understanding the criteria.</p> <p>Furthermore, overdraft has continued to occur since the sustainable yield has been established several years ago. Demand</p>	The City currently extracts approximately 8,300 AFY of groundwater with a projected increase to 12,400 AFY in the year 2042. Appendix I, <i>Water Supply Assessment</i> , of the Draft EIR presents the WSA, which indicates on Table 8, <i>Groundwater Budget</i> , that the net consumptive use of groundwater by the City under both existing conditions and proposed buildout in 2042 does not exceed the net recharge. The methodology used in the analysis is the same methodology used in the GSP (Figure 28) to determine the water budget. Therefore, the City is not exceeding its sustainable yield and is not contributing to overdraft conditions in the Delta-Mendota Basin.

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	<p>has only increased however projects to mitigate overdraft have not been completed by the City. The City has determined that water will be available to them from private wells that are currently used for ag operations. In due time and when buildout has occurred, the City plans to use these same wells as their own and states that they are well within their sustainable yield if used. We questioned how the City arrived at the private well pumping figures as we only found final numbers to support this. It seems to be a fallacy to assume that the City can avoid overdraft by acquiring additional groundwater wells. Ultimately, you cannot correct overdraft by supplementing with added groundwater.</p> <p>It has been noted in the GP 2042 that the City will be looking into various projects, however this should be an initial step that has already been executed and developed. The GP 2042 mentions projects such as the Los Banos Creek Project, however it is our understanding that is a project by other water interests. We find fault that the City is using this as a solution to their water issues without aiding in the development of said project</p>	<p>According to the latest annual report for the Delta-Mendota Subbasin (WY 2021), all six GSP regions are currently on track to meet their interim goals regarding groundwater levels and groundwater storage. Although agricultural groundwater extraction increased significantly in WY 2021 from 347,100 AF to 498,000 AF, due to drought conditions and a curtailment of surface water supplies, municipal groundwater extraction decreased from 15,700 AF to 14,900 AF due to water conservation efforts. These efforts will continue in the future, resulting in further reductions in municipal groundwater usage. The Draft EIR does not assume that groundwater overdraft will be corrected through added groundwater sources. Rather, it projects a reduction in overall groundwater usage because urban uses within the city of Los Banos use substantially less groundwater than current agricultural users.</p> <p>The commenter incorrectly states that the City plans to use private wells as their own. This statement does not appear in the WSA or Chapter 4.16, <i>Utilities and Service Systems</i>, of the Draft EIR. The WSA states that when the land on which the private wells are located are converted to non-agricultural use and the residents are connected to the City’s water distribution system, the cessation of pumping from private wells at an average rate of 4,800 AFY will offset the increase in pumping from City wells, which is estimated to be approximately 4,100 AFY by 2042. The number for the pumping rate of private wells within the UGB is taken from Appendix S, <i>Hydrogeologic Conceptual Model, Groundwater Conditions, and Water Budget for the City of Los Banos GSA</i>, of the GSP (Table 5). To be conservative, pumping rates for the last five years were used in the calculation. The average pumping rate for private wells in the table is 5,955 AFY.</p>

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ORG3	Ricardo Ortega, Grassland Water District, August 1, 2022	<p>The WSA and the Draft EIR does not claim that the City is using the Los Banos Creek Project as a solution to their water issues. The WSA (page 24) states that the SJREC is working toward implementing projects to increase groundwater recharge, including the Los Banos Creek Project. The WSA then states that in addition to these projects, the City is actively pursuing water conservation efforts to offset an increase in demand and lists several of the efforts that the City is pursuing.</p> <p>Also, please see Response to Comment ORG1-1 for additional discussion on groundwater use and water supply.</p>
ORG3-1	<p>Grassland Water District, Grassland Resource Conservation District, and Grassland Fund (collectively, “GWD”) submit these comments on the Draft Environmental Impact Report (“DEIR”) for the proposed Los Banos General Plan 2042 and Annexation Ordinance (“Project”) (State Clearinghouse No. 2022010254). GWD participated in workshops and meetings regarding the City’s General Plan Update, and appreciates the City’s engagement. GWD supports maintaining the northern limits of the City’s existing Urban Growth Boundary (“UGB”), reducing the proposed southern limit of the UGB and Sphere of Influence (“SOI”), and continuing to recognize the importance of the Grassland Ecological Area (“GEA”) and important farmland surrounding the City.</p>	<p>The comment serves as an opening remark. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>
ORG3-2	<p>However, based on our review of the DEIR and related Project documents, we have determined that the DEIR does not comply with the requirements of the California Environmental Quality Act (“CEQA”). GWD strongly opposes, <i>and will continue to oppose</i>, the City’s proposal to extend its UGB and change the land use designation from Agricultural/Rural to Industrial in the “inter-canal” area east of the San Luis Canal and west of the Santa Fe</p>	<p>The commenter expresses an opinion about the proposed project and asserts that the impacts to biological resources as presented in Chapter 4.3, <i>Biological Resources</i>, of the Draft EIR, lack substantial evidence to support the conclusion that impacts would be less than significant.</p>

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	<p>Grade/Santa Fe Canal. The City underestimates the impacts of this proposal on biological resources and lacks substantial evidence to support its conclusion that impacts would be less than significant. The proposed change appears to be inconsistent with previous CEQA mitigation measures the City adopted to offset the impacts of urban development.</p> <p>The proposed UGB expansion and change in land use designation is also unnecessary because the proposed SR 152 Overlay will impede industrial development there, and sufficient land is already dedicated for industrial land use. The proposal also serves to highlight the insufficiency of proposed Implementing Action P-A7.2 (establish a Grassland Resources Overlay Zone for the inter-canal area), Implementing Action POSR-I-16 (work with GWD to create a greenbelt/open space buffer around the perimeter of the city), and Policy P-P7.2 (work with the County and GWD to preserve agricultural uses outside the UGB). These same commitments have been included in the City’s General Plan for years but never implemented. The City’s failure to adhere to the environmental protections in its existing General Plan is not a reason to reduce those protections now.</p>	<p>Under CEQA, the decision as to whether an environmental effect should be considered significant is reserved to the discretion of the lead agency based on substantial evidence in the record as a whole. The analysis of the Draft EIR is based on scientific and factual data, which has been reviewed by the lead agency and reflects its independent judgment and conclusions. CEQA permits disagreements of opinion with respect to environmental issues addressed in an EIR. Section 15151, <i>Standards for Adequacy of an EIR</i>, of the CEQA Guidelines states, even “[d]isagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among experts.” The proposed General Plan 2042 policies are based in part on the suggestions from the CDFW comment letter provided at the time of the NOP dated February 24, 2022, as well as the recommendations of the professional biologists at ECORP Consulting who were part of the General Plan 2042 team and prepared the <i>Biological Resources Assessment for the Los Banos General Plan Update</i> (BRA) in April 2022. The CDFW comment letter is included in Appendix A, <i>Notice of Preparation and Comment Letters</i>, and the BRA is included as Appendix C, <i>Biological Resources Data</i>, of the Draft EIR.</p> <p>The commenter expands on their concerns summarized in this comment further in their letter and more detailed responses are provided as follows:</p> <ul style="list-style-type: none"> ▪ With respect to the commenters concern about the expansion of the UGB, please see Responses to Comments GOV2-3, ORG2-2, ORG3-11, ORG3-12, and ORG3-13. ▪ With respect to the commenters concern about the change the General Plan 2042 land use designation from Agricultural/Rural to Industrial in the “inter-canal” area east of the San Luis Canal and west of the Santa Fe Grade/Santa Fe Canal, please see

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ORG3-3	<p>GWD believes the DEIR’s analysis of impacts to water resources is insufficient because conflicts are likely to arise as a result of the proposed Project. As a recent example, the City has authorized new residential development near the San Luis Canal that resulted in an unapproved stormwater outfall, without appropriate consultation or permission from GWD. Impacts to downstream hydrology, water quality, and wetlands in the GEA from increased development near GWD’s canals will result from the proposed Project, which must be further analyzed and mitigated in the DEIR.</p>	<p>Responses to Comments ORG3-10, ORG3-11, ORG3-12, and ORG3-13.</p> <ul style="list-style-type: none"> ▪ With respect to the commenters concern about impacts to biological resources and past mitigation measures to reduce impacts to biological resources that were applied to other development projects in Los Banos, please see Responses to Comments GOV1-3, ORG3-9, and ORG3-10. <p>The commenter expands on their concerns summarized in this comment further in their letter and more detailed responses are provided as follows:</p> <ul style="list-style-type: none"> ▪ With respect to water resources, please see Responses to Comments GOV2-5, ORG1-1, ORG2-5, and ORG3-13. ▪ With respect to downstream hydrology and water quality, please see Response to Comment ORG3-13. ▪ With respect to impacts to wetlands, please see Responses to Comments GOV1-3, ORG3-9, and ORG3-10.
ORG3-4	<p>The establishment of Areas of Interest to the north and south of the City, particularly in the County of Merced’s Grassland Focus Area, appears inconsistent with the required elements for establishing such areas, as set forth by the Merced County Local Area Formation Commission (“LAFCO”). The establishments of Areas of Interest presents a potentially significant risk to environmental resources in the area.</p>	<p>The commenter expresses an opinion about a past event that is not germane to the proposed project or the Draft EIR. The commenter’s observations are noted.</p> <p>The commenter expands on their concerns about the proposed AOI summarized in this comment further in their letter under Comment ORG3-14. Please see Responses to Comments ORG2-2 and ORG3-14 where more detailed responses are provided regarding the AOI and conformity with Merced LAFCO’s objectives and policies that address the AOI.</p>
ORG3-5	<p>GWD also disagrees that adoption of an agricultural mitigation policy is infeasible. The City initially proposed such a policy, which</p>	<p>The commenter expands on their concerns about the agricultural mitigation summarized in this comment further in their letter and</p>

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	<p>would help mitigate for the significant impacts of agricultural land conversion from the proposed Project. Rather than sit on the sidelines of agricultural mitigation, the City should actively participate in conserving the important farmland to which its economy is linked.</p>	<p>more detailed responses are provided. Neither the proposed General Plan 2042 nor the Draft EIR make the statement that the adoption of an agricultural mitigation measure is infeasible as asserted by the commenter. Please see Responses to Comments GOV2-6, ORG2-3, and ORG3-15.</p>
ORG3-6	<p>For each of these reasons, the City may not approve the Project until a revised DEIR is prepared and re-circulated for public review and comment.</p>	<p>The commenters recommendation to revise and recirculate is based on their flawed review of the Draft EIR and no recirculation of the Draft EIR is required pursuant to CEQA Guidelines Section 15088.5(a), <i>Recirculation of an EIR Prior to Certification</i>, as demonstrated in Responses to Comments ORG3-1 through ORG3-5, and ORG3-8 through ORG3-16.</p>
ORG3-7	<p>I. Statement of Interest</p> <p>GWD provides water to and works to protect and advocate for nearby wildlife refuges and approximately 60,000 acres of privately owned wetlands located north, east and south of the City. GWD also helps manage water deliveries and promote the conservation of the entire 230,000-acre Grassland Ecological Area (GEA), an internationally significant wetland complex that exists due to hundreds of millions of dollars in public and private investments for habitat protection and restoration. The GEA is comprised of wetlands, riparian woodlands, native grasslands, vernal pools, and other habitats that support abundant and diverse wildlife, including numerous threatened and endangered plants and animals. The area also provides critically important wintering and breeding habitat for migratory waterbirds utilizing the Pacific Flyway. The GEA contains a large portion of the remaining 5% of wetlands in the Central Valley, upon which millions of migratory birds depend.</p> <p>GWD has a long history of providing feedback to the City on the negative environmental impacts of urban encroachment into the buffer zone between the City and the GEA. Historically, the City</p>	<p>The comment serves as an introduction to the comments that follow. Please see Responses to Comments ORG3-8 through ORG3-16.</p> <p>With respect to the commenter’s assertion that the proposed General Plan 2042 requires more protective land use and open space standards, taking into account the sensitive and valuable agricultural land and wetlands that surround the City, please see Responses to Comments GOV1-3, ORG3-9, and ORG3-10.</p> <p>With respect to the commenter’s assertion that the proposed General Plan 2042 skirts around water resource issues associated with the City’s dependence on groundwater and use of GWD’s canal system for stormwater discharges, please see Responses to Comments GOV2-5, ORG1-1, ORG2-5, and ORG3-13.</p> <p>With respect to the commenter’s assertion that the proposed General Plan 2042 does not meet LAFCO criteria to establish an AOI around the City, which may conflict with established land use policies for the Grassland Focus Area under the Merced County</p>

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	<p>worked closely with GWD to resolve these potential conflicts in a manner acceptable to all parties during previous updates to the City’s General Plan. Unfortunately, the DEIR continues to ignore certain intractable conflicts that are likely to arise between GWD and City if the Project moves forward as proposed.</p> <p>GWD submitted written comments to the City regarding the General Plan update on July 16, 2021 and February 22, 2022, which are incorporated here by reference. The comments discussed how the proposed Project: (1) requires more protective land use and open space standards, taking into account the sensitive and valuable agricultural land and wetlands that surround the City; (2) skirts around water resource issues associated with the City’s dependence on groundwater and use of GWD’s canal system for stormwater discharges; (3) does not meet LAFCO criteria to establish Areas of Interest around the City, which may conflict with established land use policies for the Grassland Focus Area under the Merced County General Plan; and (4) should incorporate an agricultural mitigation policy.</p>	<p>General Plan, please see Responses to Comments ORG2-2 and ORG3-14.</p> <p>With respect to the commenter’s assertion that the proposed General Plan 2042 should incorporate an agricultural mitigation policy, please see Responses to Comments GOV2-6, ORG2-3, and ORG3-15.</p>
ORG3-8	<p>II. Legal Background</p> <p>CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR, except in limited circumstances. <i>[footnote 1]</i> The EIR is the very heart of CEQA. <i>[footnote 2]</i> “The foremost principle in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” <i>[footnote 3]</i></p> <p>CEQA has two primary purposes. First, CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project. <i>[footnotes 4 and 5]</i> CEQA’s purpose is to inform the public and its responsible officials of the</p>	<p>The comment describes the purpose of CEQA and the CEQA process. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>

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	<p>environmental consequences of their decisions before they are made. In this respect, an EIR “protects not only the environment but also informed self-government.” <i>[footnote 6]</i> The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” <i>[footnote 7]</i></p> <p>In furtherance of CEQA’s purpose as an informational tool, the discussion of impacts in an EIR must be detailed, complete, and “reflect a good faith effort at full disclosure.” <i>[footnote 8]</i> CEQA requires an EIR to disclose all potential direct and indirect, significant environmental impacts of a project. <i>[footnote 9]</i> In addition, an adequate EIR must contain the facts and analysis necessary to support its conclusions. <i>[footnote 10]</i></p> <p>The second purpose of CEQA is to require public agencies to avoid or reduce environmental damage when possible by requiring appropriate mitigation measures and through the consideration of environmentally superior alternatives. <i>[footnote 11]</i> The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to identify ways that environmental damage can be avoided or significantly reduced. To that end, if an EIR identifies potentially significant impacts, it must then propose and evaluate mitigation measures to minimize those impacts. <i>[footnote 12]</i> CEQA imposes an affirmative obligation on agencies to avoid or reduce environmental harm by adopting feasible project alternatives or mitigation measures. <i>[footnote 13]</i> Without an adequate analysis and description of feasible mitigation measures, it would be impossible for agencies relying upon the EIR to meet this obligation.</p>	

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	<p>While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference.” <i>[footnote 14]</i> As the courts have explained, “a prejudicial abuse of discretion” occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.” <i>[footnote 15]</i></p> <p>Footnote 1: See, e.g., Pub. Resources Code (“PRC”) § 21100. Footnote 2: <i>Dunn-Edwards v. BAAQMD</i> (1992) 9 Cal.App.4th 644, 652. Footnote 3: <i>Comtys. for a Better Env’t. Cal. Res. Agency</i> (2002) 103 Cal. App.4th 98, 109. Footnote 4: 14 Cal. Code Regs. (“CEQA Guidelines”), § 15002, subd. (a)(1). Footnote 5: See, e.g., PRC § 21100. Footnote 6: <i>Citizens of Goleta Valley v. Board of Supervisors</i> (1990) 52 Cal.3d 553, 564. Footnote 7: <i>County of Inyo v. Yorty</i> (1973) 32 Cal.App.3d 795, 810. Footnote 8: CEQA Guidelines § 15151; <i>San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus</i> (1994) 27 Cal.App.4th 713, 721-722. Footnote 9: PRC § 21100, subd. (b)(1); CEQA Guidelines § 15126.2, subd. (a). Footnote 10: See <i>Citizens of Goleta Valley</i> 52 Cal.3d at 568. Footnote 11: CEQA Guidelines § 15002, subds. (a)(2)-(3); see also, <i>Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners</i> (2001) 91 Cal.App.4th 1344, 1354; <i>Citizens of</i></p>	

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	<p>Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564; Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 391, 400. Footnote 12: PRC §§ 21002.1, subd. (a), 21100, subd. (b)(3). Footnote 13: PRC §§ 21002-21002.1. Footnote 14: Berkeley Jets, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting, Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 391 409, fn. 12. Footnote 15: Berkeley Jets, 91 Cal.App.4th at 1355; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal.App.4th 713, 722; Galante Vineyards v. Monterey Peninsula Water Management Dist. (1997) 60 Cal.App.4th 1109, 1117; County of Amador v. El Dorado County Water Agency (1999) 76 Cal.App.4th 931, 946.</p>	
ORG3-9	<p>III. The DEIR’s Conclusion that Impacts to Biological Resources Would be Less Than Significant Is Not Supported by Substantial Evidence</p> <p>An EIR must fully disclose all potentially significant impacts of the project under consideration. Furthermore, when making a determination as to the significance of project impacts, the lead agency’s determination must be supported by accurate scientific and factual data for each impact.[<i>footnote 16</i>] An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding. [<i>footnote 17</i>]</p> <p>A. Substantial Evidence Shows that the Project May Result in Significant Impacts to Biological Resources</p> <p>The proposed Project would extend the City’s Urban Growth Boundary (“UGB”) to include parcels of land in the inter-canal area between the San Luis Canal and Santa Fe Grade/Santa Fe</p>	<p>The commenter correctly summarizes CEQA Guidelines 15064(b). As described in Chapter 4.4, <i>Biological Resources</i>, of the Draft EIR, the assessment is primarily based on the accurate scientific and factual data in the <i>Biological Resources Assessment for the Los Banos General Plan Update</i> (BRA) prepared by ECORP Consulting in April 2022. The BRA is attached as Appendix C, <i>Biological Resources Data</i>, of the Draft EIR, and was prepared by ECORP biologists Molly Enloe and Daniel Wong. As described in Chapter 4.4 of the Draft EIR and summarized in Response to Comment GOV1-3, the proposed General Plan 2042 includes numerous policies and actions that would also reduce impacts to biological resources, including the sensitive habitat and species in the GEA. Specifically, Policy P-P6.2 requires the assessments of biological resources prior to approval of any development within 300 feet of any creeks, wetlands, sensitive habitat areas, or areas of potential special-status species. Through the preparation of site-specific biological resources assessments as required in Policy P-P6.2, any potential impacts</p>

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	<p>Canal, and would change the land use classification from Agricultural/Rural to Industrial. The DEIR acknowledges that this change in land use classification would allow for “manufacturing, research and development, wholesale and warehouse distribution, agricultural and food processing, agricultural sales and services, truck terminals, utility operations, and similar activities, including those with outdoor facilities.”<i>[footnote 18]</i> These land uses are entirely incompatible with wetlands and wildlife both in the immediate vicinity and in the nearby GEA, and would cause significant impacts to biological resources from noise, light, conversion of habitat, invasive plant species, and the impairment of water and air quality.</p> <p>In addition to serving as an important open-space buffer between the City and the GEA, the inter-canal area connects the Gadwall Unit immediately to the south with the larger Los Banos Wildlife Area to the north, serving as a migratory corridor for birds and other species including the threatened giant garter snake.</p> <p>GWD previously provided comments and documentation of the biological impacts that would occur if the inter-canal area were allowed to be converted to urban/industrial uses.<i>[footnote 19]</i> Those potential impacts have not changed. Studies have shown that a one-to-two mile buffer of compatible land uses (called “resource neutral” or “resource beneficial”) is needed to protect the ecological values within the GEA.<i>[footnote 20]</i> Agricultural and open space land uses can provide the needed buffer between the GEA and nearby urban land uses. Because the City’s Sphere of Influence line is adjacent to the GEA boundary and/or within a few miles of the GEA in many areas, the City is in a unique position to ensure that there is no further encroachment of urban land uses into the GEA, and to establish a permanent</p>	<p>from potential future development would be required to be mitigated to a less-than-significant level prior to the approval of any future potential development, through (1) avoidance, (2) on-site mitigation, and (3) off-site mitigation.</p> <p>As described in Response to Comment GOV1-3, Policy P-P6.2 has been revised to clarify that the assessments of biological resources must be prepared by qualified biologists and reference the BRA prepared by ECORP for the proposed project. As described in Section 3.9, <i>Intended Uses of the EIR</i>, in Chapter 3, <i>Project Description</i>, of the Draft EIR, this EIR is intended to review potential environmental impacts associated with the adoption and implementation of the proposed project and determine corresponding mitigation measures, as necessary. This EIR is a program-level EIR and does not evaluate the impacts of specific, individual developments that may occur under the buildout horizon of the proposed General Plan 2042. Each specific future project will conduct separate environmental review, as required by CEQA, to secure the necessary discretionary development permits.</p> <p>Therefore, while subsequent environmental review may be tiered off the EIR, the EIR is not intended to address impacts of individual projects. Subsequent projects will be reviewed by the City for consistency with the General Plan 2042 and this EIR. Because the General Plan 2042 is a program-level evaluation, the specific details of future projects and the conditions at the time they are proposed are not known, it would be speculative to estimate any potential long-term or permanent changes, including those to the regulatory setting, and CEQA does not condone speculation (CEQA Guidelines Section 15145).</p> <p>The City acknowledges the reports available on the GWD website cited by the commenter and the recommendations that one- to</p>

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	<p>buffer of compatible land uses between the City’s UGB and the GEA.</p> <p>In its previous EIR for the City’s 2030 General Plan, the City committed to establish and <i>maintain</i> a Grassland Resource Overlay Zone (“GROZ”) for the entire inter-canal area (“north of SR-152”) in order to reduce significant effects on biological resources.^[footnote 21] Apparently that zone was never established, and now the City proposes to repeat this commitment but for a smaller portion of the inter-canal area (“north of the City limit”). This is entirely insufficient to avoid significant impacts to the GEA.</p> <p>The City must actually <i>adopt</i> a Grassland Resource Overlay for the entirety of the inter-canal area as part of its DEIR and General Plan Update. This will reduce adverse impacts from urban development and encroachment, reduce potential impacts to threatened giant garter snake habitat, and constitute a beneficial impact on the environment that was long-ago promised by the City as part of its orderly development.</p> <p>Footnote 16: CEQA Guidelines § 15064(b). Footnote 17: Kings Cty. Farm Bur. v. Hanford (1990) 221 Cal.App.3d 692, 732. Footnote 18: DEIR p. 4.4-28. Footnote 19: See e.g. GWD’s 2007 comments on the Notice of Preparation of an EIR for the City’s 2030 General Plan), incorporated herein by reference. Footnote 20: Frederickson, Leigh H. and Laubhan, Murray K., Land Use Impacts and Habitat Preservation in the Grasslands of Western Merced County, CA (Feb. 1995); Thomas Reid Associates, Grassland Water District Land Planning Guidance Study (1995);</p>	<p>two-mile buffer of “compatible” land uses serve to protect the sensitive habitat of the GEA as identified in 1995. In recognition of the sensitivity of the GEA, the proposed General Plan 2042 increases allowed densities within the City limit to focus growth with the existing urban footprint of Los Banos; orients the majority of new residential and employment growth on the west side of town, and does not propose any extension of the SOI to the east. As recognized by the commenter and their cited reports, the establishment of a one- to two-mile buffer through measures such as conservation easements is not feasible or practical in all instances given the location of the city to the GEA, which is partially within the GEA. Also, doing so would expose the City to potential “takings” claims. Further, as stated in the commenters reports land use restrictions, such as conservation easements, that are more permanently preventive of growth in the east/north direction are needed to prevent encroachment and fragmentation of the wetlands complex in the long term. There are no such land use restrictions on the subject parcels and no previous CEQA documents that have been approved or certified by the City have imposed such restriction as adopted mitigation measures. The area that is the subject of this commenters concern is already <u>inside</u> city limits and under the jurisdiction of the City. The revision of the UGB to encompass land that is both within the city limits and already partially developed with urban uses (a retail propane distributor and a heavy equipment supplier for sales, service and rentals) is consistent with the definition of the UGB and the Industrial land uses. The General Plan policies cited above, developed and refined in consultation with professional biologists based on accurate scientific and factual data, are adequate to mitigate potential impacts of development within city limits to a less-than-significant level.</p>

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Comment #	Comment	Response
ORG3-10	<p data-bbox="357 324 1123 462">Grassland Water District, Land Use and Economics Study: Grasslands Ecological Area (July 2001). Footnote 21: City’s 2030 General Plan, p. 5-16, and associated DEIR, p. E-25.</p> <p data-bbox="357 462 1123 787">B. An Industrial Land Use Designation in the Inter-Canal Area Appears to Violate Previously Adopted Mitigation Measures The subject parcels in the inter-canal area were long ago designated for industrial land use (see the City’s General Plan adopted in 1999). However, in the early 2000’s the City <i>changed</i> that land use designation to Agriculture/Rural in order to mitigate for the potential adverse effects of nearby development within the City, including the phased “Meadowlands” development located west of the San Luis Canal.[<i>footnote 22</i>]</p> <p data-bbox="357 820 1123 1104">Because of these commitments, the City is required to maintain the land use designation in the inter-canal area as Agriculture/Rural, as mitigation for the potentially significant impacts of urban growth that was allowed under prior City approvals. If the City fails to do so, the legal validity of those prior approvals will be compromised, because the mitigation measures and evidentiary basis for finding that impacts would be less than significant would no longer exist.[<i>footnote 23</i>]</p> <p data-bbox="357 1136 1123 1453">Footnote 22: See Avalon at the Meadowlands Mitigated Negative Declaration #99-07, Exhibit A, Mitigation Measures, City Council Resolution #4099, March 15, 2000 (“The City of Los Banos will proceed immediately with a review of General Plan policies and land use designations for the lands between the San Luis Canal and the Santa Fe Grade and will make appropriate revisions in such policies and land use designations deemed necessary to provide long-term protection for the wetland and wildlife habitat east of the existing urban land uses in the City of Los Banos.”); see</p>	<p data-bbox="1155 462 1963 820">The commenter opines about past events that are not the subject of this EIR and asserts that this EIR violates CEQA because of the General Plan land use designation changes to the subject parcels. Staff has reviewed the prior documents and concluded that references to land use designations were policy statements from the 1999 General Plan and were not mitigation measures. As described below, the General Plan land use designations and policies are periodically updated over time to meet current community requirements and future needs, and to be compliant with State and federal laws guiding general plan policies.</p> <p data-bbox="1155 852 1963 1453">As described in Chapter 3, <i>Project Description</i>, of the Draft EIR, the proposed General Plan 2042 guides the city’s economic and physical growth as well as preservation of natural and agricultural resources over a 20-year buildout horizon and replaces the City’s existing General Plan, with the exception of the Housing Element. The past CEQA documents cited by the commenter were done prior to the current General Plan 2030, which replaced the General Plan 1999. The preparation of the proposed General Plan 2042, including land use and policy changes, is permissible under applicable laws and regulations and is required for the City to be responsive to State mandates for housing, VMT and GHG reduction, environmental justice, and other topics (see Table 3-2, <i>General Plan 2042 Updates Required by State Law</i>, in Chapter 3 of the Draft EIR). As stated in Response to Comment ORG3-9, there are no permanent land use restrictions on the subject parcels that prevent the City from making changes to the General Plan land use designations or zoning to the subject parcels and there are no</p>

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Comment #	Comment	Response
	<p>also “Meadowlands II” EIR, p. 2-70 (citing a written statement of the City’s Planning Director that the City would “amend its general plan land use designation for industrially-designated land east of the San Luis Canal.”); see also East Los Banos (Meadowlands) Specific Plan Amendment, Supplemental EIR, p. 2-34 (March 2003) (land removed from Public Facilities designation in the inter-canal area “would remain under an agricultural designation.”) Footnote 23: PRC sections 21002.1(b), 21081, and 21081.6.</p>	<p>adopted mitigation measures under the past Los Banos General Plan EIRs that precludes changes to the General Plan land use designation on the subject parcel. The area that is the subject of this comment is <u>inside</u> city limits and under the jurisdiction of the City and already partially developed with urban uses (a retail propane distributor and a heavy equipment supplier for sales, service and rentals). The revision of the UGB to encompass land that is both within the city limits and already developed is consistent with the definition of the UGB. The existing services in the subject area are necessary and important agricultural-serving industrial land uses that are appropriate for this location in the city limits. Response to Comment ORG3-12, below, adds detail on the appropriateness and necessity of making this land available for jobs that support Los Banos’s residents and Los Banos’s local economy.</p> <p>Like the proposed General Plan 2042, this program-level EIR replaces the past EIR that was prepared for the current General Plan 2042. This program EIR does not tier from or rely on the findings for the environmental impact conclusions from past CEQA documents in the City. Under CEQA, the decision as to whether an environmental effect should be considered significant is reserved to the discretion of the lead agency based on substantial evidence in the record as a whole. The analysis of the Draft EIR is based on scientific and factual data, which has been reviewed by the lead agency and reflects its independent judgment and conclusions.</p> <p>As described in Response to Comment GOV1-3, the proposed General Plan 2042 policies are required to reduce impacts to biological resources, including special-status species, nesting birds, and sensitive habitat such as streams, creeks, and wetlands, on a project-by-project basis to a less-than-significant level. Specifically, Policy P-P6.2 requires assessments of biological resources prior to</p>

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Comment #	Comment	Response
ORG3-11	<p>C. An Industrial Land Use Designation and Expansion of the UGB In the Inter-canal Area Is Unnecessary</p> <p>It is inappropriate for the City to propose the inclusion of one portion of the inter-canal area within its Urban Growth Boundary when, at the same time, the City has designated most of that same area as within the SR 152 Bypass Corridor (see proposed General Plan, Figure 3-2). The proposed General Plan states that “no development is permitted or expected within the area designated for the SR-152 bypass.” [footnote 24] In fact, “allowed densities and intensities are both zero” in this designation, and “agricultural uses are permitted to continue, but no new structures are allowed.” [footnote 25]</p>	<p>approval of any development within 300 feet of any creeks, wetlands, sensitive habitat areas, or areas of potential special-status species. Protect sensitive habitat areas and special-status species in the following order: (1) avoidance, (2) on-site mitigation, and (3) off-site mitigation. Policy P-P6.2 is in alignment with the project-specific mitigation measures in the past CEQA documents cited by the commenter whereas site-specific biological assessments and mitigation measures were prepared for the specific Meadowland projects which were implemented over 20 years ago.</p> <p>While the commenter has cited past projects and CEQA documents certified and approved by the City, the commenter has not provided substantial evidence to support that it is not within the purview of the City to make the proposed General Plan land use designation changes to the subject parcels from Agricultural/Rural to Industrial. Please see Section 4.2, <i>Speculation Without Substantial Evidence</i>.</p> <p>The commenter’s opinion regarding the proposed UGB is acknowledged. The commenter speculates about possible future City actions but does not provide evidence to support these speculations. The comment addresses policy decisions that the City has made as part of the General Plan update. It does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p>
	<p>It is unreasonable to propose an expansion of the City’s Urban Growth Boundary within one small portion of the proposed SR-</p>	

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	<p>152 Bypass Corridor, or redesignate parcels within that corridor as “industrial,” when only agricultural uses will be permitted. There is also risk associated with a potential future decision by the City to remove the SR 152 Bypass Corridor Designation, which would allow for the entirety of the redesignated area to be converted to industrial use.</p> <p>The City of Los Banos has ample designated land within its existing UGB to accommodate industrial growth far beyond the planning horizon of the General Plan. In fact, there is enough vacant land zoned industrial under the General Plan to accommodate millions of square feet of industrial development, without any expansion of industrially zoned lands. As such, a General Plan amendment to redesignate the area between the San Luis Canal and the Santa Fe Santa Fe Canal would not address a need for industrial space in the City.</p> <p>Footnote 24: Draft 2042 General Plan p. LU-8, Table 3-1, fn. 2. Footnote 25: Draft 2042 General Plan, p. LU-12; DEIR p. 4.4-28.</p>	
ORG3-12	<p>D. Proposed Policies and Implementing Actions to Reduce Impacts in the Inter-Canal Area Are Inadequate</p> <p>The City proposes to adopt the following policies and implementing actions to minimize potentially significant impacts to biological and agricultural resources:</p> <ul style="list-style-type: none"> • Implementing Action P-A5.3: Work with the Grassland Water District to create a greenbelt/open space buffer around the perimeter of the city that provides a clear sense of identity and protects the Grassland Ecological Area. • Implementing Action P-A7.2: Establish and maintain a Grasslands Resources Overlay Zone (GROZ) for the inter canal area between the San Luis Canal and the Santa Fe Canal north of 	<p>The commenter speculates that the proposed General Plan 2042 policies and actions are not adequate to reduce or minimize impacts related to biological or agricultural resources yet provides to substantial evidence to support their assertion. Please see Section 4.2, <i>Speculation without Substantial Evidence</i>. Further, the commenter expresses an opinion about past events. The commenter’s observations are noted.</p> <p>While the commenter has listed two General Plan 2042 actions and one policy, there are many more identified in the Draft EIR that reduce impacts related to agricultural and biological resources in the EIR Study Area, including the lands in the inter-canal area.</p>

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	<p>the city limit where lands within the GROZ (allowing for the bypass) shall remain in agricultural and open space uses.</p> <ul style="list-style-type: none"> • Policy POSR-I-31: Work with the County and with the Grassland Water District to preserve agricultural uses outside the Urban Growth Boundary. <p>While GWD supported similar commitments in the 2030 General Plan, they were never implemented. Instead of establishing a greenbelt, establishing and <i>maintaining</i> a Grasslands Resources Overlay Zone (GROZ) for all land north of SR 152, and working to preserve agricultural uses outside the UGB, the City now proposes to <i>encroach</i> on the existing greenbelt in the inter-canal area, <i>reduce</i> the size of the GROZ, and allow for the conversion of agricultural land to industrial use outside of the existing UGB. Based on the City’s past pattern and practice, these measures are hollow promises that will prove insufficient to reduce environmental impacts. CEQA prohibits a lead agency from deferring the formulation of environmentally protective measures to some future time.^[footnote 26] “Numerous cases illustrate that reliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA’s goals of full disclosure and informed decision-making; and consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment.”^[footnote 27]</p> <p>The City should revise the DEIR and General Plan to actually incorporate the Grassland Resource Overlay (in its currently adopted form, not the reduced form that is proposed), and maintain this area as Agriculture/Rural, not defer the formulation of protective measures to a later date.</p>	<p>Please see Responses to Comments GOV1-3, ORG3-9, and ORG3-10 regarding additional policies and actions that reduce impacts.</p> <p>The commentor notes that similar commitments in the 2030 General Plan were not implemented. General Plans are long-range planning documents often looking 20 years in the future and are expected to be implemented gradually over time as resources are available. For this reason, the EIR does not rely on the cited individual policies to mitigate impacts to biological or agricultural resources. In fact, the EIR acknowledges that impacts to agricultural resources are expected to be significant and unavoidable.</p> <p>With respect to the commenters assertion about development in the inter-canal area, as described in Response to Comment ORG3-9, as explained in the Introduction to the General Plan, the UGB “represent[s] land that is appropriate for and likely to be needed for urban purposes up to the year 2042.” The portion of the inter-canal area identified by the commentor is already within the city limits; already partially developed with industrial uses consistent with the City’s proposed land use change (a retail propane distributor and a heavy equipment supplier for sales, service and rentals); and is one of only three designated industrial areas within City limits with vacant land remaining. This land is appropriate for job-generating and local-serving uses needed to meet other city goals such as providing local jobs and reducing the need for Los Banos residents to commute long distances for services. The site is more advantageous for industrial development than other vacant land in or near Los Banos because it has clear access and visibility from SR-152 and is not adjacent to residential uses. Moreover, the encroachment of urban uses in this area would be significantly reduced by the presence of the 152 Bypass Corridor designation covering the majority of the land within city limits in the inter-canal</p>

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	<p>Footnote 26: CEQA Guidelines, § 15126.4, subd. (a)(1)(B). Footnote 27: Communities for a Better Env't, 184 Cal.App.4th at 93.</p>	<p>area. As stated in the Land Use Element of the proposed General Plan 2043, the SR-152 Bypass Corridor designation “is for the areas that would be part of the planned SR-152 bypass around Los Banos. <i>No development is permitted or anticipated in these areas</i>, thus allowed densities and intensities are both zero. Existing agricultural uses are permitted to continue, but <i>no new structures are allowed within the bypass designation.</i>” [emphasis added] Accordingly, the proposed change to the UGB would not result in the encroachment of new urban land uses into the greenbelt that are not already present, and the proposed land use designation change represents an appropriate and necessary use of land within the city limits.</p>
<p>ORG3-13</p>	<p>IV. The DEIR Underestimates Impacts to Water Resources GWD has partnered with the City for decades to support responsible management of water and stormwater resources. The proposed Project would authorize additional and more intense urban development (including potential industrial development in the inter-canal area), which would increase demand for water supplies and stormwater drainage. Historically, GWD has facilitated the receipt and discharge of stormwater flows from lands within the City through its canal system. The proposed Project raises concerns that GWD’s existing arrangement with the City is insufficient to address impacts associated with stormwater discharges as the City continues to expand.</p> <p>To be clear, <i>GWD will not permit unauthorized points of discharge to its San Luis and Santa Fe Canals.</i> Just this week, GWD became aware of a new stormwater basin associated with a large residential development near the San Luis Canal at the north end of Ward Road, near Pacheco High School. The stormwater basin is apparently designed to discharge into the San Luis Canal at a</p>	<p>This comment expands on the commenters concerns introduced in Comment ORG3-3. Further, the commenter expresses an opinion about past events. The commenter’s observations are noted.</p> <p>As acknowledged on pages 4.10-7, 4.10-9, and 4.10-11 of the in Chapter 4.10, <i>Hydrology and Water Quality</i>, of the Draft EIR, the City of Los Banos has a contract with GWD to discharge stormwater to the San Luis Canal. The Draft EIR also acknowledges, on pages 4.10-17 and -18, that “development resulting from implementation of General Plan 2042 may result in long-term impacts to the quality of stormwater and urban runoff, subsequently impacting downstream water quality in CCID and GWD canals.” However, the quantity of stormwater that can be discharged into the Canal is specified in the contract and the City is required to monitor the discharge quantities via meters and conduct water quality monitoring on a regular basis. The City also pays GWD a proportional share of GWD’s operation and maintenance costs. Therefore, the City cannot exceed the limitation of 179 cubic feet</p>

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	<p>point not previously negotiated between the City and GWD. This recent example serves to highlight a disconnect between the proposed Project and the limitations of the City’s stormwater agreement with GWD.</p> <p>CEQA requires a finding of significant impact if a proposed project would “create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.” <i>[footnote 28]</i> The DEIR acknowledges on pages 4.10-17 to-18 that the proposed Project could increase stormwater runoff that would impair GWD’s water quality. It also states that the Los Banos Municipal Code prohibits illicit connections to the storm drainage system and forbids prohibited discharges. However, the proposed Project would authorize additional development on lands near the San Luis and Santa Fe Canals without authorized stormwater discharge points to serve those lands, which is a significant environmental impact.</p> <p>This underscores the need to maintain an Agriculture/Rural designation in the inter-canal area, with no UGB expansion. Due to the potential for significant impacts from development there, which cannot be mitigated, GWD will not agree to provide stormwater services for industrial development in the inter-canal area. If the proposed UGB expansion and industrial designation remains part of the proposed Project, a significant impact to water resources must be disclosed, analyzed, and mitigated. For other lands within the City, the DEIR and proposed General Plan should be revised to clearly state that any new stormwater discharge points on the San Luis or Santa Fe Canals would need approval from GWD.</p>	<p>per second (cfs) that may be discharged into GWD’s San Luis Canal or 70.4 cfs into GWD’s Santa Fe Canal.</p> <p>The City is planning to upgrade existing storm drains and build new detention basins and pump stations to serve the buildout of the General Plan 2042, as described in the City’s Stormwater Master Plan. There will be regional stormwater detention basins to reduce peak flows and improve water quality prior to discharge into the CCID and GWD canals. With these improvements, the buildout presented in the Stormwater Master Plan shows that the discharge limitations to GWD’s canals would not be exceeded. In addition, proposed General Plan 2042 Policy P-P9.1 requires the protection of the quality of stormwater that discharges into areas in and around Los Banos and Policy P-P9.3 requires the use of enhanced stormwater control facilities that provide additional filtration of stormwater to remove pollutants prior to discharge to pastureland or the Grassland Water District and other water districts. Also, Policy S-P2.1 requires new development to prepare hydrologic studies and implement appropriate mitigation measures to minimize surface water run-off and reduce the risk of flooding and Policy S-P2.2 requires developers to provide for the ongoing maintenance of detention basins. Further, Policy PFS-P4.1 requires green infrastructure improvements in new private developments. All future projects would be subject to project-specific CEQA environmental review and compliance with the Phase II Small MS4 permit which limits runoff from new development. In summary, as described the City would not be able to discharge stormwater into GWD’s facilities in excess of the contract agreement or at discharge locations other than those authorized in the contract without renegotiation and consent by GWD.</p>

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	Footnote 28: CEQA Guidelines, Appendix G, Environmental Checklist Form, Section X(c)(iii).	The Draft EIR cites these policies, as well as more specific provisions of the Los Banos Municipal Code, to conclude that impacts to hydrology and water quality from new development would be less than significant. The commentor does not provide substantial evidence to support the claim that federal, State, and local regulations are insufficient to prevent impacts and that further mitigation is required. Also, please see Response to Comments GOV2-3, ORG2-2, ORG3-11, and ORG3-12 regarding the expansion of the UGB, and Responses to Comments ORG3-10, ORG3-11 and ORG3-12 regarding change in land use from Agricultural/Rural to Industrial.
ORG3-14	<p>V. Proposed “Areas of Interest” Are Unnecessary, and May Conflict with the Merced County General Plan</p> <p>GWD supported the City’s decision to remove areas to the north and south of the City from the proposed Urban Growth Boundary (UGB) and Sphere of Influence (SOI) maps. This reflected the consistent feedback received from irrigation and water districts, the Farm Bureau, and the Merced County LAFCO. GWD does not believe that a proposal to expand the City’s Sphere of Influence at this time would meet the standards required for LAFCO approval. However, GWD questions the validity and appropriateness of establishing informal Areas of Interest (AOI) in large areas that surround the City. The City has unsuccessfully proposed AOIs in previous General Plan Updates, and it should not propose them in this update.</p> <p>First, despite the fact that the County LAFCO has suggested this as a possible approach, an “Area of Interest” is not a defined term under state law. Even the LAFCO’s short written policy on AOIs does not apply here. The policy notes that AOIs should reflect “unique coordinated planning areas agreed to by the City, County, and/or urban service district.” The City does not have a</p>	<p>The commenter’s opinion regarding the proposed SOI and AOI is noted. The comment does not address the adequacy of the Draft EIR, and no further response is required. See Section 4.1, <i>Project Merits</i>.</p> <p>With respect to the commenters assertion that the establishment of the AOI could have adverse environmental consequences, this is incorrect and speculative. See Section 4.2, <i>Speculation without Substantial Evidence</i>. As described in the Draft EIR, and summarized in Response to Comment ORG2-2, which elaborates on the description of the AOI provided in the Draft EIR and demonstrates that the AOI <u>is not</u> considered for urban development or annexation by the City within the 20-year planning horizon of the General Plan 2042 and that the City has consistently maintained a similar area, previously termed the “Planning Area.” Further, because no land use changes or potential future development are considered in the proposed AOI, there would be no potential to conflict with the Merced County General Plan, as incorrectly asserted by the commenter.</p>

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	<p>coordinated planning agreement with the County regarding the proposed AOIs, nor has it articulated any pressing or unique need for one.</p>	
	<p>Second, the proposed AOI north of the City is located within the Grassland Focus Area (GFA), which has established planning rules under the Merced County General Plan to protect the Grassland Ecological Area from incompatible development. The proposed northern AOI would cover a large area, from the San Luis Canal in the east to Henry Miller Road in the north, and past the community of Volta in the west, aligned with Alkali Lane. Lands within the GFA are already subject to the Merced County General Plan Policies LU-1.13, LU-4.7, LU-10.14, NR-D, and NR-G, and associated mitigation measures under the County’s EIR for its General Plan. The County and the Grasslands Resources Regional Working Group utilize a collaborative planning and consultation process in this area, to implement those policies and measures. This ensures that proposed developments within the GFA will undergo a thorough review for compatibility with GEA habitat values. Because the County has adopted a detailed planning process and criteria for the GFA, it is not appropriate for the City to establish an AOI there, particularly if the AOI will have criteria that are different from policies and mitigation measures in the County’s General Plan.</p>	
	<p>Third, if the City adopts AOI designations, for example in the area south of the City, it should not use the same criteria as the City of Merced. These criteria, which were previously set forth in a staff report, do not take into account the sensitive and valuable agricultural and wetland habitat lands that surround the City. As just one example, the growth boundaries in the previous General Plan Update were premised on the concept of maintaining a</p>	

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ORG3-15	<p>geographic distinction between the City and the community of Volta, and this principle should not be violated by the proposed northern AOI. An AOI should also not be used to circumvent the General Planning process set forth in state law. The establishment of AOIs could have adverse environmental consequences and reduce public transparency and participation in the planning process. Again, these designations are unnecessary.</p> <p>VI. The DEIR’s Conclusion that Impacts to Agricultural Resources Cannot Be Mitigated Through Adoption of a Mitigation Policy Is Not Supported by Substantial Evidence</p> <p>GWD along with agricultural entities in the area, including the Central California Irrigation District, strongly supported the City’s initial proposal to adopt an agricultural mitigation policy requiring conservation easements to offset the conversion of agricultural land to non-agricultural uses. They also supported the direction of the City Council to designate areas within the Grassland Focus Area and the inter-canal area for priority protection under an agricultural easement policy. Farmland within CCID boundaries has a very reliable agricultural water supply that is irreplaceable and therefore of high value. Agricultural uses also provide a complimentary buffer zone between wetland habitat and urban uses.</p> <p>The GEA is currently buffered by wildlife-compatible agricultural land, much of which receives some of California’s most reliable irrigation water deliveries from the San Joaquin River Exchange Contractors. GWD disagrees with the City’s proposal not to adopt an agricultural mitigation policy requiring conservation easements to offset the conversion of agricultural land. Instead, the City proposes only to “explore” the possibility of participating in the County’s mitigation program (Implementing Action P A7.1). This is insufficient.</p>	<p>As explained in Chapter 4.2, <i>Agricultural Resources</i>, of the Draft EIR, on pages 4.2-15 and 4.2-16, and summarized in Response to Comment GOV2-6, while mitigation measures were considered, such as preserving agricultural uses in the EIR Study Area, replacement of agricultural resources by replacing lost agricultural uses to other areas of the city, and relocation of Prime Farmland topsoil to other areas are not feasible, and other mitigating efforts, such as conservation easements, one-to-one preservation, and right-to-farm ordinances as listed in General Plan 2042 Action P-A7.1 all work to mitigate impacts, the only way to fully avoid the agricultural impact from implementation of the proposed General Plan is to <u>not allow</u> development on state-designated Prime Farmland, Farmland of Statewide Importance, or Unique Farmland, thereby eliminating the agricultural impact. However, doing so is not feasible or practical as the City has a responsibility to meet other conflicting obligations, including increases in the number and type of jobs available in Los Banos and to reduce the need for residents to commute to high-quality jobs. These measures are critical to reducing single-occupant vehicle travel to and from Los Banos and meeting State targets for greenhouse gas reduction. The City needs to promote both economic development and corresponding residential development, as required by State housing law, within its adopted growth boundary. Between now and 2042, the horizon year of this General Plan, the City will be legally obligated to accommodate three separate rounds of housing</p>

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Comment #	Comment	Response
	<p>In a time where many surface water supplies are less reliable than ever, and groundwater use is now managed under the Sustainable Groundwater Management Act, we believe a City mitigation policy should emphasize the value of water supply reliability on agricultural lands. Simply deferring the formulation of such a policy to a later date is not protective of agricultural resources. The City has the opportunity now to offset the significant impacts of future growth, and the DEIR does not provide a convincing reason for failing to do so.</p>	<p>allocations from the State; based on the most recent housing allocation process, the number of new units the City must zone land for could increase with each future cycle. While possible forms of mitigation for, or avoidance of, conservation of agricultural lands in the EIR Study Area would be implemented by the City through its General Plan policies and actions, doing so to reduce impacts to a less-than-significant level (i.e., no development on qualifying agricultural lands) would be infeasible and inconsistent with City planning goals and objectives. Therefore, impacts would remain significant and unavoidable even with the adoption of additional policies and actions.</p> <p>Please see Response to Comment GOV2-6, which elaborates on the description of the mitigation measures considered and the General Plan policies and actions that reduce impacts to agricultural resources. As shown in Response to Comment GOVB2-6, a new General Plan Policy has been added to establish and implement an agricultural mitigation program in response to comments provided on the Draft EIR. Also, please see Response to Comment ORG2-3, which expands on the discussion of impacts in the Draft EIR.</p>
ORG3-16	<p>VII. Conclusion For all of the forgoing reasons, the City must prepare and recirculate a revised DEIR in order to adequately disclose, analyze, and mitigate the Project’s significant impacts to biological, agricultural, and water resources, before considering approval of the proposed Project.</p> <p>GWD remains committed to working with the City to ensure that urban expansion and the intensification of land uses does not occur in proximity to the Grassland Ecological Area or adversely affect the surface and groundwater supplies that GWD manages. The City now has an opportunity to affirm and strengthen its prior</p>	<p>As demonstrated in Responses to Comments ORG3-1 through ORG3-15 no recirculation of the Draft EIR is required pursuant to CEQA Guidelines Section 15088.5(a), <i>Recirculation of an EIR Prior to Certification</i>.</p>

COMMENTS AND RESPONSES

TABLE 4-1 **RESPONSES TO COMMENTS ON THE DRAFT EIR**

Comment #	Comment	Response
	open space commitments and preserve productive farmland, by establishing growth boundaries and land use policies that make sense for the City's future while respecting the importance of surrounding land, wildlife, and water resources.	

5. Revisions to the Draft EIR

This chapter includes text revisions to the Draft EIR, including the goals, policies, and actions in the Draft General Plan 2042, that were made in response to agency and organization comments, as well as staff-directed changes. These text revisions include typographical corrections, insignificant modifications, amplifications and clarifications of the Draft EIR. In each case, the revised page and location on the page is presented, followed by the textual, tabular, or graphical revision. Underlined text represents language that has been added to the EIR; text with ~~striketrough~~ represents language that has been deleted from the Draft EIR. None of the revisions to the Draft EIR constitutes significant new information as defined in CEQA Guidelines Section 15088.5; therefore, the Draft EIR does not need to be recirculated.

CHAPTER 2, EXECUTIVE SUMMARY

The text in Table 2-1, *Summary of Significant Impacts and Mitigation Measures*, on pages 2-7 through 2-9 (Agricultural Resources) and pages 2-16 and 2-17 (Greenhouse Gas Emissions) is hereby amended as follows (see table on following page):

CHAPTER 3, PROJECT DESCRIPTION

The text on page 3-22 of the Draft EIR is hereby amended as follows:

Section 9-3.2335, Application eligibility criteria.

- (a) Any land requested to be annexed must be contiguous with existing city limits, within the Urban Growth Boundary, and ~~at least 75 percent~~ within the Sphere of Influence.
- (b) Annexation must be consistent with the policies of the City's general plan and all appropriate City development standards and must be processed under an application for a specific plan funded fully by the applicant that includes zoning for the subject area and that may also include a development agreement.
- (c) Existing ground water supplies infrastructure must remain with the land and be transferred to the City upon annexation; no new wells or septic systems shall be allowed. Water supplies controlled by special water districts will remain with the special district.

Section 9-3.2336, Findings necessary for approval.

- (a) Adequate city utilities and public safety services must be able to be provided.
- (b) The new development must fully fund construction of all improvements needed both on- and off-site to mitigate its impacts on public safety services, utility and transportation infrastructure, and parks, recreation and educational facilities.
- (c) Upon annexation, the land must be detached from a special water district as may be required by the policies of that district.

REVISIONS TO THE DRAFT EIR

TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
4.2 AGRICULTURAL RESOURCES (AG)			
<p>AG-1: Implementation of the General Plan 2042 would result in the conversion of Prime Farmland, Farmland of Statewide Importance, or Unique Farmland land to non-agricultural land uses.</p>	<p>Significant and unavoidable</p>	<p>Land Use (LU): LU-P1.2, LU-P1.3, LU-P1.4, LU-P1.9, LU-A1.4, LU-3.1, LU-P4.5, LU-P6.4, LU-A6.3, P-A5.1, P-P7.1, P-P7.2, <u>P-P7.3</u>, P-P7.34, <u>P-P7.45</u>, P-P7.56, P-A7.1, and P-A7.2.</p> <p>Public Facilities and Services (PFS): PFS-P3.6</p> <p>Mitigation Considered but Found to be Infeasible: Replacement of Agricultural Lands, Transfer of Development Rights, and Relocation of Prime Farmland Topsoil. See Chapter 4.2 for a detailed discussion.</p> <p>As discussed in Chapter 4.2, implementation of the proposed project would designate Prime Farmland, Farmland of Statewide Importance, or Unique Farmland land to non-agricultural land uses. Through General Plan 2042 policies and actions, and mandatory mitigation measures, impacts related to the conversion of qualifying agricultural lands would be reduced but not to a less-than-significant level. The proposed General Plan 2042 contains policies and actions to reduce the conversion of qualifying agricultural lands, such as <u>Policy P-P7.3 requires the City to protect productive agricultural areas from conversion to non-agricultural uses by establishing and implementing an agricultural mitigation program, with consistent standards based on Merced County's Agricultural Land Mitigation policy, that matches acres converted with farmland acres preserved at a 1:1 ratio.</u> Policy P-P7.34 that requires the City to support agricultural conservation easement programs managed by other public, private, and non-profit organizations, Policy P-P7.67 that requires applicants of annexation proposals that would result in the conversion of 50 or more acres to prepare inventories of vacant land that could serve the same purpose, and Actions P-A7.1 and P-A7.2 that require the City to explore feasible and implementable policies and mitigation measures to address impacts to agricultural lands and establish specific overlay zones to maintain existing agricultural lands, respectively. These policies and actions would not reduce the amount of acreage converted under buildout of the proposed General Plan 2042; however, they would forestall development of the best agricultural land within the City's SOI. While these efforts and other mitigation measures were considered, such as preserving agricultural uses in the EIR Study Area, replacement of agricultural resources by replacing lost agricultural uses to other areas of the city, and relocation of Prime Farmland topsoil to other</p>	<p>Significant and unavoidable</p>

REVISIONS TO THE DRAFT EIR

TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>AG-2: Implementation of the General Plan 2042 would result in the loss of agricultural land under the Williamson Act.</p>	<p>Significant and unavoidable</p>	<p>areas, these mitigations are not feasible. Additionally, other mitigating efforts, such as conservation easements, one-to-one preservation, and right-to-farm ordinances all work to mitigate impacts; however, the only way to fully avoid the agricultural impact from implementation of the proposed General Plan is to not allow development on state-designated Prime Farmland, Farmland of Statewide Importance, or Unique Farmland, thereby eliminating the agricultural impact. However, doing so is not feasible or practical as the City has a responsibility to meet other conflicting obligations, including increases in the number and type of jobs available in Los Banos and to reduce the need for residents to commute to high-quality jobs. These measures are critical to reducing single-occupant vehicle travel to and from Los Banos and meeting State targets for greenhouse gas reduction. The City needs to promote both economic development and corresponding residential development, as required by State housing law, within its adopted growth boundary. While possible forms of mitigation for, or avoidance of, conservation of agricultural lands in the EIR Study Area would be implemented by the City through its General Plan policies and actions, doing so to reduce impacts to a less-than-significant level would be infeasible and inconsistent with City planning goals and objectives. Therefore, impacts would remain <i>significant and unavoidable</i>.</p> <hr/> <p>Land Use (LU): LU-P1.2, LU-P1.3, LU-P1.4, LU-P1.9, LU-A1.4, LU-3.1, LU-P4.5, LU-P6.4, LU-A6.3, P-A5.1, P-P7.1, P-P7.2, <u>P-P7.3</u>, P-P7.34, P-P7.45, P-P7.67, P-A7.1, and P-A7.2.</p> <hr/> <p>Public Facilities and Services (PFS): PFS-P3.6</p> <hr/> <p>Mitigation Considered but Found to be Infeasible: Replacement of Agricultural Lands, Transfer of Development Rights, and Relocation of Prime Farmland Topsoil. See Chapter 4.2 for a detailed discussion.</p> <hr/> <p>As described in Chapter 4.2 and in impact AG-1 above, the proposed General Plan 2042 includes policies and actions to minimize impacts to agricultural lands. Those same General Plan policies and actions would also minimize impacts from conflicts with Williamson Act lands and reduce the likelihood of premature contract cancellations by the property owners of the Williamson Act parcels in the EIR Study Area. Mitigation for this impact was considered, including the placement of other farmland under Williamson Act contract. However, the individual and cumulative loss of agricultural land under the Williamson Act caused by the proposed project would still occur. Given that CEQA does not require that the project be changed to</p>	<p>Significant and unavoidable</p>

REVISIONS TO THE DRAFT EIR

TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
<p>AG-4: The General Plan 2042, in combination with past, present, and reasonably foreseeable projects, could result in a significant cumulative impact with respect to the conversion of farmland of concern under CEQA and Williamson Act properties to non-agricultural uses.</p>	<p>Significant and unavoidable</p>	<p>avoid an impact, and no additional mitigation is available, this would result in a <i>significant and unavoidable</i> impact.</p>	<p>Significant and unavoidable</p>
		<p>Land Use (LU): LU-P1.2, LU-P1.3, LU-P1.4, LU-P1.9, LU-A1.4, LU-3.1, LU-P4.5, LU-P6.4, LU-A6.3, P-A5.1, P-P7.1, P-P7.2, <u>P-P7.3</u>, P-P7.34, P-P7.67, P-A7.1, and P-A7.2.</p> <p>Public Facilities and Services (PFS): PFS-P3.6</p> <p>Mitigation Considered but Found to be Infeasible: Replacement of Agricultural Lands, Transfer of Development Rights, and Relocation of Prime Farmland Topsoil. See Chapter 4.2 for a detailed discussion.</p> <p>As described in Chapter 4.2, implementation of the proposed project would result in significant impacts related to the conversion of farmland of concern under CEQA and Williamson Act properties to non-agricultural uses. As such, the proposed project would contribute to the cumulative impact described in the Merced County General Plan EIR. Although the goals, policies, and actions in the General Plan 2042 would reduce and partially offset regional agricultural impacts, as well as consideration of mitigation measures to preserve agricultural lands, the only way to fully avoid the agricultural impact of the proposed General Plan is to not allow development on state-designated farmland, thereby eliminating the agricultural impact. However, this would be infeasible and inconsistent with City planning goals and objectives. Further, the amount of growth foreseen in the region and the decisions of Merced County and other surrounding counties regarding conversion of agricultural land are outside the control of the City of Los Banos. Therefore, this impact would be <i>significant and unavoidable</i>.</p>	
<p>4.8 GREENHOUSE GAS EMISSIONS (GHG)</p>			
<p>GHG-1: Implementation of the General Plan 2042 would not meet the long-term greenhouse gas emissions reduction goals <u>under Executive Order (EO) S-03-05</u> or substantial progress toward carbon neutrality goals under <u>EO B-55-18</u> <u>applicable statewide legislative GHG emission reduction requirements</u>.</p>	<p>Significant</p>	<p>Economic Development (ED): ED-P1.1, ED-A1.1, ED-A2.1, ED-A2.2, and ED-A2.3</p> <p>Land Use (LU): LU-P1.1, LU-P1.3, LU-P2.11, LU-P2.15, LU-P4.8, LU-P5.2, LU-P5.3, LU-P5.6, and LU-P5.7</p> <p>Parks, Open Space, and Conservation (P): P-P12.1, P-P12.2, P-P12.3, P-P12.4, P-P12.5, P-P13.1, P-P13.2, P-P13.3, P-P13.4, P-P13.5, P-P13.6, P-P13.7, and P-A13.1</p> <p>Circulation (C): C-P1.1, C-P1.2, C-P1.3, C-A1.3, C-P2.5, C-P2.6, C-P2.8, C-A2.1, C-A2.2, C-P3.1, C-P3.2, C-P3.3, C-A3.1, C-P4.1, C-P4.2, C-P4.3, C-P4.4, C-P4.5, C-P4.6, C-P4.7, C-P4.8, C-P4.9, C-P7.1, C-P7.2, C-P7.4, and C-P7.5</p> <p>MM GHG-1: The City of Los Banos shall prepare a Climate Action Plan (CAP) to achieve the GHG reduction targets of Senate Bill 32 for year 2030 <u>and the latest</u></p>	<p>Significant and unavoidable</p>

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TABLE 2-1 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Environmental Impact	Significance without Mitigation	General Plan Policies (P) and Actions (A) and CEQA-Required Mitigation Measures (MM)	Significance with Mitigation
		<p><u>applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP.</u> The CAP shall be completed within 24 months of certification of the General Plan EIR. The CAP shall be updated every five years to ensure the City is monitoring the plan’s progress toward achieving the City’s greenhouse gas (GHG) reduction target and to require <u>an</u> amendment if the plan is not achieving specified level. The update shall consider a trajectory consistent with the GHG emissions reduction goal established under Executive Order (EO) S-03-05 for year 2050 and the latest applicable statewide legislative GHG emission reduction that may be in effect at the time of the CAP update (e.g., Senate Bill 32 for year 2030). The CAP update shall include the following:</p> <ul style="list-style-type: none"> ▪ GHG inventories of existing and forecast year GHG levels. ▪ Tools and strategies for reducing GHG emissions to achieve the GHG reduction goals of Senate Bill 32 for year 2030 <u>and the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP update.</u> ▪ Tools and strategies for reducing GHG emissions to ensure a trajectory with the long-term GHG reduction goal of Executive Order S-03-05 <u>the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP update.</u> ▪ Plan implementation guidance that includes, at minimum, the following components consistent with the proposed CAP: <ul style="list-style-type: none"> ▪ Administration and Staffing ▪ Finance and Budgeting ▪ Timelines for Measure Implementation ▪ Community Outreach and Education ▪ Monitoring, Reporting, and Adaptive Management ▪ Tracking Tools 	

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CHAPTER 4.2, AGRICULTURAL RESOURCES

The text on pages 4.2-13 and 4.2-14 of the Draft EIR is hereby amended as follows:

- Policy P-P7.3. Protect productive agricultural areas from conversion to non-agricultural uses by establishing and implementing an agricultural mitigation program, with consistent standards based on Merced County's Agricultural Land Mitigation policy, that matches acres converted with farmland acres preserved at a 1:1 ratio. The Land Evaluation and Site Assessment Model (LESA model) may be used to determine whether the conservation land is of equal or greater value than the land being converted.
- Policy P-P7.34. Support agricultural conservation easement programs managed by other public, private, and non-profit organizations.
- Policy P-P7.45. Require developers of residential developments adjoining agricultural land to provide, fund, and maintain a physical buffer to ensure that agricultural practices will not be adversely affected.
- Policy P-P7.56. Require property developers adjacent to sites where agricultural uses are being conducted to inform subsequent buyers of potential continued agricultural production and the lawful use of agricultural chemicals, including pesticides and fertilizers.
- Policy P-P7.67. Require applicants of annexation proposals that would result in the conversion of 50 or more acres of Prime Farmland, Farmland of Statewide Importance, or Unique Farmland to do the following:
 - Prepare an inventory of the vacant land within the city limit zoned for similar uses as the proposed annexation, and an analysis of the probable build-out time for that quantity of vacant land given past development rates. When the inventory includes vacant land to support more than 12 years of development (10-year inventory plus an additional two years to account for annexation processes), the applicant shall demonstrate to the City's satisfaction why the existing vacant land within the city limits is not suitable for the proposed development.
 - Prepare a phasing timeline that prioritizes development of lands with lesser farmland value, lands immediately adjacent to existing development within the city, lands with prior disturbance of farmland, lands that do not encroach beyond major barriers into areas of farmland not already partially developed, and/or lands that do not require cancellation or non-renewal of a Williamson Act contract.
 - Use major land features as boundaries, including roads, canals, creeks, or highway plan lines, so that annexation boundaries are physically separated from remaining agricultural land beyond the annexation area, when appropriate.
- Action P-A7.1. Explore feasible and implementable policies and mitigation measures to address impacts to agricultural land, including:
 - Participating in a future Countywide-established agricultural mitigation program, if established, that preserves one acre of farmland for every acre converted.

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- Establishing or participating in a program to restore or improve land in Merced County to a level that meets the criteria of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, in order to create new farmland in addition to preserving existing farmland.
- Establishing a local right-to-farm ordinance.

The text on page 4.2-14 of the Draft EIR is hereby amended as follows:

- **Policy PFS-P.3.6.** ~~Attempt to retain water rights~~ Work with the Central California Irrigation District (CCID) in all annexed areas so that agricultural production can continue on annexed land until the time of development. ~~These rights will then be made available to meet urban water demands, or where feasible, be exchanged for groundwater recharge opportunities as part of a comprehensive water recharge program.~~

The text on page 4.2-16 and 4.2-17 of the Draft EIR is hereby amended as follows:

Significance without Mitigation: Significant and unavoidable. As discussed previously, implementation of the proposed project would designate Prime Farmland, Farmland of Statewide Importance, or Unique Farmland land to non-agricultural land uses. Through General Plan 2042 policies and actions, and mandatory mitigation measures, impacts related to the conversion of qualifying agricultural lands would be reduced but not to a less-than-significant level. The proposed General Plan 2042 contains policies and actions to reduce the conversion of qualifying agricultural lands, such as Policy P-P7.3 that requires the City to protect productive agricultural areas from conversion to non-agricultural uses by establishing and implementing an agricultural mitigation program, with consistent standards based on Merced County's Agricultural Land Mitigation policy, that matches acres converted with farmland acres preserved at a 1:1 ratio. The Land Evaluation and Site Assessment Model (LESA model) may be used to determine whether the conservation land is of equal or greater value than the land being converted. Policy P-P7.34 that requires the City to support agricultural conservation easement programs managed by other public, private, and non-profit organizations, Policy P-P7.67 that requires applicants of annexation proposals that would result in the conversion of 50 or more acres to prepare inventories of vacant land that could serve the same purpose, and Actions P-A7.1 and P-A7.2 that require the City to explore feasible and implementable policies and mitigation measures to address impacts to agricultural lands and establish specific overlay zones to maintain existing agricultural lands, respectively. These policies and actions would not reduce the amount of acreage converted under buildout of the proposed General Plan 2042; however, they would forestall development of the best agricultural land within the City's SOI. While these efforts and other mitigation measures were considered, such as preserving agricultural uses in the EIR Study Area, replacement of agricultural resources by replacing lost agricultural uses to other areas of the city, and relocation of Prime Farmland topsoil to other areas, these mitigations are not feasible. Additionally, other mitigating efforts, such as conservation easements, one-to-one preservation, and right-to-farm ordinances all work to mitigate impacts; however, the only way to fully avoid the agricultural impact from implementation of the proposed General Plan is to not allow development on state-designated Prime Farmland, Farmland of Statewide Importance, or Unique Farmland, thereby eliminating the agricultural impact. However, doing so is not feasible or practical as the City has a responsibility to meet other conflicting obligations, including increases in the number and type of jobs available in Los Banos and to reduce the need for residents to commute to high-quality jobs. These measures are

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critical to reducing single-occupant vehicle travel to and from Los Banos and meeting State targets for greenhouse gas reduction. The City needs to promote both economic development and corresponding residential development, as required by State housing law, within its adopted growth boundary. While possible forms of mitigation for, or avoidance of, conservation of agricultural lands in the EIR Study Area would be implemented by the City through its General Plan policies and actions, doing so to reduce impacts to a less-than-significant level would be infeasible and inconsistent with City planning goals and objectives. Therefore, impacts would remain *significant and unavoidable*.

CHAPTER 4.4, BIOLOGICAL RESOURCES

The text on page 4.4-25 of the Draft EIR is hereby amended as follows:

- **Policy P-P6.2.** Require assessments of biological resources by a qualified biologist prior to approval of any development within 300 feet of any creeks, wetlands, sensitive habitat areas, or areas of potential special-status species. Protect sensitive habitat areas and special-status species in the following order: (1) avoidance, (2) on-site mitigation, and (3) off-site mitigation. Refer to the recommendations of the Biological Resources Assessment in Attachment C to minimize impacts to habitat and special-status species.
- **Policy P-P6.4.** Provide wildlife corridors to allow movement of animals and minimize wildlife-urban conflicts.
- **Policy P-P6.5.** Require project applicants to avoid nests of native birds in active use, in compliance with state and federal regulations. For new development sites where nesting birds may be present, initiate vegetation clearing and construction outside the bird nesting season (~~March 1 through August 31~~February 1 through September 15) or conduct preconstruction surveys by a qualified biologist in advance of any disturbance. If active nests are encountered, establish appropriate buffer zones based on recommendations by the qualified biologist and maintain the buffer zones until any young birds have successfully left the nest.

The text on pages 4.4-27 of the Draft EIR is hereby amended as follows:

- **Policy P-P6.2.** Require assessments of biological resources by a qualified biologist prior to approval of any development within 300 feet of any creeks, wetlands, sensitive habitat areas, or areas of potential special-status species. Protect sensitive habitat areas and special-status species in the following order: (1) avoidance, (2) on-site mitigation, and (3) off-site mitigation. Refer to the recommendations of the Biological Resources Assessment in Attachment C to minimize impacts to habitat and special-status species.

The text on page 4.4-29 of the Draft EIR is hereby amended as follows:

- **Policy P-P6.2.** Require assessments of biological resources by a qualified biologist prior to approval of any development within 300 feet of any creeks, wetlands, sensitive habitat areas, or areas of potential special-status species. Protect sensitive habitat areas and special-status species in the following order: (1) avoidance, (2) on-site mitigation, and (3) off-site mitigation. Refer to the recommendations of the

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Biological Resources Assessment in Attachment C to minimize impacts to habitat and special-status species.

The text on page 4.4-31 of the Draft EIR is hereby amended as follows:

- **Policy P-P6.2.** Require assessments of biological resources by a qualified biologist prior to approval of any development within 300 feet of any creeks, wetlands, sensitive habitat areas, or areas of potential special-status species. Protect sensitive habitat areas and special-status species in the following order: (1) avoidance, (2) on-site mitigation, and (3) off-site mitigation. Refer to the recommendations of the Biological Resources Assessment in Attachment C to minimize impacts to habitat and special-status species.

CHAPTER 4.8, GREENHOUSE GAS EMISSIONS

The text on page 4.8-21 and 4.8-22 of the Draft EIR is hereby amended as follows:

Impact GHG-1: Implementation of the General Plan 2042 would not meet the long-term greenhouse gas emissions reduction goal under ~~Executive Order (EO) S-03-05~~ or substantial progress toward carbon neutrality goals under ~~EO B-55-18~~ applicable statewide legislative GHG emission reduction requirements.

MM GHG-1: The City of Los Banos shall prepare a Climate Action Plan (CAP) to achieve the GHG reduction targets of Senate Bill 32 for year 2030 and the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP. The CAP shall be completed within 24 months of certification of the General Plan EIR. The CAP shall be updated every five years to ensure the City is monitoring the plan's progress toward achieving the City's greenhouse gas (GHG) reduction target and to require an amendment if the plan is not achieving specified level. The update shall consider a trajectory consistent with the GHG emissions reduction goal established under ~~Executive Order (EO) S-03-05 for year 2050~~ and the latest applicable statewide legislative GHG emission reduction that may be in effect at the time of the CAP update (e.g., Senate Bill 32 for year 2030). The CAP update shall include the following:

- GHG inventories of existing and forecast year GHG levels.
- Tools and strategies for reducing GHG emissions to achieve the GHG reduction goals of Senate Bill 32 for year 2030 and the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP update.
- Tools and strategies for reducing GHG emissions to ensure a trajectory with the long-term GHG reduction goal of ~~Executive Order S-03-05~~ the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP update.
- Plan implementation guidance that includes, at minimum, the following components consistent with the proposed CAP:
 - Administration and Staffing
 - Finance and Budgeting
 - Timelines for Measure Implementation
 - Community Outreach and Education
 - Monitoring, Reporting, and Adaptive Management
 - Tracking Tools

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CHAPTER 4.9, HAZARDS AND HAZARDOUS MATERIALS

The text in the last paragraph on page 4.9-19, which continues on page 4.9-20, of the Draft EIR is hereby amended as follows:

General Plan 2042 Policy S-P43.3, listed in impact discussion HAZ-1, would require the preparation of site-specific evaluation for sites with known contamination, the disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment through the completion of Phase I or Phase II hazardous materials studies for each identified site as part of the design phase for each project. The completion of these studies would result in site-specific mitigation as required, including preparing ESMPs and soil vapor intrusion assessments. Compliance, with applicable Federal, State and local laws and regulations regarding cleanup and reuse of a listed hazardous materials site described in Section 4.9.1.1, *Regulatory Framework*, the proposed General Plan policies listed under HAZ-1, would ensure potential future development under the proposed General Plan 2042 would not create a significant hazard to the public or the environment; therefore, impacts would be *less than significant* and no mitigation measures are required.

The policy listed in impact discussion HAZ-5 on page 4.9-20 has been revised as follows:

- **Policy LU-P7.67.** Require developers to mitigate fully the environmental effects of development at or near the airport site following any relocation of the airport (particularly the potential impacts to Los Banos Creek riparian corridor and the City's water supply) by clustering development to maximize open space.

CHAPTER 4.10, HYDROLOGY AND WATER QUALITY

The text on page 4.10-23 of the Draft EIR is hereby amended as follows:

- **Policy PFS-P3.6.** ~~Attempt to retain water rights~~ Work with the Central California Irrigation District (CCID) in all annexed areas so that agricultural production can continue on annexed land until the time of development. ~~These rights will then be made available to meet urban water demands, or where feasible, be exchanged for groundwater recharge opportunities as part of a comprehensive water recharge program.~~

The text on page 4.10-29 in the third full paragraph is hereby amended as follows:

Furthermore, the proposed General Plan 2042 Parks, Open Space, and Conservation (P) Element and Public Facilities and Services (PFS) Element contains goals, policies, and actions that require local planning and development decisions to consider impacts to hydrology. In addition to the Goal LU-9 and Policies P-P9.1, P-P9.2, P-P9.3, and P-P9.4, and Actions P-A9.1, P-A9.2, P-A9.3, and P-A9.4 listed in impact discussion HYD-1 and Goal P-6 and Action P-A6.1 listed in impact discussion HYD-2, the proposed General Plan 2042 includes a policy in the Public Facilities and Services (PFS) Element that would also minimize impacts to groundwater. Policy PFS-P3.56 requires the City to ~~attempt to retain water rights~~ work with the Central California Irrigation District (CCID) in all annexed areas so that agricultural production can continue on annexed land until the time of development. ~~These rights will then be made available to meet urban~~

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~~water demands, or where feasible, be exchanged for groundwater recharge opportunities as part of a comprehensive water recharge program.~~ Implementation of these goals, policies, and actions would minimize potential adverse impacts to groundwater.

CHAPTER 4.11, LAND USE AND PLANNING

The text on page 4.11-8 of the Draft EIR is hereby amended as follows:

- **Policy LU-3.1.** Annexation proposals are required to meet the following basic requirements:
 - ~~a. **Location.** Require that any land requested to be annexed be contiguous with the existing City limits, within the urban growth boundary, and at least 75 percent within the sphere of influence.~~
 - ~~b.a. **Consistency.** Require that any land requested to be annexed is consistent with the policies of the City's General Plan and all appropriate City development standards.~~
 - ~~e.b. **Timing of Development.** Require lands outside, but adjacent to, the current city limits to annex to the City of Los Banos prior to approval of new development.~~
 - ~~d.c. **Utilities.** Require areas annexed to the City to be served by City utilities. Prohibit new wells and septic systems to serve urban development within the city limits. Conversely, do not provide City utility services, water, and sanitary sewer to new development outside of the city limits unless annexation is approved. Prior to annexation, the City must find that adequate water supply and service and wastewater treatment and disposal capacity can be provided. Existing water supplies must remain with the land and be transferred to the City upon annexation approval.~~
 - ~~e.d. **Public Safety.** Prior to annexation, the City must find that adequate police, fire, and other public safety services can be provided.~~
 - ~~f.e. **Mitigation.** Require that new development projects include full mitigation of impacts to parks and recreational services, police and fire services, and public infrastructure, both on- and off-site.~~

The text on page 4.11-9 of the Draft EIR is hereby amended as follows:

- **Action P-A7.1.** Explore feasible and implementable policies and mitigation measures to address impacts to agricultural land, including:
 - Participating in a future Countywide established agricultural mitigation program, if established, that preserves one acre of farmland for every acre converted.
 - Establishing or participating in a program to restore or improve land in Merced County to a level that meets the criteria of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, in order to create new farmland in addition to preserving existing farmland.
 - Establishing a local right-to-farm ordinance.

REVISIONS TO THE DRAFT EIR

CHAPTER 4.14, PUBLIC SERVICES, PARKS, AND RECREATION

The text on page 4.14-10 of the Draft EIR is hereby amended as follows:

- **Policy LU-3.1.** Annexation proposals are required to meet the following basic requirements:
 - ~~b.~~ **Location.** Require that any land requested to be annexed be contiguous with the existing City limits, within the urban growth boundary, and at least 75 percent within the sphere of influence.
 - ~~b.a.~~ **Consistency.** Require that any land requested to be annexed is consistent with the policies of the City's General Plan and all appropriate City development standards.
 - ~~e.b.~~ **Timing of Development.** Require lands outside, but adjacent to, the current city limits to annex to the City of Los Banos prior to approval of new development.
 - ~~d.c.~~ **Utilities.** Require areas annexed to the City to be served by City utilities. Prohibit new wells and septic systems to serve urban development within the city limits. Conversely, do not provide City utility services, water, and sanitary sewer to new development outside of the city limits unless annexation is approved. Prior to annexation, the City must find that adequate water supply and service and wastewater treatment and disposal capacity can be provided. Existing water supplies must remain with the land and be transferred to the City upon annexation approval.
 - ~~e.d.~~ **Public Safety.** Prior to annexation, the City must find that adequate police, fire, and other public safety services can be provided.
 - ~~f.e.~~ **Mitigation.** Require that new development projects include full mitigation of impacts to parks and recreational services, police and fire services, and public infrastructure, both on- and off-site.

The text in the last paragraph on page 4.14-11 of the Draft EIR is hereby amended as follows:

The proposed project also includes the proposed Annexation Ordinance that, as described in detail in Chapter 3, *Project Description*, of this Draft EIR, states the application eligibility criteria and the findings necessary for approval. To be eligible for annexation, a property must be contiguous with existing city limits, within the UGB, and ~~at least 75 percent~~ within the SOI. The annexation must be consistent with the policies of the City's general plan and all appropriate City development standards and must be processed under an application for a specific plan funded fully by the applicant that includes zoning for the subject area and that may also include a development agreement. In addition, the City must make the finding that adequate city utilities and public safety services are able to be provided, and the new development must fully fund construction of all improvements needed both on- and off-site to mitigate its impacts on public safety services, utility and transportation infrastructure, and parks, recreation, and educational facilities. These provisions of the proposed Annexation Ordinance would ensure that new development anticipates and addresses potential impacts resulting from the increased need for fire service.

The text in the first full paragraph on page 4.14-17 of the Draft EIR is hereby amended as follows:

As noted previously, the proposed project also includes the proposed Annexation Ordinance that establishes the application eligibility criteria and the findings necessary for City support of the annexation request. To be eligible for annexation, a property must be contiguous with existing city limits, within the UGB, and ~~at least 75 percent~~ within the SOI. The annexation must be consistent with the policies of the

REVISIONS TO THE DRAFT EIR

City's General Plan and all appropriate City development standards. In addition, the City must make the finding that adequate public safety services are able to be provided, and the new development must fully fund construction of all improvements needed both on- and off-site to mitigate its impacts on public safety services, utility and transportation infrastructure, and parks, recreation, and educational facilities. These provisions of the proposed Annexation Ordinance would ensure that new development anticipates and addresses potential impacts resulting from the increased need for police service.

The text in the first full paragraph on page 4.14-40 of the Draft EIR is hereby amended as follows:

The proposed project also includes the proposed Annexation Ordinance that, as described in detail in Chapter 3, *Project Description*, of this Draft EIR, states the application eligibility criteria and the findings necessary for approval. To be eligible for annexation, a property must be contiguous with existing city limits, within the Urban Growth Boundary, and ~~at least 75 percent~~ within the Sphere of Influence. The annexation must be consistent with the policies of the City's general plan and all appropriate City development standards and must be processed under an application for a specific plan funded fully by the applicant that includes zoning for the subject area and that may also include a development agreement. In addition, the new development must fully fund construction of all improvements needed both on- and off-site to mitigate its impacts on parks and recreation facilities. The proposed Annexation Ordinance requires that Specific Plans for all development identify the location and financing of parks, trails, and other public and quasi-public facilities. Moreover, Specific Plans for residential development must include a system of pedestrian trails or pathways and linear open-space corridors that link residents to parks, schools, downtown, shopping areas, and employment centers. Specific Plans for employment areas must include provisions for services and amenities for employees, including recreation. Therefore, the proposed Annexation Ordinance would help to ensure that new development anticipates and addresses potential impacts resulting from the increased need for parks facilities.

CHAPTER 4.16, UTILITIES AND SERVICE SYSTEMS

The text on page 4.10-18 of the Draft EIR is hereby amended as follows:

- ~~Policy PFS-P.3.6. Attempt to retain water rights~~ Work with the Central California Irrigation District (CCID) in all annexed areas so that agricultural production can continue on annexed land until the time of development. ~~These rights will then be made available to meet urban water demands, or where feasible, be exchanged for groundwater recharge opportunities as part of a comprehensive water recharge program.~~

REVISIONS TO THE DRAFT EIR

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6. Mitigation Monitoring and Reporting Program

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the proposed Los Banos General Plan 2042 and Annexation Ordinance project, herein referred to as the “proposed project.” The purpose of the MMRP is to ensure the implementation of mitigation measures identified as part of the environmental review for the proposed project. The MMRP includes the following information:

- The full text of the mitigation measures;
- The party responsible for implementing the mitigation measures;
- The timing for implementation of the mitigation measure;
- The agency responsible for monitoring the implementation; and
- The monitoring action and frequency.

The mitigation measures in this MMRP shown in Table 6-1, *Los Banos General Plan 2042 Mitigation Monitoring and Reporting Program*, shall be applied to all future development anywhere in the EIR Study Area. The City of Los Banos must adopt this MMRP, or an equally effective program, if it approves the proposed project with the mitigation measures that were adopted or made conditions of project approval.

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 6-1 LOS BANOS GENERAL PLAN 2042 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation		Agency Responsible for Monitoring	Monitoring		Status
	Party Responsible for Implementation	Implementation Timing		Monitoring Action	Monitoring Frequency	Completion Date
AIR QUALITY (AIR)						
Mitigation Measure AIR-1: Implement Mitigation Measures AIR-2a and AIR-2b.	Project applicants	Prior to project approval	City of Los Banos Community and Economic Development Department	Project approval	Once	
Mitigation Measure AIR-2a: Prior to discretionary approval by the City for development projects subject to California Environmental Quality Act (CEQA) review (i.e., non-exempt projects), project applicants shall prepare and submit a technical assessment evaluating potential project operation phase-related air quality impacts to the City of Los Banos for review and approval. The evaluation shall be prepared in conformance with San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) methodology in assessing air quality impacts. If operation-related air pollutants are determined to have the potential to exceed the SJVAPCD-adopted thresholds of significance, as identified in the <i>Guidance for Assessing and Mitigating Air Quality Impacts</i> , the City of Los Banos Planning and Engineering Division shall require that applicants for new development projects incorporate mitigation measures to reduce air pollutant emissions during operational activities. The identified measures shall be included as part of the conditions of approval. Possible mitigation measures to reduce operational (long-term) emissions can include, but are not limited to the following:	Project applicants	Prior to project approval	City of Los Banos Community and Economic Development Department	Project approval	Once	
<ul style="list-style-type: none"> ▪ For site-specific development that requires refrigerated vehicles, the construction documents shall demonstrate an adequate number of electrical service connections at loading docks for plug-in of the anticipated number of refrigerated trailers to reduce idling time and emissions. ▪ Applicants for manufacturing and light industrial uses shall consider energy storage and combined heat and power in appropriate applications to optimize renewable energy generation systems and avoid peak energy use. ▪ Site-specific developments with truck delivery and loading areas and truck parking spaces shall include signage as a reminder to limit idling 						

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 6-1 LOS BANOS GENERAL PLAN 2042 MITIGATION MONITORING AND REPORTING PROGRAM

	Implementation		Monitoring		Status	
	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency	Completion Date
<p>of vehicles while parked for loading/unloading in accordance with Section 2485 of 13 California Code of Regulations Chapter 10.</p> <ul style="list-style-type: none"> ▪ Provide changing/shower facilities as specified, at minimum, or greater than in the guidelines of the Nonresidential Voluntary Measures of the California Green Building Standards Code (CALGreen located in Part 11 of Title 24). ▪ Provide bicycle parking facilities equivalent to or greater than as specified in the Residential Voluntary Measures of CALGreen. ▪ Provide preferential parking spaces for low-emitting, fuel-efficient, and carpool/van vehicles equivalent to or greater the Nonresidential Voluntary Measures of CALGreen. ▪ Provide facilities to support electric charging stations per the Nonresidential Voluntary Measures and the Residential Voluntary Measures of CALGreen. ▪ Applicant-provided appliances shall be Energy Star-certified appliances or appliances of equivalent energy efficiency (e.g., dishwashers, refrigerators, clothes washers, and dryers). Installation of Energy Star-certified or equivalent appliances shall be verified by the City during plan check. ▪ Applicants for future development projects along existing and planned transit routes shall coordinate with the Los Banos and the Merced Transit Authority to ensure that bus pad and shelter improvements are incorporated, as appropriate. ▪ Applicants for future development projects shall enter into a Voluntary Emissions Reduction Agreement (VERA) with the SJVAPCD. The VERA shall identify the amount of emissions to be reduced, in addition to the amount of funds to be paid by the project applicant to the SJVAPCD to implement emission reduction projects required for the project. 						
<p>Mitigation Measure AIR-2b: Prior to issuance of any construction permits for development projects subject to California Environmental Quality Act (CEQA) review (i.e., non-exempt projects), development project applicants shall prepare and submit to the City of Los Banos a technical assessment evaluating potential project construction-related air quality impacts. The evaluation shall be prepared in conformance with San</p>	Project applicants	Prior to issuance of construction permits	City of Los Banos Community and Economic Development Department	Project approval	Once	

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 6-1 LOS BANOS GENERAL PLAN 2042 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation		Monitoring		Status
	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
<p>Joaquin Valley Unified Air Pollution Control District (SJVAPCD) methodology in assessing air quality impacts. The prepared evaluation for projects that meet the SJVAPCD Small Projects Analysis Level (SPAL) screening criteria shall at minimum identify the primary sources of construction emissions and include a discussion of the applicable SJVAPCD rules and regulations and SPAL screening criteria to support a less-than-significant conclusion.</p> <p>For projects that do not meet the SPAL screening criteria, project-related construction emissions shall be quantified. If construction-related criteria air pollutants are determined to have the potential to exceed the SJVAPCD adopted thresholds of significance, as identified in the Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI), the City of Los Banos shall require that applicants for new development projects incorporate mitigation measures to reduce air pollutant emissions during construction activities to below these thresholds. These identified measures shall be incorporated into appropriate construction documents (e.g., construction management plans) submitted to the City of Los Banos. Mitigation measures to reduce construction-related emissions could include, but are not limited to:</p> <ul style="list-style-type: none"> ▪ Using construction equipment rated by the United States Environmental Protection Agency as having Tier 4 interim (model year 2008 or newer) emission limits, applicable for engines between 50 and 750 horsepower. A list of construction equipment by type and model year shall be maintained by the construction contractor on-site, which shall be available for City review upon request. ▪ Ensuring construction equipment is properly serviced and maintained to the manufacturer’s standards. ▪ Use of alternative-fueled or catalyst-equipped diesel construction equipment, if available and feasible. ▪ Clearly posted signs that require operators of trucks and construction equipment to minimize idling time (e.g., five-minute maximum). ▪ Preparation and implementation of a fugitive dust control plan that may include the following measures: 					

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 6-1 LOS BANOS GENERAL PLAN 2042 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation		Monitoring		Status	
	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency	Completion Date
<ul style="list-style-type: none"> ▪ Disturbed areas (including storage piles) that are not being actively utilized for construction purposes shall be effectively stabilized using water, chemical stabilizer/suppressant, or covered with a tarp or other suitable cover (e.g., revegetated). ▪ On-site unpaved roads and offsite unpaved access roads shall be effectively stabilized using water or chemical stabilizer/suppressant. ▪ Land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled utilizing application of water or by presoaking. ▪ Material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained when materials are transported offsite. ▪ Operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) ▪ Following the addition of materials to or the removal of materials from the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. ▪ Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. ▪ Any site with 150 or more vehicle trips per day shall prevent carryout and trackout. ▪ Limit traffic speeds on unpaved roads to 15 miles per hour. ▪ Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent. ▪ Install wheel washers for all exiting trucks or wash off all trucks and equipment leaving the project area. 						

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 6-1 LOS BANOS GENERAL PLAN 2042 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation		Monitoring		Status	
	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency	Completion Date
<ul style="list-style-type: none"> Adhere to Regulation VIII's 20 percent opacity limitation, as applicable. Enter into a Voluntary Emissions Reduction Agreement (VERA) with the SJVAPCD. The VERA shall identify the amount of emissions to be reduced, in addition to the amount of funds to be paid by the project applicant to the SJVAPCD to implement emission reduction projects required for the project. 						
<p>Mitigation Measure AIR-3a: Prior to discretionary approval by the City of Los Banos for development projects subject to California Environmental Quality Act (CEQA) review (i.e., non-exempt projects), applicants for industrial or warehousing land uses in addition to commercial land uses that would generate substantial diesel truck travel (i.e., 100 diesel trucks per day or 40 or more trucks with diesel-powered transport refrigeration units per day based on the California Air Resources Board recommendations for siting new sensitive land uses) shall prepare an operational health risk assessment (HRA) to the City of Los Banos for review and approval. If the operational health risk assessment determines the new development poses health hazards that increase the incremental cancer risk above the threshold established by the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD), project-specific mitigation measures shall be integrated to reduce cancer and acute risk below the SJVAPCD threshold.</p> <p>The operational HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and the SJVAPCD. If the operational HRA shows that the incremental cancer risk exceeds 20 in a million, the appropriate noncancer hazard index exceeds 1.0; or the thresholds as determined by the SJVAPCD at the time a project is considered, the project applicant will be required to identify and demonstrate that measures are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms.</p> <p>Measures to reduce risk impacts may include but are not limited to:</p>	Project applicants	Prior to project approval	City of Los Banos Community and Economic Development Department	Project approval	Once	

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 6-1 LOS BANOS GENERAL PLAN 2042 MITIGATION MONITORING AND REPORTING PROGRAM

	Implementation		Monitoring		Status	
	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency	Completion Date
<p>Mitigation Measures</p> <ul style="list-style-type: none"> ▪ Restricting idling onsite beyond Air Toxic Control Measures idling restrictions, as feasible. ▪ Electrifying warehousing docks. ▪ Requiring use of newer equipment and/or vehicles. ▪ Restricting offsite truck travel through the creation of truck routes. <p>The operational HRA shall be submitted to the City of Los Banos. Measures identified in the operational HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the proposed project.</p>						
<p>Mitigation Measure AIR-3b: Implement Mitigation Measure AIR-2b.</p>	Project applicants	Prior to project approval	City of Los Banos Community and Economic Development Department	Project approval	Once	
<p>Mitigation Measures AIR-4: Prior to project approval, if it is determined during project-level environmental review that a project has the potential to emit nuisance odors beyond the property line, an Odor Management Plan shall be prepared and submitted by the project applicant prior to project approval to ensure compliance with San Joaquin Valley Unified Air Pollution Control District Rule 4102. The following facilities that are within the buffer distances specified from sensitive receptors (in parentheses) have the potential to generate substantial odors:</p> <ul style="list-style-type: none"> ▪ Wastewater Treatment Plan (2 miles) ▪ Sanitary Landfill (1 mile) ▪ Transfer Station (1 mile) ▪ Composting Facility (1 mile) ▪ Petroleum Refinery (2 miles) ▪ Asphalt Batch Plant (1 mile) ▪ Chemical Manufacturing (1 mile) ▪ Fiberglass Manufacturing (1 mile) ▪ Painting/Coating Operations (1 mile) 	Project applicants	Prior to project approval	City of Los Banos Community and Economic Development Department	Project approval	Once	

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 6-1 LOS BANOS GENERAL PLAN 2042 MITIGATION MONITORING AND REPORTING PROGRAM

	Implementation		Monitoring		Status	
	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency	Completion Date
Mitigation Measures						
<ul style="list-style-type: none"> ▪ Food Processing Facility (1 mile) ▪ Feed Lot/ Dairy (1 mile) ▪ Rendering Plant (1 mile) <p>The Odor Management Plan shall be submitted to the City of Los Banos. The Odor Management Plan prepared for these facilities shall identify control technologies that will be utilized to reduce potential odors to acceptable levels, including appropriate enforcement mechanisms. Control technologies may include but are not limited to scrubbers (e.g., air pollution control devices) at an industrial facility. Control technologies identified in the odor management plan shall be identified as mitigation measures in the environmental document and/or incorporated into the site plan.</p>						
Mitigation Measure AIR-5: Implement Mitigation Measures AIR-2a, AIR-2b, AIR-3a, AIR-3b, and AIR-4.						
GREENHOUSE GAS (GHG) Emissions						
<p>Mitigation Measure GHG-1: The City of Los Banos shall prepare a Climate Action Plan (CAP) to achieve the GHG reduction targets of Senate Bill 32 for year 2030 and the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP. The CAP shall be completed within 24 months of certification of the General Plan EIR. The CAP shall be updated every five years to ensure the City is monitoring the plan’s progress toward achieving the City’s greenhouse gas (GHG) reduction target and to require an amendment if the plan is not achieving specified level. The update shall consider a trajectory consistent with the GHG emissions reduction goal established under the latest applicable statewide legislative GHG emission reduction that may be in effect at the time of the CAP update (e.g., Senate Bill 32 for year 2030). The CAP update shall include the following:</p> <ul style="list-style-type: none"> ▪ GHG inventories of existing and forecast year GHG levels. ▪ Tools and strategies for reducing GHG emissions to achieve the GHG reduction goals of Senate Bill 32 for year 2030 and the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP update. 						
	City of Los Banos	The CAP shall be completed within 24 months of certification of the General Plan EIR.	City of Los Banos Community and Economic Development Department	Project approval	Once	

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 6-1 LOS BANOS GENERAL PLAN 2042 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation		Monitoring			Status
	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency	Completion Date
<ul style="list-style-type: none"> ▪ Tools and strategies for reducing GHG emissions to ensure a trajectory with the long-term GHG reduction goal of the latest applicable statewide legislative GHG emission reduction requirements that may be in effect at the time of the CAP update. ▪ Plan implementation guidance that includes, at minimum, the following components consistent with the proposed CAP: <ul style="list-style-type: none"> ▪ Administration and Staffing ▪ Finance and Budgeting ▪ Timelines for Measure Implementation ▪ Community Outreach and Education ▪ Monitoring, Reporting, and Adaptive Management ▪ Tracking Tools 						
Mitigation Measure GHG-3: Implement Mitigation Measure GHG-1.	City of Los Banos	The CAP shall be completed within 24 months of certification of the General Plan EIR.	City of Los Banos Community and Economic Development Department	Project approval	Once	
NOISE (NOI)						
Mitigation Measure NOI-1b: The City of Los Banos shall work with the California Department of Transportation (Caltrans) and request that Caltrans install “quiet pavement” materials to reduce traffic noise levels to below the City’s 1.5 dBA increase threshold along State Route 152 between Badger Flat Road and Ortigalita Road.	City of Los Banos	At the time of roadway improvements to State Route 152 between Badger Flat Road and Ortigalita Road.	City of Los Banos Community and Economic Development Department	Project approval	Once	
Mitigation Measure NOI-2a: Prior to issuance of a building permit for a project requiring pile driving during construction that is within 135 feet of fragile structures such as older or historical resources, 100 feet of non-engineered timber and masonry buildings (e.g., most residential buildings), or within 75 feet of engineered concrete and masonry (no plaster); or a vibratory roller within 25 feet of any structure, the project applicant shall prepare a noise and vibration analysis to assess and mitigate potential noise and vibration impacts related to these activities. This noise and vibration analysis shall be conducted by a qualified and	Project applicants	Prior to issuance of building permits	City of Los Banos Community and Economic Development Department	Project approval	Once	

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 6-1 LOS BANOS GENERAL PLAN 2042 MITIGATION MONITORING AND REPORTING PROGRAM

	Implementation		Monitoring		Status	
	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency	Completion Date
<p>experienced acoustical consultant or engineer. The vibration levels shall not exceed Federal Transit Administration (FTA) architectural damage thresholds (e.g., 0.12 inches per second (in/sec) peak particle velocity (PPV) for fragile or historical resources, 0.2 in/sec PPV for non-engineered timber and masonry buildings, and 0.3 in/sec PPV for engineered concrete and masonry). If vibration levels would exceed these thresholds, alternative uses such as drilling piles as opposed to pile driving and static rollers as opposed to vibratory rollers shall be used. If necessary, construction vibration monitoring shall be conducted to ensure vibration thresholds are not exceeded.</p>						
<p>Mitigation Measure NOI-2b: During the project-level process for industrial developments or other projects that could generate substantial vibration levels near sensitive uses, a noise and vibration analysis shall be conducted to assess and mitigate potential noise and vibration impacts related to the operations of that individual development. This noise and vibration analysis shall be conducted by a qualified and experienced acoustical consultant or engineer and shall follow the latest California Environmental Quality Act guidelines, practices, and precedents.</p>	Project applicants	Prior to issuance of building permits	City of Los Banos Community and Economic Development Department	Project approval	Once	
<p>Mitigation Measure NOI-4b: Implement Mitigation Measure NOI-1b.</p>	Project applicants	Prior to issuance of building permits	City of Los Banos Community and Economic Development Department	Project approval	Once	





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