

**CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS IN CONNECTION  
WITH THE APPROVAL OF THE DESIGN, CONSTRUCTION, AND ALL RELATED  
ACTIONS ASSOCIATED WITH THE UC MERCED DOWNTOWN CENTER  
PROJECT**

**I. DESIGN APPROVAL OF THE UC MERCED DOWNTOWN CENTER  
PROJECT**

Pursuant to Title 14, California Code of Regulations, Section 15074, the Board of Regents of the University of California (The Regents), hereby finds that the Mitigated Negative Declaration and the Initial Study prepared for the proposed UC Merced Downtown Center ("the project") have been completed in compliance with the California Environmental Quality Act, Public Resources Code Sections 21000 et seq. (CEQA). The Regents further find that the Mitigated Negative Declaration, Initial Study, and the comments received during the public review process, and responses to those comments were presented to The Regents and that The Regents reviewed and considered the information contained in these documents prior to approving the design of the UC Merced Downtown Center. The Regents hereby find that the Mitigated Negative Declaration reflects the independent judgment and analysis of The Regents, and The Regents adopt the Mitigated Negative Declaration.

**II. FINDINGS**

The Regents hereby adopt the following Findings pursuant to CEQA Guidelines Sections 15074, 15091, 15092 and 15093, in conjunction with the approval of the Project, which is set forth in Section III, below.

**A. Background**

UC Merced proposes the construction of an office building in downtown Merced. The Project would house existing academic and administrative programs that presently occupy leased office space at a number of off-campus locations and office space within the Kolligian Library on the UC Merced campus.

The project consists of the proposed building, site improvements, and underground utility connections. The proposed structure would be three stories in height (45 feet) with a light monitor (60 feet in height) in the center of the building that would run nearly the entire length of the building. The building would provide approximately 75,000 gross square feet (gsf) and 62,000 assignable square feet (asf) of building space. The two upper stories would consist of administrative office space while the ground floor would consist of ancillary support space (employee amenities, conference rooms and other flexible meeting spaces). Mechanical equipment including HVAC may be located on the roof and would be enclosed to screen the equipment from view and provide noise attenuation. The Project would have a Floor Area Ratio (FAR) of 2.7 and provide office space for approximately 454 full-time-equivalent (FTE) employees.

## **B. Environmental Review Process**

An Initial Study (State Clearinghouse No. 2015041087) was prepared for the Project in accordance with CEQA and the University of California Procedures for Implementation of CEQA.

The Initial Study analyzed the potential impacts from the construction and operation of the Project with regard to the following environmental topic areas: (1) aesthetics, (2) agriculture and forestry resources, (3) air quality, (4) biological resources, (5) cultural resources, (6) geology and soils, (7) greenhouse gas emissions, (8) hazards and hazardous materials, (9) hydrology and water quality, (10) land use and planning, (11) mineral resources, (12) noise, (13) population and housing, (14) public services, (15) recreation, (16) transportation and traffic, and (17) utilities and service systems.

Based on the analysis contained in the Initial Study, it was determined that the Project could result in potentially significant effects on the environment, mitigation measures were required, and that with the inclusion of the mitigation measures, the Project would result in less than significant environmental impacts. Based on this analysis, the University prepared a Mitigated Negative Declaration that reflects these conclusions.

The Proposed Mitigated Negative Declaration and Initial Study for the Project were submitted to the State Clearinghouse in the Governor's Office of Planning and Research and circulated for a 30-day public review period beginning on April 27, 2015 and concluding on May 26, 2015. During that time, the document was available for review by various state and local agencies, as well as by interested individuals and organizations. During the comment period, two comment letters were received from the California Department of Toxic Substances Control (DTSC) and the City of Merced.

The comment letter from DTSC indicated that if the Campus plans to use State funds for the Project, then the Campus is required to comply with the requirements of California Education Code Sections 17210, 17213.1 and 17213.2. If the Campus is not using State funds or is exempt under California Education Code Section 17268, DTSC recommends that the Campus continue to investigate and mitigate risks at the site. In addition, DTSC indicated that the presence of existing, older or former structures may result in potential environmental concerns due to lead from lead-based paint and/or organochlorine pesticides from termiticide applications and polychlorinated biphenyls (PCBs) from electrical transformers, light ballast or window caulking or glazing. DTSC also stated that if the project site was previously used for agricultural purposes, contamination due to past use of pesticides and fertilizers may be present on the site. Finally, if environmental concerns do exist on the project site, DTSC stated that the Initial Study/ MND would be required to analyze the potential public health and environmental impacts associated with the proposed response action.

The comment letter from the City of Merced requested that the construction staging area be located on a vacant lot and not on an existing parking lot. With regard to the planned graveled entrance to the construction staging area, the City of Merced indicated that per San Joaquin Valley Air Pollution Control District guidelines new gravel parking lots or driveways are not allowed in the city. Next, the City of Merced noted the location of two parks that are close to the

project site. Finally, the City of Merced stated that it disagrees with the statement in the Initial Study that adequate parking to accommodate the Project is available in the vicinity of the project site.

Responses to both letters have been prepared by UC Merced and are included in the Final Initial Study. The comment letters do not raise any new issues that are not adequately analyzed in the Initial Study.

### **C. Environmental Summary**

The following sections summarize the environmental evaluation for the Project.

#### **1. Significant and Unavoidable Adverse Impacts and Related Mitigation Measures**

The Initial Study identified no significant and unavoidable impacts of the Project.

#### **2. Significant and Potentially Significant Impacts that would be Mitigated to "Not Significant" or "Less-than-Significant" Levels and Related Mitigation Measures**

The Initial Study identified four potentially significant impacts of the Project and concluded that with the inclusion of the identified mitigation measures, these potentially significant impacts would be reduced to a less-than-significant level.

##### **1. Biological Resources**

The Initial Study concluded that the Project has the potential to result in a substantial adverse impact on migratory and nesting birds. Incorporation of Mitigation Measures BIO-1, BIO-2a and BIO-2b would reduce the potential impact to a less-than-significant level.

##### **Mitigation Measure BIO-1:**

If construction activities commence outside the nesting season (generally September 1 through February 28), pre-construction surveys are not required. However, if construction commences outside the nesting season and extends into the nesting season, and is suspended for more than 14 days, a pre-construction survey that is detailed in **Mitigation Measure BIO-2a**, below, will be implemented.

##### **Mitigation Measure BIO-2a:**

If construction commences during the nesting season (March 1 through August 31), a pre-construction survey for active nests will be conducted within 15 days prior to the start of work. Given the urban setting of the project site and the construction staging area, the radius of the pre-construction survey will be determined in consultation with the California Department of Fish and Wildlife (CDFW). Typically, a 250-foot buffer for passerines and other unlisted/non-raptor species, 500-foot buffer for unlisted raptor species, and 0.5-mile buffer for listed raptor species are required. However, exceptions

can be made based on the species of bird nesting, activities proposed, and for noise attenuation provided by intervening buildings in urban areas. Once the survey area is established, a survey of all appropriate nesting habitat will be conducted to locate any active nests. In the event that active nests are identified, appropriate buffer zones and types of construction activities restricted within the buffer zones will be determined through consultation with the CDFW. The buffer zones will be implemented and maintained until the young birds have fledged and no continued use of the nest is observed, as determined by a qualified biologist.

**Mitigation Measure BIO-2b:**

In addition to the above avoidance measures, the Campus will consult with the CDFW to identify other avoidance measures that are as effective and acceptable and may be substituted for the measures noted above. These other avoidance measures may include netting of nearby trees outside of the nesting season so that nests are not established in those trees for the duration of project construction.

2. Cultural Resources

The Initial Study concluded that the Project has the potential to result in a substantial adverse change to unknown historic and prehistoric archaeological resources that might be encountered during construction. Incorporation of Mitigation Measure CUL-1 would reduce the potential impact to a less-than-significant level.

**Mitigation Measure CUL-1:**

If buried cultural resources, such as chipped or ground stone, historic debris, building foundations, or non-human bone are inadvertently discovered during ground-disturbing activities on the project site, work will stop in that area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures. Treatment measures typically include development of avoidance strategies or mitigation of impacts through data recovery programs such as excavation or detailed documentation.

The Initial Study concluded that the Project has the potential to result in a substantial adverse change to unknown human remains that might be encountered during construction. Incorporation of Mitigation Measure CUL-2 would reduce the potential impact to a less-than-significant level.

**Mitigation Measure CUL-2:**

If human remains of Native American origin are discovered during ground-disturbing activities, the Campus will comply with state laws relating to the disposition of Native American burials, which falls within the jurisdiction of the California Native American Heritage Commission (Public Resources Code Section 5097). If human remains are discovered or recognized in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

- the coroner of Merced County has been informed and has determined that no investigation of the cause of death is required; and
- if the remains are of Native American origin;
  - the descendants from the deceased Native Americans have made a recommendation to the land owner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98; or
  - the California Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the Commission.

### 3. Hazards and Hazardous Material

The Initial Study concluded that the Project could expose project site occupants and construction workers to existing hazardous materials contamination. Incorporation of Mitigation Measures HAZ-1 and HAZ-2 would reduce the potential impact to a less-than-significant level.

#### **Mitigation Measure HAZ-1:**

The design of the proposed project shall include a subslab vapor barrier that meets the requirements of the Merced County Environmental Health Agency and the Central Valley Regional Water Quality Control Board.

#### **Mitigation Measure HAZ-2:**

Worker health and safety plans and contaminated soil contingency/removal plans shall be prepared prior to excavation/trenching activities on the project site and implemented during construction.

### **D. Less-than-Significant Impacts**

The Initial Study identified less-than-significant impacts in the following environmental resource categories: aesthetics, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation, transportation, and utilities and service systems. These impacts were determined to be less than significant because they did not exceed the applicable thresholds of significance. No mitigation measures were necessary for these less-than-significant impacts and no mitigation measures were identified.

### **E. Mitigation Monitoring and Reporting Program**

When making findings, a lead agency must adopt a reporting or monitoring program for the changes to the Project that it has adopted or made a condition of project approval in order to

mitigate or avoid significant effects of the Project on the environment. The mitigation monitoring and reporting program has been prepared by UC Merced and included in the Final Initial Study.

## **F. Additional Findings**

### **1. Incorporation by Reference**

These Findings incorporate by reference in their entirety the text of the Mitigated Negative Declaration for the Project and the Initial Study for the Project. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, project and cumulative impacts, and the basis for determining the significance of impacts, and the reasons for approving the Project.

### **2. Record of Proceedings**

The record of proceedings upon which The Regents bases these findings consists of all the documents and evidence relied upon by UC Merced in preparing the Initial Study and Proposed Mitigated Negative Declaration. The custodian of the record of proceedings is UC Merced, Physical and Environmental Planning, Office of Planning and Budget, 5200 North Lake Road, Merced, California 95343.

## **G. Summary**

Based on the foregoing Findings and the information contained in the record, The Regents find with respect to the Project:

1. The proposed mitigation measures will reduce all potentially significant impacts to a less-than-significant level.
2. There is no substantial evidence that the Project as proposed, with incorporation of all mitigation measures, may have a significant effect on the environment.

## **III. APPROVAL**

The Regents hereby take the following actions:

- A. Adopts the Mitigated Negative Declaration for the Project as described in Section I, above.
- B. Approves and makes part of the Project all project elements identified in the Project's Initial Study.
- C. Adopts the Mitigation Monitoring and Reporting Program described in Section II, above.
- D. Adopts the Findings in their entirety as set forth in Section II, above.
- E. Approve the design of the UC Merced Downtown Center Project.