RESOLUTION APPROVING A POLICY REVISION FOR CITY COUNCIL POLICY 1.008: CITIZEN ADVISORY GROUP APPOINTMENTS TO ELIMINATE TERM LIMITS FOR APPOINTEES TO THE DOWNTOWN IMPROVEMENT DISTRICT (DID) BOARD OF DIRECTORS AND MAINTAINING THE REVIEW AND SELECTION PROCESS GOVERNED THROUGH THE APPOINTMENTS COMMITTEE

WHEREAS, per City Council Policy 1.008: Citizen Advisory Group Appointments, appointees by this policy of limited to a maximum of two four-year terms; and

WHEREAS, appointees to the DID Board of Directors must be business owners in the DID area; and

WHEREAS, given the limited candidate pool, the Chair of the DID Board of Directors has requested reconsideration of this policy’s application to the DID Board members; and

WHEREAS, the Economic Development Committee reviewed this item at its December 2, 2013 meeting; and

WHEREAS, the recommendation was to eliminate term limits but maintain the review and selection process governed by the Appointments Committee for selection of the DID Board members.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves a policy revision for City Council Policy 1.008: Citizen Advisory Group Appointments to eliminate term limits for appointees to the Downtown Improvement District (DID) Board of Directors and maintaining the review and selection process governed through the Appointments Committee.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-57

RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2013-2014.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2013-2014 Annual Operating and Capital Improvement budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

ADAM LINDGREN, Interim City Attorney
EXHIBIT A

FISCAL YEAR 2013-14

PARKS, RECREATION AND NEIGHBORHOODS
The Parks, Recreation and Neighborhoods department received unbudgeted revenue from an insurance settlement for the destruction of city owned property. A budget adjustment is necessary to transfer $200,000 from Building Services Reserves (Fund 5800) to Capital Improvement Project #100294, PR&N Infrastructure Preservation, to increase Construction Expense.

POLICE DEPARTMENT
A budget adjustment is necessary to transfer funds in the amount of $79,765 from the Stanislaus Drug Enforcement Agency, Fund 6600, to the General Fund, Fund 0100, for Salary and Benefit costs associated with the movement of a Sergeant from SDEA into the General Fund.

In FY 2012/13, Stanislaus Drug Enforcement Agency (SDEA) received a grant in the amount of $251,372 from the Board of State and Community Corrections (BSCC), and expended $192,543 on Salaries and Benefits. The remaining balance of $58,829 is allowed to be carried over in FY2013/14. A budget adjustment is necessary to allocate $58,829 in FY12/13 carryover grant funds from Stanislaus Drug Enforcement Agency’s BSCC Anti-Drug Abuse Grant, and decreases the transfers from the SDEA’s operational cost center, 80210, since these expenses qualify to be covered by grant funds.

PUBLIC WORKS
On September 24, 2013 the Council of the City of Modesto approved accepting, by Resolution #2013-345, a Federal Airport Improvement Program Grant from the Federal Aviation Administration for Wildlife Hazard Assessments. The airfield Wildlife Hazard Assessment will include current safety concerns, assessment of wildlife obstructions and intrusions at the airfield, airport landscaping and airport structures. The assessment will include wildlife hazards and proposed mitigation. A budget adjustment in the amount of $133,333 is necessary to recognize unbudgeted grant revenues and reallocate to Professional Services in the Wildlife Studies Project, #100795.

A budget adjustment is necessary to reduce the budgeted transfer from the Gas Tax Fund (1730) to the various Cost Centers in the Surface Transportation Fund (1700), in the amount of $202,797

UTILITY, PLANNING & PROJECTS
A budget adjustment is necessary to transfer funds in the amount of $47,863 from the Streets Local Transportation Fund, Fund 1720, to Capital Improvement Project #100652, Sutter Ave. Street Improvements, to increase the Construction Administration budget, and Construction budget for staff time associated with this project.

A budget adjustment is necessary to transfer funds in the amount of $45,723 from the Streets Local Transportation Fund, Fund 1720, to Capital Improvement Project #100654, El Vista Elementary Improvements, to increase the Construction Administration budget, and Construction budget for staff time associated with this project.
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF TWO (2) TRUCKS WITH SERVICE BODIES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO SUMMIT TRUCK EQUIPMENT, COMMERCE, CO, AND AUTHORIZE THE PURCHASING MANAGER OR HIS DESIGNEE TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $337,122

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The trucks with service bodies are included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the trucks with service bodies are used by the Public Works, Water Division. These vehicles will support a new meter installation crew, which Council approved in the FY 2011/12 budget. The additional metering crew is needed in order to meet State Assembly Bill 2575 which requires that urban water suppliers install water meters on all service connections by the year 2025, and

WHEREAS, these trucks come with very specialized (custom) service bodies designed to be most productive and safe in both water meter installations and line failure repair functions. Leasing these vehicles is not an option for these specialized trucks. It is anticipated that these trucks will continue to be used well after the meter program is completed. Fleet has worked with the Water Division to ensure the trucks are capable of a wide range of functions within the Water Division, and

WHEREAS, these two (2) trucks will replace two existing units. The two (2) trucks that are being replaced have been subjected to a thorough evaluation and have met
or exceeded the replacement criteria before being placed on the replacement list. The
depreciation schedule for these types of trucks is at ten years, and

WHEREAS, the Purchasing Division issued RFB No. 1314-27 for the purchase of
two (2) trucks with service bodies to twenty-seven (27) prospective bidders and posted
the RFB on the City's website. Three (3) bidders are located within Stanislaus County.
Two of which are local vendors. Both local vendors are not able to provide this type of
vehicle and elected not to submit a bid, and

WHEREAS, bids were formally opened in the City Clerk's office. Of the twenty-seven (27) prospective bidders, three (3) companies chose to respond, none of which
were local vendors. All three (3) companies provided responsive and responsible bids,
and

WHEREAS, based on providing the lowest responsive and responsible bid, City
staff recommends the award of bid for the purchase of two (2) trucks with service bodies
to Summit Truck Equipment, Commerce, CO, for a total estimated cost of $337,122, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2012-13, in account #
5409-53246-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all
purchases, which meet or exceed $50,000 for material, equipment or contractual services
to be formally bid. The award of bid for the purchase of two (2) trucks with service
bodies to Summit Truck Equipment, Commerce, CO, conforms to the Modesto Municipal
Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the award of bid for the purchase of two (2) trucks with service
bodies for the Public Works Department, Water Division, through the Fleet Services Division, to Summit Truck Equipment, Commerce, CO.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee is authorized to issue a purchase order for a total estimated cost of $337,122.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

ADAM LINDRGN, Interim City Attorney
RESOLUTION APPROVING AN APPLICATION FOR A LAND AND WATER CONSERVATION FUND GRANT TO FUND THE RIVERWALK TRAIL PROJECT IN THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK

WHEREAS, the Congress under Public Law 88-578 has authorized the establishment of a federal Land and Water Conservation Fund Grant-In-Aid program, providing matching funds to the State of California and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes; and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing Applications by local agencies under the program; and

WHEREAS, said adopted procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of applications and the availability of eligible matching funds prior to submission of said applications to the State; and

WHEREAS, the proposed Riverwalk Trail project is consistent with the most recent California Outdoor Recreation Plan (CORP).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto hereby approves and authorizes the Parks, Recreation and Neighborhoods Department Director, to file an application for the Riverwalk Trail, and:

1. Approves the filing of an Application for Land and Water Conservation Fund assistance; and
2. Agrees to abide by SECTION 6(F)(3) of Public Law 88-578 which states "No property acquired or developed with assistance under this section shall, without the approval of the National Secretary of the Interior, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location."

3. Certifies that said agency has matching funds from eligible source(s) and can finance 100 percent of the project, which up to half may be reimbursed; and

4. Appoints the Parks, Recreation and Neighborhoods Department Director as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws which may be necessary for the completion of the aforementioned project.

5. The delegation of authority will expire December 31, 2017.
The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the Resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

ADAM LINDGREN, Interim City Attorney
RESOLUTION ACCEPTING THE 2014 MINOR DECOY PROGRAM AND THE SHOULDER TAP GRANT PROGRAM IN THE AMOUNT OF $9,500 FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL TO REDUCE CRIME RELATED WITH SALES, DISTRIBUTION AND ACCESS TO ALCOHOLIC BEVERAGES BY MINORS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Minor Decoy Program and the Shoulder Tap Grant Program sponsored by the Governor’s Office of Traffic Safety, through the National Highway Traffic Safety Administration, and administered by the Department of Alcoholic Beverage Control (hereafter referred to as “ABC”), and

WHEREAS, the Police Department was awarded a grant in the amount of $9,500 from the State Department of Alcoholic Beverage Control, and

WHEREAS, this $9,500 grant will provide funding for sworn officers to work with the ABC in a combined effort to reduce crime related with the sales, distribution and access to alcoholic beverages by minors,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2014 Minor Decoy Program and the Shoulder Tap Grant Programs in the amount of $9,500 from the State Department of Alcoholic Beverage Control to crime related with sales, distribution and access to alcoholic beverages by minors.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
RESOLUTION AMENDING THE FISCAL YEAR 2013/2014 OPERATING BUDGET TO REFLECT REVENUES AND EXPENSES IN THE AMOUNT OF $9,500 RELATED TO THE 2014 MINOR DECOY PROGRAM AND THE SHOULDER TAP GRANT PROGRAM

WHEREAS, the Police Department acquired a grant award in the amount of $9,500 from the State Department of Alcoholic Beverage Control for Minor Decoy Program and the Shoulder Tap Grant Program to reduce crime related with sales, distribution and access to alcoholic beverages by minors, and

WHEREAS, there is no local match required for this program, and

WHEREAS, the Fiscal Year 2013/2014 Operating Budget will be amended as shown on Exhibit A, which is attached to this resolution and incorporated herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Fiscal Year 2013/2014 Operating Budget as shown on the attached Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

(SIGNATURE)

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
Exhibit A

The ABC Minor Decoy Program and the Shoulder Tap Grant Program grant allocation for Fiscal Year 2013/2014 will be applied to:

<table>
<thead>
<tr>
<th>Revenues:</th>
<th>Increase/(Decrease)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>To:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY-1341-19998-42141-100816</td>
<td>$ 9,500</td>
<td>ABC Minor Decoy Program and Shoulder Tap</td>
</tr>
<tr>
<td>TOTAL:</td>
<td>$ 9,500</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenses:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>To:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY-100816- Appr Unit A</td>
<td>$ 9,500</td>
<td>Overtime</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$ 9,500</td>
<td></td>
</tr>
</tbody>
</table>
RESOLUTION APPROVING A TEN-YEAR LEASE AGREEMENT WITH JOHN A. PAOLUCCIO AND DORENE J. PAOLUCCIO, FOR A 5,325 SQUARE FEET (0.12 ACRES) PARCEL OF LAND (APN 078-013-031), IN THE AMOUNT OF $1,251 PER YEAR, WITH A TOTAL ESTIMATED COST OF $12,510, FOR THE NORTHPOINTE BASIN IMPROVEMENTS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT AND ALL RELATED DOCUMENTS

WHEREAS, the City of Modesto owns and operates the NorthPointe Storm Drain Basin, which accommodates stormwater runoff from the Costco Shopping Center on Pelandale Avenue, and

WHEREAS, the City's Public Works Department has been working to resolve an erosion problem with the east basin wall caused by a combination of rodent burrows and flood irrigation, and

WHEREAS, there have been several basin wall collapses during irrigation season, and staff has recommended a buffer area around the basin that can be controlled and maintained to prevent rodents from entering the basin area, and

WHEREAS, the adjacent property owner has agreed to grant the City of Modesto a lease on a portion of property to provide the required buffer area, approximately 25 feet in width, and 213 feet in length, for a total of 5,325 square feet (0.12 acre), and

WHEREAS, City staff recommends approving the lease agreement, which is necessary to protect the storm drain basin from further erosion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a ten-year Lease Agreement with John A. Paoluccio and Dorene J. Paoluccio, for a 5,325 square feet (0.12 acres) parcel of land (APN 078-013-031), in the
amount of $1,251 per year, with a total estimated cost of $12,510, for the NorthPointe Basin Improvements project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE MEMORANDUM OF LEASE, FOR THE PROPERTY LOCATED AT 4701 QUINTURN LANE, OWNED BY JOHN A. PAOLUCCIO AND DORENE J. PAOLUCCIO, (APN 078-013-031) TO BE LEASED BY THE CITY OF MODESTO FOR THE NORTHPOINTE BASIN IMPROVEMENTS PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property interests prior to the recordation of lease interest and adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a lease interest in a 5,325 square feet (0.12 acre) portion of a parcel of land located at 4701 Quintum Lane, owned by John A. Paoluccio and Dorene J. Paoluccio, (APN 078-013-031), to be leased by the City of Modesto for the NorthPointe Basin Improvements project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Memorandum of Lease for the property located at 4701 Quintum Lane, owned by John A. Paoluccio and Dorene J. Paoluccio, (APN 078-013-031) to be leased by the City of Modesto for the NorthPointe Basin Improvements project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO WASTEWATER MASTER PLAN MASTER ENVIRONMENTAL IMPACT REPORT (MEIR) (SCH#2006052076) AND GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH# 2007072023): EMERALD TRUNK SEWER RELIEF PROJECT

WHEREAS, the Emerald Trunk Sewer Relief Project line will extend along Emerald Avenue within the City of Modesto and connect to the West Trunk via Elm Avenue and the extension of Elm Avenue, within Stanislaus County, and

WHEREAS, the project consists of the construction of a new 36/30" trunk conveying untreated wastewater as a component of the City's collection system, and

WHEREAS, the purpose of the project is to relieve capacity issues in the existing Emerald Trunk and to provide additional hydraulic capacity to accommodate peak flows, as identified in the Modesto Wastewater Master Plan, and

WHEREAS, the relief line would take flow from the existing Emerald Trunk at a diversion structure just south of SR 99 in Emerald Avenue and would parallel the existing line in Emerald Avenue south to Elm Avenue, then proceed west in Elm Avenue and would extend west past the terminus of Elm Avenue at Rosemore Avenue to connect with the existing West Trunk, and

WHEREAS, on March 13, 2007, the City Council, by Resolution No. 2007-178 certified the Final Wastewater Master Plan Master (WWMP) Environmental Impact Report (SCH No. 2006052076, EA/PW2008-03) for the WWMP, and on October 14, 2008, by Resolution No. 2008-582, the City Council certified the Final Modesto Urban Area General Plan Plan Master Environmental Impact Report (SCH No. 2007072023), and
WHEREAS, the Utility Planning and Projects Department has prepared an Initial Study, Environmental Assessment No. EA/PW 2008-19 for the proposed Emerald Trunk Sewer Relief Project, which concluded that the project is within the scope of the Final Wastewater Master Plan Master Environmental Impact Report for the City of Modesto Wastewater Master Plan Update (SCH No. 2006052076, EA/PW2008-03), and the General Plan Master Environmental Impact Report (SCH No. 2007072023) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required, and

WHEREAS, pursuant to Public Resources Code Section 21081 and 21158(d), the City of Modesto finds that no new effects could occur or no new mitigation measures would be required, therefore the activity is within the scope of the project covered by the Master EIR and no new environmental review is required, and

WHEREAS, in accordance with CEQA guidelines on July 1, 2013, the City caused to be published a 30-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a regular meeting on February 25, 2014, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Project, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:
1. The type of project is described in Chapter II of the Wastewater Master Plan Master EIR.

2. All applicable policies, regulations, and mitigation measures identified in the Wastewater Master Plan Master EIR and Modesto General Plan Master EIR have been applied to the project.

3. An Initial Study, EA/ PW 2008-19, was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Wastewater Master Plan Master EIR and the General Plan Master EIR and whether the subsequent project was described in the Master EIRs and is within the scope of the Master EIRs.

4. Based on the Initial Study, the City of Modesto finds and determines:
   a. The proposed subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code that was not identified in and mitigated through the Master EIRs.
   b. No new or additional mitigation measures or alternatives are required.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Director of Utility Planning and Projects is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
Exhibit "A"

INITIAL STUDY
EA/PW 2008-19
Finding of Conformance to Wastewater Master Plan Master EIR:

Initial Study Environmental Checklist
EA/PW No. 2008-19

For the proposed:
Emerald Trunk Sewer Relief Project

Prepared by:
City of Modesto
Utilities Planning and Projects Department

July 2013

Updated: June 2013
I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City’s Wastewater Master Plan Master Environmental Impact Report (SCH # 2006052076) ("Master EIR” or “MEIR”) and General Plan Master EIR (SCH # 2007072023). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Emerald Trunk Sewer Relief project is “within the scope” of the project analyzed in the Wastewater Master Plan Master EIR and General Plan Master EIR (Public Resources Code section 21157.1). If the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is “within the scope” of a Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

“Additional significant effects” means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

This analysis is tiered from the 2007 Wastewater Master Plan Master EIR (SCH #2006052076) and from the Urban Area General Plan Master EIR (SCH #2007072023).

II. PROJECT DESCRIPTION

A. Title: Emerald Trunk Sewer Relief Project

B. Address or Location: Stanislaus County, California. The Emerald Trunk Sewer Relief line will extend along Emerald Avenue within the City of Modesto and connect to the West Trunk via Elm Avenue and the extension of Elm Avenue, within Stanislaus County. Latitude: 37.643036 Longitude: -121.044563. A location map is attached as Figure 1.

Applicant: Utility Planning and Projects Department
1010 Tenth Street
P. O. Box 642
Modesto, CA 95353

D. City Contact Person:

Project Manager: Jesse Franco, Acting Senior Civil Engineer
Department: Utility Planning and Projects Department
Phone Number: (209) 571-5175
E-mail address: jfranco@modestogov.com
E. Current General Plan Designation(s): n/a

F. Current Zoning Classification(s): n/a

G. Surrounding Land Uses: the existing pipeline passes through/below streets and roads bounded by commercial/light industrial and residential uses and along/adjacent to a utility right-of-way used by the Modesto Irrigation District bounded on the north by agricultural uses.

H. Project Description:

The project consists of the construction of a new 36/30” trunk conveying untreated wastewater as a component of the City’s collection system. The purpose of the project is to relieve capacity issues in the existing Emerald Trunk and to provide additional hydraulic capacity to accommodate peak flows, as identified in the Modesto Wastewater Master Plan.

The relief line would take flow from the existing Emerald Trunk at a diversion structure just south of SR 99 in Emerald Avenue and would parallel the existing line in Emerald Avenue south to Elm Avenue, then proceed west in Elm Avenue and would extend west past the terminus of Elm Avenue at Rosemore Avenue to connect with the existing West Trunk. A map of the route is attached as Figure 2.

Described in Master EIR: Improvements to the City’s wastewater collection system, including the installation of relief sewer trunks, was contemplated in the City’s Wastewater Master Plan Master EIR. Chapter I identifies upgrades to the collection system, including reliever trunks, that are considered subsequent projects. Chapter II’s overview of the project elaborates on the need for collection system improvements, which are included in the Wastewater Master Plan Update. Chapter II’s project description identifies the location of needed facilities, including a proposed relief trunk line for the Carpenter trunk consisting of a 36” parallel line in Carpenter Road. Subsequent engineering has modified this design to provide for comparable relief using the route described above. The nature of the work, installation of trunk line of up to 36’ in diameter, remains the same.

To the extent that the proposed reliever trunk has the potential to cause impacts related to greenhouse gases or to cultural resources, such potential impacts were evaluated in the General Plan Master EIR and mitigation measures in the General Plan Master EIR would be applied to the reliever trunk project to mitigate potential impacts to a less-than-significant level.

I. Other Public Agencies Whose Approval is Required:

Stanislaus County Department of Public Works
Central Valley Water Quality Control Board
California Reclamation Board
State Water Resources Control Board
Modesto Irrigation District
California Department of Transportation
EMERALD TRUNK SEWER RELIEF ALIGNMENT LOCATION MAP
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Wastewater Master Plan Master EIR and General Plan Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

   A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in and mitigated through the Master EIRs.

   B. No new or additional mitigation measures or alternatives are required.

   C. The subsequent project is within the scope of the project covered by the Master EIRs.

   D. All applicable policies, regulations, and mitigation measures identified in the Master EIRs have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Wastewater Master Plan Master EIR and General Plan Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required** - On the basis of the above determinations, the project is not within the scope of the Wastewater Master Plan Master EIR and General Plan Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Jesse Franco, Project Manager
Acting Senior Civil Engineer
Title
7/4/13

City of Modesto
Wastewater Master Plan Master EIR

Initial Study EAVPW No. 2008-19
June 2013
4. Within the Scope Analysis of this Document:

The Wastewater Master Plan Master EIR and General Plan Master EIR allow projects to be found within the scope of the MEIRs if certain criteria are met. If the following statements are found to be true for all impact categories included in this Initial Study, then the proposed project is addressed by the analyses contained in the Master EIRs and is within the scope of the Master EIRs. Any “No” response must be discussed.

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>2</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>3</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>4</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>5</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>6</td>
<td>X</td>
<td>□</td>
</tr>
</tbody>
</table>

Discussion:

(1) The City of Modesto was the lead agency for the Wastewater Master Plan, the 2007 Wastewater Master Plan Master EIR, the General Plan, the 2008 General Plan Master EIR, and is the lead agency for construction and operation of all wastewater system improvements. Each contract is approved at the sole discretion of the City Council of the City of Modesto.

(2, 6) All relevant and appropriate policies and mitigation measures identified in the Wastewater Master Plan Master EIR and the General Plan Master EIR have been applied to the construction, operation, and maintenance of the Emerald Relief Trunk Sewer project.

(3) Relevant Federal, State, regional, and County regulations have not become less restrictive since the Wastewater Master Plan Master EIR and General Plan Master EIR were certified.

(4) City staff is not aware of new information concerning the presence of significant resources in the project area. The General Plan Master EIR discloses information about such resources, as it is known at this time.

(5) The Emerald Trunk Sewer Relief project lies within the sewer service area of the City of Modesto.
5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed the Wastewater Master Plan MEIR and the General Plan MEIR in light of the criteria listed below to determine whether the Master EIRs are current. The analysis contained within the Master EIRs is current as long as the following circumstances have not changed. Any “no” response must be explained.

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Certification of the Wastewater Master Plan Master EIR and General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>(2) This project is described in the Wastewater Master Plan Master EIR and General Plan Master EIR and the project’s approval will not affect the adequacy of the Wastewater Master Plan Master EIR or General Plan Master EIR for any subsequent project because the City can make the following findings:</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(a) No substantial changes have occurred with respect to the circumstances under which the Wastewater Master Plan Master EIR and General Plan MEIR were certified.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>(b) No new information, which was not known and could not have been known at the time the Wastewater Master Plan MEIR and General Plan MEIR were certified as complete, has become available.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>(c) Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Discussion:

(1) The City of Modesto has reviewed the Wastewater Master Plan Master EIR that was certified in February 2007 and the 2008 General Plan Master EIR that was certified in October 2008 and has determined, as required by Public Resources Code Section 21157.6(b) that (a) no substantial changes have occurred with respect to the circumstances under which either of these Master EIRs were certified, and (b) no new information, which was not known and could not have been known at the time that these Master EIRs were certified as complete, has become available.

(2) The construction of trunk relief sewer lines is specifically described in the Wastewater Master Plan Master EIR. Because this project is the a relief line designed to relieve capacity issues in the Emerald trunk, it is also consistent with the existing development described in the General Plan Master EIR.

(a) No substantial changes have occurred with respect to the circumstances under which these Master EIRs were certified. The City of Modesto has seen almost no increase in development since the Master EIRs were certified.

(b) The City of Modesto is not aware of new information relating to potential environmental impacts that was not known at the time the Master EIRs were certified.

(c) All relevant mitigation measures identified in the Wastewater Master Plan Master EIR and the greenhouse gas and archaeological/historical portions of the General Plan Master EIR will be applied to the proposed project, as described below.
IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect conditions resulting from the Wastewater Master Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Wastewater Master Plan is organized in eleven subject areas. The following analysis is based on the impact analyses contained in Chapter IV of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter IV.
1. **LAND USE, PLANS, AND POLICIES**

a. **Significant Effects Identified in the Master EIR**

The Master EIR identifies the potential impacts on land use and their associated mitigation measures. Refer to pages IV.A.1 to IV.A.15 in the Wastewater master Plan MEIR for details.

**Direct Impacts**

**Impact A.1:** Proposed improvements to the wastewater collection system in the vicinity of established or planned land uses could create land use compatibility conflicts. (Less than significant)

No mitigation measures identified.

**Impact A.2:** The proposed project includes the construction and/or rehabilitation of portions of sewer lines under the watercourses or near the banks of the Tuolumne River or Dry Creek that could conflict with land use plans and policies. (Less than significant)

No mitigation measures identified.

**Impact A.3:** Proposed improvements to the Primary Plant in the vicinity of established or planned land uses could create land use compatibility conflicts. (Less than significant)

No mitigation measures identified.

**Impact A.4:** Proposed improvements to the Secondary Plant and Ranch could result in land use compatibility conflicts. (Less than significant)

No mitigation measures identified.

**Impact A.5:** Proposed improvements to the wastewater collection and treatment system could conflict with applicable land use plans and policies. (Less than significant)

No mitigation measures identified.

**Cumulative Impacts**

No cumulative impacts were disclosed in the Wastewater Master Plan Master EIR.

b. **Master EIR and/or New Mitigation Measures Applied to the Project**

No mitigation measures related to land use, plans, and policies are proposed in the Wastewater Master Plan Master EIR.

**Discussion:**

There are no mitigation measures proposed in the Wastewater Master Plan Master EIR because no significant impacts on land use were identified. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

Section IV.A of the Wastewater Master Plan Master EIR identifies the potential impacts of implementing the Wastewater Master Plan on land use, plans, and policies. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>1. LAND USE, PLANS, AND POLICIES</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Proposed improvements to the wastewater collection system in the vicinity of established or planned land uses could create land use compatibility conflicts.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>2) The proposed project includes the construction and/or rehabilitation of portions of sewer lines under the watercourses or near the banks of the Tuolumne River or Dry Creek that could conflict with land use plans and policies.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>3) Proposed improvements to the Primary Plant in the vicinity of established or planned land uses could create land use compatibility conflicts.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>4) Proposed improvements to the Secondary Plant and Ranch could result in land use compatibility conflicts.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>5) Proposed improvements to the wastewater collection and treatment system could conflict with applicable land use plans and policies.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project is the construction of a pipeline to relieve flow in a portion of the Emerald Trunk. The pipeline facility will be underground. No impact is expected and no mitigation is proposed.

(2) The proposed project does not include work on any collection lines in or near either the Tuolumne River or Dry Creek. No impact on these waterways will result from the projects and no mitigation is necessary.
The proposed project Stations does not involve any changes to either the Primary or Secondary Plants. Therefore, no land use compatibility impacts in the vicinity of the Primary or Secondary Plant will occur and no mitigation is necessary.

Infrastructure such as collection lines are a normal and necessary part of municipal services. The project as proposed would have no additional impact on surrounding land uses than that disclosed in the Wastewater Master Plan MEIR.

2. AGRICULTURAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Wastewater Master Plan Master EIR identifies the potential impacts on agricultural resources and their associated mitigation measures. Refer to pages IV.B.1 to IV.B.11 in the Wastewater Master Plan MEIR for details.

Direct Impacts

Impact B.1: Construction of Collection System Improvements would not result in the permanent loss of Prime Farmland. (Less than significant)

No mitigation measures identified.

Impact B.2: Construction of the Phase IA tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland. (Significant and unavoidable)

Mitigation Measure B.2: Compensation for loss of farmland.

Cumulative Impacts

Impact B.3: Construction of the proposed project components within the Planned Urbanizing Area would result in the cumulative loss of prime farmland. (Significant and unavoidable)

Mitigation Measure B.3: Compensation for loss of farmland through contribution to the Farmland Conservancy Fund or an equivalent farmland preservation program.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to agricultural resources are on pages IV.B.8 to IV.B.11 in the Wastewater Master Plan Master EIR.

Discussion:
No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section IV.B of the Wastewater Master Plan Master EIR discloses impacts of implementing the Wastewater Master Plan on agricultural resources. The following is an analysis of whether the
The proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>2. AGRICULTURAL RESOURCES</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Construction of Collection System Improvements would not result in the permanent loss of Prime Farmland.</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) Construction of the Phase IA tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland.</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cumulative Impacts: 3) Construction of the proposed project components within the Planned Urbanizing Area would result in the cumulative loss of prime farmland.</td>
<td>x</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project is the construction of a pipeline to relieve flow in a portion of the Emerald Trunk. The construction would occur within existing rights-of-way and would not affect farmland. The project would not provide new capacity beyond that identified in the Wastewater Master Plan Master EIR.

(2) The proposed project is unrelated to the Phase IA tertiary treatment facilities. No impact related to that facility would occur as a result of these projects.

Cumulative impacts:

(3) The proposed project is the construction of a pipeline to relieve flow in a portion of the Emerald Trunk. The construction would occur within existing rights-of-way and would not affect farmland. The project would not provide new capacity beyond that identified in the Wastewater Master Plan Master EIR. No cumulative impact on farmland is expected to occur as a result of this project.

3. PARKS AND RECREATION

a. Significant Effects Identified in the Master EIR

The Wastewater Master Plan Master EIR identifies the potential impacts on land use and their associated mitigation measures. Refer to pages IV.C.1 to IV.C.8 in the Wastewater Master Plan MEIR for details.
Direct Impacts

**Impact C.1:** The Beard Brook Reliability Project could result in an increase in localized noise and dust and restrict access and enjoyment of Beard Brook Park. (Less than significant)

No mitigation measures identified.

**Impact C.2:** Construction of a pipeline near the Dryden Municipal Golf Course could result in an increase in localized noise and dust, and restrict access and enjoyment of this recreational facility. (Less than significant)

No mitigation measures identified.

**Impact C.3:** The rehabilitation of the Primary Effluent Outfall could result in a temporary increase in localized noise and dust, and could temporarily impair access and enjoyment of a park facility at the southwest corner of West Hatch Road and Rancho Encantado Lane. (Less than significant)

No mitigation measures identified.

Cumulative Impacts

No cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No mitigation measures related to parks and recreation use are proposed in the Master EIR.

Discussion:

No mitigation measures proposed in the Wastewater Master Plan MEIR because no significant impacts on parks and recreation were identified. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section IV.C of the Wastewater Master Plan MEIR identifies the potential impacts of implementing the Wastewater Master Plan on parks and recreation. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan MEIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>3. PARKS AND RECREATION</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The Beard Brook Reliability Project could result in</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>
Potentially Significant or No Significant Impact, as Compared to MEIR

<table>
<thead>
<tr>
<th>Impact Description</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>an increase in localized noise and dust and restrict access and enjoyment of Beard Brook Park.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) Construction of a pipeline near the Dryden Municipal Golf Course could result in an increase in localized noise and dust, and restrict access and enjoyment of this recreational facility.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) The rehabilitation of the Primary Effluent Outfall could result in a temporary increase in localized noise and dust, and could temporarily impair access and enjoyment of a park facility at the southwest corner of West Hatch Road and Rancho Encantado Lane.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Discussion:

(1-3) The project route is entirely within existing street and utility rights-of-way. The route is not a component of the Wastewater Treatment Master Plan that was identified as having an impact on any parks in Modesto, nor is the route within sight of any existing parks. No mitigation is necessary.

4. WATER QUALITY AND HYDROLOGY

a. Significant Effects Identified in the Master EIR

The Master EIR identifies the potential impacts on water quality and hydrology and the associated mitigation measures. Refer to pages IV.D.1 to IV.D.41 in the MEIR for details.

Direct Impacts

Impact D.1: Excavation and construction activities could cause erosion and/or result in chemical releases causing degradation of water quality in nearby surface water and/or groundwater bodies. (Less than significant with mitigation)

Mitigation Measure D.1: The City shall prepare a SWPPP designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than one acre). The SWPPP shall emphasize measures designed to minimize erosion and off-site sedimentation during improvements to the collection system and installation of the new outfall.

Impact D.2: Elimination of the cross-connections between the stormwater drainage system and the wastewater collections system could result in localized flooding. (Less than significant with mitigation)
Mitigation Measure D.2: Each proposed cross-connection elimination project shall be carefully designed to ensure that existing flooding problems are not exacerbated. If the proposed solution (either temporary or permanent) is not fully compliant with the City standards for stormwater conveyance, then it shall be demonstrated through detailed hydraulic analysis that the proposed solution does not make existing flooding problems worse.

Impact D.3: Implementation of the proposed project that does not match the rate of growth may result in an incremental increase in operation-period surface water quality degradation due to the deficient effluent disposal system. (Significant and unavoidable)

Mitigation Measure D.3: Deficient effluent disposal system. The City should continue to investigate the feasibility of near-term solutions: 1) additional land application of effluent, 2) expansion of storage capacity, and 3) conservation measures.

Impact D.4: Implementation of the proposed project may result in operation-period surface water quality degradation due to pollutant loading associated with treated wastewater discharges. (Significant and unavoidable)

Mitigation Measure D.4: To mitigate the potential impacts to San Joaquin River water quality associated with the expansion of treated wastewater capacity, the City shall conduct an antidegradation study as set forth above. The study shall be conducted in accordance with all applicable State and Federal anti-degradation policy standards. NOTE: Modesto is in compliance with this mitigation measure, having prepared an antidegradation study (Stormwater Management Program Antidegradation Analysis, Larry Walker Associates, October 2008) as part of the renewal of the City's 2008 NPDES permit (CAS083S26).

Impact D.5: Implementation of the proposed project may result in operation-period surface water quality degradation during daily operations and/or during flooding of the Primary Plant and sludge drying area. (Significant)

Mitigation Measure D.5/D.5 (a): To mitigate the potential impacts to local flooding conditions associated with placement of fill and construction of the flood walls proposed by the project, the City shall retain a qualified registered civil engineer or licensed architect to conduct the appropriate floodplain studies in compliance with Modesto Municipal Code Section 9-4.406 to determine whether the proposed floodplain encroachments could be constructed without increasing base flood elevations upstream or downstream of the Primary Plant. If the studies indicate that base flood elevations would increase, then other appropriate channel modifications shall be considered. If there are no feasible options to offset increases in base flood elevations, then the proposed fill placement and flood walls will not be constructed and the impact to water quality (Impact D.5) would be significant and unavoidable.

Impact D.6: The proposed increase in application of wastewater and biosolids to land would not significantly affect regional groundwater quality. (Less than significant)

No mitigation is necessary.

Impact D.7: Implementation of the project would not result in depletion of groundwater resources. (Less than significant)

No mitigation is necessary.
Impact D.8: The project would include construction activities within the San Joaquin River channel and on nearby levees and would include placement of a permanent structure in the San Joaquin River channel. These activities could affect river flow patterns and degrade water quality. (Less than significant with mitigation)

Mitigation Measure D.8: To the extent feasible, all instream excavation and construction activities shall be conducted during low flow conditions in the river and work within the wetted channel will be avoided. The design of the new outfall and diffuser shall avoid, to the extent feasible, permanent features that extend above the active streambed that could cause flow disruption and scour. (See also impacts on biological resources and mitigation measures.)

Cumulative Impacts

No cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to water quality and hydrology are on pages IV.D.26 to IV.D.41 in the Wastewater Master Plan Master EIR.

Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section IV.D of the Wastewater Master Plan MEIR identifies the potential impacts of implementing the Wastewater Master Plan on land use, plans, and policies. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan MEIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>4. WATER QUALITY AND HYDROLOGY</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Excavation and construction activities could cause erosion and/or result in chemical releases causing degradation of water quality in nearby surface water and/or groundwater bodies.</td>
<td>☐</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>2) Elimination of the cross-connections between the stormwater drainage system and the wastewater collections system could result in localized flooding.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

City of Modesto
Wastewater Master Plan Master EIR

Initial Study EA/PW No. 2008-19

June 2013
<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>3) Implementation of the proposed project that does not match the rate of growth may result in an incremental increase in operation-period surface water quality degradation due to the deficient effluent disposal system.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) Implementation of the proposed project may result in operation-period surface water quality degradation due to pollutant loading associated with treated wastewater discharges.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) Implementation of the proposed project may result in operation-period surface water quality degradation during daily operations and/or during flooding of the Primary Plant and sludge drying area.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6) The proposed increase in application of wastewater and biosolids to land would not significantly affect regional groundwater quality.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>7) Implementation of the project would not result in depletion of groundwater resources.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>8) The project would include construction activities within the San Joaquin River channel and on nearby levees and would include placement of a permanent structure in the San Joaquin River channel. These activities could affect river flow patterns and degrade water quality.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) Each of the project types evaluated in the Wastewater Master Plan Master EIR has the potential to degrade surface or groundwater quality. Mitigation Measure D.1 will be implemented for the project as part of the construction plans and contract. This project and its construction documents will be reviewed to ensure compliance with Modesto's approved Stormwater Pollution Prevention Plan.

(2) This project will not eliminate cross-connections with the storm water drainage system. Therefore, this impact is not relevant to the project and no mitigation is necessary.

(3-4) The project will improve the reliability of the collection system and does not increase the amount of sewer effluent that will be generated in the area served by the project. No increase in surface water degradation is expected to occur as a result of this project and no mitigation is necessary.

(5-6) This impact relates to operation of the treatment plants. The project will not result in a change in the operation of the treatment plants, nor will it increase the amount of sewage being collected and treated. No impact is anticipated and no mitigation is necessary.
The project would have no effect on groundwater resources, consistent with the Wastewater Master Plan Master EIR. No mitigation is necessary.

This impact is related to construction activities at the treatment plant. Since the project will have no effect on activity at the treatment plant, no impact on the San Joaquin River channel will occur as a result of this project and no mitigation is necessary.

5. BIOLOGICAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Wastewater Master Plan MEIR identifies the potential impacts on biological resources and the associated mitigation measures. Refer to pages IV.E.1 to IV.E.37 in the Wastewater Master Plan MEIR for details.

Direct Impacts

Impact E.1: Construction of project facilities along the Tuolumne River adjacent to the Primary Plant, or in other riparian areas, could damage the habitat of the valley elderberry longhorn beetle. (Less than significant with mitigation)

- Mitigation Measure E.1.1: Perform pre-construction surveys.
- Mitigation Measure E.1.2a: Agency coordination and consultation.
- Mitigation Measure E.1.2b: Avoidance.

Impact E.2: Construction of project facilities could cause loss of occupied Burrowing Owl habitat. (Less than significant with mitigation)

- Mitigation Measure E.2.1: Avoidance.
- Mitigation Measure E.2.2: Compensation for loss of Burrowing Owl habitat if a pre-construction survey finds that Burrowing Owls occupy the site and avoidance is not feasible.

Impact E.3: Construction of project facilities could cause disturbance of nesting raptors. (Less than significant with mitigation)

- Mitigation Measure E.3.1: Avoidance.
- Mitigation Measure E.3.2: Perform pre-construction surveys.

Impact E.4: Construction of the project facilities could cause impacts to biological resources and regulated habitats of Dry Creek (Beard Brook) and of the Tuolumne River. (Less than significant with mitigation)

- Mitigation Measure E.4.1: Pre-construction surveys and agency coordination.
- Mitigation Measure E.4.2: Implement mitigation for Special Status species that might be identified during pre-construction surveys.
Impact E.5: Construction of project facilities or development facilitated by construction of project facilities could cause loss of Swainson’s Hawk foraging habitat. (Less than significant with mitigation)

Mitigation Measure E.5: Compensation for loss of foraging habitat.

Impact E.6: Construction during Swainson’s Hawk breeding season could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment. (Less than significant with mitigation)

Mitigation Measure E.6a: Perform pre-construction surveys.

Mitigation Measure E.6b: Nest trees should not be removed unless avoidance measures are determined to be infeasible.

Impact E.7: Construction of improvements to the Secondary Plant may cause impacts to regulated habitats. (Less than significant with mitigation)

Mitigation Measure E.7: Perform pre-construction surveys and agency coordination.

Impact E.8: Microtunneling could cause impacts to riparian habitats under the jurisdiction of the California Department of Fish and Game and/or the U.S. Army Corps of Engineers. (Less than significant with mitigation)

Mitigation Measure E.8: Perform pre-construction surveys and agency coordination.

Impact E.9: Construction activities could affect the habitat for Western Pond Turtles, the nesting and foraging habitat for Loggerhead Shrikes, and foraging habitat for Short-Eared Owls, Northern Harriers, and Tri-Colored Blackbirds. (Less than significant)

No mitigation is necessary.

Impact E.10: Construction of a new diffuser in the San Joaquin River, and additional discharges of treated wastewater to the San Joaquin River from the Secondary Plant could affect the spawning habitat or affect the health of the Sacramento Splittail. (Less than significant)

No mitigation is necessary.

Cumulative Impacts

Impact E.11: Growth facilitated by the project would result in cumulative loss of Swainson’s Hawk and Burrowing Owl habitat. (Less than significant with mitigation)

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to biological resources are shown on pages IV.E.25 to IV.E.37 in the Wastewater Master Plan Master EIR.

Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

Section IV.E of the Wastewater Master Plan MEIR identifies the potential impacts of implementing the Wastewater Master Plan on biological resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan MEIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>5. BIOLOGICAL RESOURCES</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Construction of project facilities along the Tuolumne River adjacent to the Primary Plant, or in other riparian areas, could damage the habitat of the valley elderberry longhorn beetle.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Construction of project facilities could cause loss of occupied Burrowing Owl habitat.</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3) Construction of project facilities could cause disturbance of nesting raptors.</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>4) Construction of the project facilities could cause impacts to biological resources and regulated habitats of Dry Creek (Beard Brook) and of the Tuolumne River.</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>5) Construction of project facilities or development facilitated by construction of project facilities could cause loss of Swainson’s Hawk foraging habitat.</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>6) Construction during Swainson’s Hawk breeding season could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment.</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>7) Construction of improvements to the Secondary Plant may cause impacts to regulated habitats.</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>8) Microtunnelling could cause impacts to riparian habitats under the jurisdiction of the California Department of Fish and Game and/or the U.S. Army Corps of Engineers.</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>9) Construction activities could affect the habitat for Western Pond Turtles, the nesting and foraging habitat for Loggerhead Shrikes, and foraging habitat for Short-Eared Owls, Northern Harriers, and Tri-Colored Blackbirds.</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td></td>
<td>Potentially Significant Impact, as Compared to MEIR</td>
<td>No Significant Impact with MEIR Mitigation</td>
<td>Less Than Significant or No Impact</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>10) Construction of a new diffuser in the San Joaquin River, and additional discharges of treated wastewater to the San Joaquin River from the Secondary Plant could affect the spawning habitat or affect the health of the Sacramento Splittail.</td>
<td>☐️</td>
<td>☐️</td>
<td>✗</td>
</tr>
<tr>
<td>Cumulative Impacts:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11) Growth facilitated by the project would result in cumulative loss of Swainson’s Hawk and Burrowing Owl habitat.</td>
<td>☐️</td>
<td>✗</td>
<td>☐️</td>
</tr>
</tbody>
</table>

Discussion:

1) The project will have no impact on riparian habitat or riparian species as it is not located near a natural watercourse. No mitigation is necessary.

2) The project is located within existing street and utility rights-of-way. A biological resources survey will be performed prior to the commencement of construction to determine whether burrowing owl habitat exists on the site (Mitigation Measure E.2.2). The presence of burrowing owl is highly unlikely.

3, 6) The project is located within existing street and utility rights-of-way. The project site contains no trees for raptors to nest in, therefore nesting raptors would not occur on the project site. A biological resources survey will be performed prior to the commencement of construction to determine whether raptor nests are within proximity to the project route (Mitigation Measure E.3.2 and E.6a).

4) The project could result in minor localized impacts during construction. No impact on biological resources at Beard Brook Park or at the Tuolumne River would occur. No mitigation is necessary.

5) The project is located within existing street and utility rights-of-way. Thus no hawk foraging habitat exists within the project site. No mitigation is necessary.

7-10) The project does not include any improvements to the Secondary Treatment Plant, therefore, no impacts on habitats at the Secondary Treatment Plant would result. Furthermore, neither riparian habitats, riparian species, nor aquatic species will be affected by the project. No mitigation is necessary.

Cumulative impacts:

11) A pre-construction biological resources survey will be performed to determine whether impacts on burrowing owl habitat or Swainson’s nest sites will occur. Should any potential impact be identified, the City and its contractors will follow the recommendations contained in the survey. (Mitigation Measures E.2.2 and E.6a.)
6. TRANSPORTATION

a. Significant Effects Identified in the Master EIR

The Wastewater Master Plan MEIR identifies the potential impacts on transportation and the associated mitigation measures. Refer to pages IV.F.1 to IV.F.12 in the Wastewater Master Plan MEIR for details.

Direct Impacts

**Impact F.1:** Temporary reduction in roadway capacity and increased traffic delays. (Less than significant)

No mitigation is necessary.

**Impact F.2:** Short-term traffic increases on roadways due to construction-related vehicle trips. (Less than significant)

No mitigation is necessary.

**Impact F.3:** Increased potential for traffic safety hazards for vehicles, bicyclists, and pedestrians on public roadways during construction. (Less than significant)

No mitigation is necessary.

**Impact F.4:** Increases in vehicle trips to and from the facility sites for operation and maintenance. (Less than significant)

No mitigation is necessary.

Cumulative Impacts

**Impact F.5:** The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable traffic impacts identified in the Urban Area General Plan.

**Mitigation Measure F.1:** With implementation of the Urban Area General Plan Master EIR’s mitigation measures related to traffic, the significant cumulative impacts would be reduced, but not to less-than-significant levels.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to transportation are found on pages IV.F.10 to IV.F.12 in the Wastewater Master Plan Master EIR.

**Discussion:**

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

Section IV.C of the Wastewater Master Plan Master EIR identifies the potential impacts of implementing the Wastewater Master Plan on parks and recreation. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. TRANSPORTATION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Temporary reduction in roadway capacity and increased traffic delays.</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>2) Short-term traffic increases on roadways due to construction-related vehicle trips.</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>3) Increased potential for traffic safety hazards for vehicles, bicyclists, and pedestrians on public roadways during construction.</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>4) Increases in vehicle trips to and from the facility sites for operation and maintenance.</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>

**Cumulative Impacts:**

5) The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable traffic impacts identified in the Urban Area General Plan.

**Discussion:**

1-3) Construction of the project may temporarily constrain access to nearby residential properties. However, approximately five to seven employees will be on site at any specific time and no significant traffic impact is expected. Heavy equipment will also be in use, however, it will be mobile equipment and is not expected to obstruct the street for an extended period. While large equipment will be present and additional vehicles for construction crews will be present; these will not present a significant impact on pedestrian and bicycle safety because of the low traffic volumes on the affected residential streets and relatively low traffic volumes on Emerald and Elm Avenues and the relative ease of avoiding the equipment and vehicles. No significant impact is expected and no mitigation is necessary.

4) Maintenance and operation of the Emerald Relief Trunk will require periodic, infrequent site visits by staff. This impact is not significant and no mitigation is necessary.

Cumulative impacts:

5) The project is planned to relieve the flow in a portion of the Emerald Trunk. No new growth will be accommodated by this project beyond that planned and envisioned by the Wastewater
Master Plan MEIR and no new impacts associated with growth are expected. No mitigation is necessary.

7. **AIR QUALITY**

**a. Significant Effects Identified in the Master EIR**

The Wastewater Master Plan MEIR identifies the potential impacts on air quality and the associated mitigation measures. Refer to pages IV.G.1 to IV.G.28 in the Wastewater Master Plan MEIR for details.

**Direct Impacts**

**Impact G.1:** Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region. (Significant and unavoidable)

**Mitigation Measure G.1:** The construction plans for each group of building permits shall incorporate recommendations from the San Joaquin Valley Air Pollution Control District specified on pages IV.G.17 and IV.G.18 in the Wastewater Master Plan Master EIR to minimize emissions during construction phases.

**Impact G.2:** Emissions of criteria pollutants during operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region. (Significant and unavoidable)

**Mitigation Measure G.2:** The City shall abide by permit limits imposed by the SJVAPCD to reduce pollutant emissions from diesel-powered engines for emergency power generation and any other sources requiring permits. The City shall abide by permit limits imposed by the SJVAPCD on operation of digester-gas burning equipment at the Primary Plant. If District Rule 9510 would apply, the City shall follow it and make the required emission reductions on-site (or pay for or create emission reductions off-site).

**Impact G.3:** Emissions during project operation could cause sensitive receptors to be exposed to toxic air contaminants. (Less than significant)

No mitigation is necessary.

**Impact G.4:** Emissions of objectionable odors could occur during project operation. (Less than significant)

No mitigation is necessary.

**Cumulative Impacts**

**Impact G.5:** The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable air quality impacts identified in the Urban Area General Plan. (Significant and unavoidable)
Mitigation Measure G.5: With implementation of the Urban Area's Master [General] Plan's mitigation measures [applied to new development projects] related to traffic and energy use (and related to carbon monoxide and particulate matter, in particular), the significant cumulative impacts would be reduced, but not to less-than-significant levels.

Impact G.6: The wastewater treatment facilities would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.

Mitigation Measure G.6: See mitigation measures listed under Impacts G.1 and G.2. With implementation of these measures, significant cumulative impacts would be reduced, but not to less-than-significant levels.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to air quality appear on pages IV.G.17 to IV.G.28 in the Wastewater Master Plan Master EIR.

Discussion:
No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section IV.G of the Wastewater Master Plan MEIR identifies the potential impacts of implementing the Wastewater Master Plan on air quality. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan MEIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan MEIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>7. AIR QUALITY</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.</td>
<td>☐</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>2) Emissions of criteria pollutants during operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>3) Emissions during project operation could cause sensitive receptors to be exposed to toxic air contaminants.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Potentially Significant Impact, as Compared to MEIR</td>
<td>No Significant Impact with MEIR Mitigation</td>
<td>Less Than Significant or No Impact</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>--------------------------------------------------</td>
<td>------------------------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>4) Emissions of objectionable odors could occur during project operation.</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>

**Cumulative Impacts:**

5) The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable air quality impacts identified in the Urban Area General Plan.

6) The wastewater treatment facilities would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.

**Discussion:**

1) Construction activities will contribute to existing violations of air quality standards. Mitigation Measure G.1 will be implemented as part of the building permit issuance process. The San Joaquin Air Pollution Control District will be consulted and that agency’s recommendations will be implemented.

2) The proposed project is a gravity-flow pipeline and would not result in emissions. No mitigation measures are necessary.

3) The proposed project is a gravity-flow pipeline and would not result in emissions. No mitigation measures are necessary.

4) Emission of objectionable odors during project operation is possible, but not expected. No mitigation measures are necessary.

**Cumulative Impacts:**

5) The project is planned to relieve the flow in a portion of the Emerald Trunk. No new growth will be accommodated by this project beyond that planned and envisioned by the Wastewater master Plan MEIR and no new impacts associated with growth are expected.

6) Discussion item 1 notes that activities associated with construction of the project will contribute to existing violations of air quality standards. Mitigation Measures G.1 and G.2 will be implemented to reduce those impacts to a less-than-significant level.

8. **NOISE**

a. **Significant Effects Identified in the Master EIR**

The Wastewater Master Plan MEIR identifies the potential impacts on transportation and the associated mitigation measures. Refer to pages IV.H.1 to IV.H.13 in the Wastewater Master Plan MEIR for details.
Direct Impacts

Impact H.1: Construction of the proposed project facilities could cause substantial, though intermittent and short-term, increases in noise levels, which would add to noise levels predicted by the City's General Plan MEIR and the County General Plan. (Less than significant with mitigation)

Mitigation Measure H.1: Protection of sensitive receptors from excessive construction noise.

Impact H.2: Operation of new stationary sources of noise at the Primary and Secondary Plants associated with the proposed project could generate noise. (Less than significant)

No mitigation is necessary.

Impact H.3: Increased trips by Public Works Department employees could cause noise increases for existing sensitive receptors in the project vicinity. (Less than significant)

No mitigation is necessary.

Cumulative Impacts

Impact H.4: The proposed project would support cumulative development that could increase noise levels in areas where noise levels exceed, or would exceed, the noise and land use compatibility guidelines adopted by the City of Modesto and Stanislaus County, or the noise performance standards set by the City and County. (Significant and unavoidable)

No mitigation measures identified in the MEIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to noise appear on pages IV.H.11 and IV.H.12 in the Wastewater Master Plan MEIR.

Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section IV.H of the Wastewater Master Plan MEIR identifies the potential impacts of implementing the Wastewater Master Plan on parks and recreation. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan MEIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.
<table>
<thead>
<tr>
<th>8. NOISE</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Construction of the proposed project facilities could cause substantial, though intermittent and short-term, increases in noise levels, which would add to noise levels predicted by the City's General Plan MEIR and the County General Plan.</td>
<td>□</td>
<td>X</td>
<td>□</td>
</tr>
<tr>
<td>2) Operation of new stationary sources of noise at the Primary and Secondary Plants associated with the proposed project could generate noise.</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>3) Increased trips by Public Works Department employees could cause noise increases for existing sensitive receptors in the project vicinity.</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>Cumulative Impacts:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4) The proposed project would support cumulative development that could increase noise levels in areas where noise levels exceed, or would exceed, the noise and land use compatibility guidelines adopted by the City of Modesto and Stanislaus County, or the noise performance standards set by the City and County.</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1) Construction of the project would increase noise levels in the surrounding neighborhood for the duration of construction (180 days, depending on weather). The noisiest activities will be limited, but could occur at any time during the construction period. Mitigation Measure H.1 will be implemented in order to reduce construction noise impacts by specifying the following requirements in the construction contract:
   a. Site work and equipment use will occur only between the hours of 7:00 a.m. and 9:00 p.m. Monday through Friday and between 9:00 a.m. and 9:00 p.m. Saturday and Sunday, as required by the City's noise ordinance.
   b. Only noise-muffled equipment in good working order will be used and air compressors and pneumatic equipment will be equipped with mufflers, shrouds, or shields, as appropriate.

(2) The project will not involve any work at the Primary or Secondary Treatment Plants. No noise impacts will occur at these locations as a result of this project and no mitigation is necessary.

(3) Maintenance and operation of the project will require infrequent periodic site visits by staff. This impact is not significant and no mitigation is necessary.
Cumulative Impacts:

(4) The project is planned to relieve the flow in a portion of the Emerald Trunk. No new growth will be accommodated by this project beyond that planned and envisioned by the Wastewater Master Plan MEIR and no new impacts associated with growth are expected. No mitigation is necessary.

9. VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Wastewater Master Plan MEIR identifies the potential impacts on visual resources and the associated mitigation measures. Refer to pages IV.I.1 to IV.I.10 in the Wastewater Master Plan MEIR for details.

Direct Impacts

**Impact I.1:** The proposed aboveground structures associated with wastewater collection would impact the visual quality of their surroundings. (Less than significant)

No mitigation is necessary.

**Impact I.2:** At the Primary and Secondary Plants, the proposed new aboveground structures and alterations to existing aboveground structures could impact the visual quality of their surroundings. (Less than significant)

No mitigation is necessary.

**Impact I.3:** The proposed area of fill and the berm around the perimeter of the fill at the Primary Plant would impact visual quality in the vicinity of the project when viewed from surrounding public streets and parks. (Less than significant)

No mitigation is necessary.

**Cumulative Impacts**

No cumulative impacts were disclosed in the Wastewater Master Plan MEIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Wastewater Master Plan MEIR did not identify significant impacts related to visual resources, therefore, no mitigation measures were identified in the Wastewater Master Plan MEIR.

**Discussion:**

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section IV.I of the Wastewater Master Plan MEIR identifies the potential impacts of implementing the Wastewater Master Plan on visual resources. The following is an analysis of whether the proposed
project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>9. VISUAL RESOURCES</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed aboveground structures associated with wastewater collection would impact the visual quality of their surroundings.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>2) At the Primary and Secondary Plants, the proposed new aboveground structures and alterations to existing aboveground structures could impact the visual quality of their surroundings.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>3) The proposed area of fill and the berm around the perimeter of the fill at the Primary Plant would impact visual quality in the vicinity of the project when viewed from surrounding public streets and parks.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

**Discussion:**

1) The proposed project is a pipeline and will not include permanent aboveground structures. No mitigation is necessary.

2-3) The project would have no effect on either the Primary or Secondary Wastewater Treatment Plants and therefore no effects related to these facilities will occur as a result. No mitigation is necessary.

10. PUBLIC HEALTH AND SAFETY: HAZARDOUS MATERIALS

a. **Significant Effects Identified in the Master EIR**

The Wastewater Master Plan Master EIR identifies the potential impacts on public health and safety related to hazardous materials and the associated mitigation measures. Refer to pages IV.J.1 to IV.J.12 in the Wastewater Master Plan MEIR for details.

**Direct Impacts**

**Impact J.1:** Hazardous materials use, storage, and transportation during construction would cause potential hazards to the public and the environment. (Less than significant)

No mitigation is necessary.
**Impact J.2:** Hazardous materials use, storage, and transportation during the operation of the wastewater collection and treatment system would cause potential hazards to the public and the environment. (Less than significant)

No mitigation is necessary.

**Impact J.3:** Increased use of chlorine and sulfur dioxide at the Secondary Plant could expose workers and the public to accidental release of toxic gases. (Less than significant)

No mitigation is necessary.

**Impact J.4:** Construction and operation of the wastewater collection and treatment facilities would increase the amount of hazardous wastes generated at the facilities, resulting in increased hazards to the public and the environment. (Less than significant)

No mitigation is necessary.

**Cumulative Impacts**

**Impact J.5:** The project would involve increased use and transport of hazardous materials and hazardous wastes within California. (Less than significant)

No mitigation is necessary.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Mitigation measures related to public health and safety with respect to hazardous materials appear on pages IV.J.11 and IV.J.12 in the Wastewater Master Plan MEIR.

**Discussion:**

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section IV.J of the Wastewater Master Plan MEIR identifies the potential impacts of implementing the Wastewater Master Plan on public health and safety related to hazardous materials. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan MEIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>10. PUBLIC HEALTH AND SAFETY: HAZARDOUS MATERIALS</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Hazardous materials use, storage, and</td>
<td>□</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>
Potentially Significant No Significant
Impact
as Compared to Impact with MEIR Mitigation Less Than Significant or
MEIR No Impact

<table>
<thead>
<tr>
<th>Description</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>transportation during construction would cause potential hazards to the public and the environment.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2) Hazardous materials use, storage, and transportation during the operation of the wastewater collection and treatment system would cause potential hazards to the public and the environment.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3) Increased use of chlorine and sulfur dioxide at the Secondary Plant could expose workers and the public to accidental release of toxic gases.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4) Construction and operation of the wastewater collection and treatment facilities would increase the amount of hazardous wastes generated at the facilities, resulting in increased hazards to the public and the environment.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Cumulative Impact:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5) The project would involve increased use and transport of hazardous materials and hazardous wastes within California.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1-2) The proposed pipeline project will not employ hazardous materials. No impact is expected and no mitigation is necessary.

(3) The project would have no effect on the Secondary Wastewater Treatment Plant. Therefore no effect related to this facility will occur as a result. No mitigation is necessary.

(4) The project will not generate hazardous waste. No mitigation is necessary.

Cumulative impacts:

(5) The pipeline project will not employ hazardous materials. No impact is expected and no mitigation is necessary.

11. PUBLIC HEALTH AND SAFETY: CONTAMINATED SOILS AND DEMOLITION

a. Significant Effects Identified in the Master EIR

The Wastewater Master Plan MEIR identifies the potential impacts on public health and safety with respect to contaminated soils and demolition and the associated mitigation measures. Refer to pages IV.K.1 to IV.K.15 in the Wastewater Master Plan MEIR for details.
Direct Impacts

Impact K.1: Excavation for installation of wastewater system improvements could encounter contaminated soil and/or groundwater and expose workers and the public to hazardous substances. (Less than significant with mitigation)

Mitigation Measure K.1a: Prior to activities involving soil disturbance for the improvements to the wastewater collection and treatment systems, the City shall use reasonable means to determine the presence of soil or groundwater contamination.

Mitigation Measure K.1b: If warranted, conduct soil and groundwater sampling and analysis.

Mitigation Measure K.1c: If warranted, prepare a site remediation plan and health and safety plan.

Mitigation Measure K.1d: Where any activity would be performed at a contaminated site or where hazardous materials are suspected, the City's contractor shall prepare a project-specific Health and Safety Plan prior to any site work.


Mitigation Measure K.1f: In the event that previously unidentified contamination is encountered (e.g., identified by odor or visual staining) during soil disturbance activities or any underground storage tanks, abandoned drums, or other hazardous materials or wastes are encountered during construction, the contractor(s) shall immediately notify the City and the City shall then notify the County. The contractor(s) shall have prepared a Contingency Plan for Sampling and Analysis of potentially hazardous substances and coordination with appropriate regulatory agencies.

Impact K.2: Pipe bursting methods could release potentially hazardous material contaminants into soil and groundwater, causing health effects to construction workers and the public, and environmental degradation. (Less than significant with mitigation)

Mitigation Measure K.2: The contractor(s) shall prepare a procedure for review by the City for emptying pipes of their contents before pipe bursting begins. Once accepted by the City, with revisions if requested, the contractor shall implement the procedure prior to carrying out any pipe bursting.

Impact K.3: Construction activities involving demolition or modification of structures may result in the exposure of construction workers and the general public to added health risk. (Less than significant with mitigation)

Mitigation Measure K.3: As a condition of approval for any demolition permit for a structure or facility potentially containing lead or asbestos under the proposed project, a lead-based paint and asbestos-containing survey shall be performed at the structure or facility by a qualified environmental professional.

Cumulative Impacts

No cumulative impacts were disclosed in the Wastewater Master Plan MEIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to public health and safety with respect to contaminated soils and demolition appear on pages IV.K.11 and IV.K.15 in the Wastewater Master Plan Master EIR.

Discussion:
No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section IV.K of the Wastewater Master Plan Master EIR identifies the potential impacts of implementing the Wastewater Master Plan on public health and safety with respect to contaminated soils and demolition. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan MEIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>11. PUBLIC HEALTH AND SAFETY: CONTAMINATED SOILS AND DEMOLITION</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Excavation for installation of wastewater system improvements could encounter contaminated soil and/or groundwater and expose workers and the public to hazardous substances.</td>
<td>☐</td>
<td>X</td>
<td>☐</td>
</tr>
<tr>
<td>2) Pipe bursting methods could release potentially hazardous material contaminants into soil and groundwater, causing health effects to construction workers and the public, and environmental degradation.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>3) Construction activities involving demolition or modification of structures may result in the exposure of construction workers and the general public to added health risk.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1) While unlikely, it is possible that contaminated soils could be encountered during the small amount of trenching and excavation needed to construct the project. City staff or the contractor will implement Mitigation measure K.1a to make a preliminary assessment of the site. If it appears that contaminated soils may be disturbed, additional mitigation measures
will be employed to minimize or eliminate the risks associated with disturbing the contaminated area.

(2) The project does not involve pipe bursting. No mitigation is necessary

(3) The project does not involve demolition of existing structures. No mitigation is necessary

12. CLIMATE CHANGE (General Plan Master EIR Section 21)

a. Significant Effects Identified in the General Plan Master EIR

The General Plan Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

No project-level mitigation measures were identified, as indicated on page V-21-18 of the General Plan Master EIR.

Cumulative Impacts

Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change. Mitigation measures to reduce the cumulative impact of greenhouse gas emissions are detailed on pages V-21-7 to V-21-10 of the General Plan Master EIR.

Mitigation Measure CL-3: Discourage removal of street trees.

Mitigation Measure CL-4: The City of Modesto shall require shade trees, where feasible and appropriate, in landscape plans for all new development proposals.

Mitigation Measure CL-5: The City shall require the planting of large-canopy species in new development areas in such a way that they grow to full size without damaging streets and sidewalks.

Mitigation Measure CL-6: The goal of the street tree maintenance program is to maintain trees in the best possible health by ensuring that newly planted trees are cared for in such a way as to prevent or minimize sidewalk and street damage.

Mitigation Measure CL-7: The City of Modesto shall encourage the Modesto and Turlock Irrigation Districts to establish and promote a program whereby existing residential and commercial building owners are provided incentives to increase the number of shade trees in developed parts of the City.

Mitigation Measure CL-8: The City of Modesto shall coordinate with the Modesto and Turlock Irrigation Districts and Pacific Gas & Electric Company on all new, large-scale development proposals in the City.
Mitigation Measure CL-9: The City of Modesto shall encourage the use of solar energy systems for residential, agricultural, parks, public buildings, and business purposes.

Mitigation Measure CL-10: Lots in new subdivisions should be oriented in such a way to maximize solar energy.

Mitigation Measure CL-11: The City of Modesto shall approve applications for solar energy systems in accordance with State law.

Mitigation Measure CL-12: To reduce heat gain from pavement, consider reducing street rights-of-way and pavement widths to pre-World War II widths and consider working with StanCOG to shift transportation money away from automobile transportation.

Mitigation Measure CL-13: The City shall consider instituting a development pattern that facilitates non-automobile transportation.

Mitigation Measure CL-14: The City shall consider renegotiating employee union contracts to eliminate parking subsidies for public employees, encourage carpools, and other means to reduce employee vehicle trips.

Mitigation Measure CL-15: The City shall purchase clean-fuel/alternative fuel fleet vehicles.

Mitigation Measure CL-16: All commercial development projects shall include bicycle racks and changing rooms.

Mitigation Measure CL-17: The City shall attempt to facilitate development of “brownfields.”

Mitigation Measure CL-18: The City of Modesto shall work with the local energy providers and developers on voluntary incentive based programs to encourage the use of energy efficient designs and equipment.

Mitigation Measure CL-19: The City of Modesto shall cooperate with the local building industry, utilities and the Air District to promote enhanced energy conservation standards for new construction.

Mitigation Measure CL-20: The City shall encourage new residential, commercial, and industrial development to reduce air quality impacts from area sources and from energy consumption.

Mitigation Measure CL-21: The City shall consider requiring new public buildings to achieve the minimum LEED “Certified” rating.

Mitigation Measure CL-22: The City shall work with applicants and developers to encourage green building methods and practices and achieve LEED standards for all new development.

Mitigation Measure CL-23: Renovation of buildings shall achieve as many LEED pre-requisites and credits as feasible.

Mitigation Measure CL-24: The City shall work with the community to encourage private development to use green building methods and practices and to achieve standards set by LEED.
Mitigation Measure CL-25: New development shall comply with Green Building Standards adopted by the California Building Standards Commission in effect at the time of building permit application.

Mitigation Measure CL-26: The City shall encourage compliance with the California Green Building Code guidelines.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the General Plan Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:
No mitigation is necessary.

c. Project-Specific Effects

Section V-21 of the General Plan Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the General Plan Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>12. CLIMATE CHANGE</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in average automobile trip lengths or CO₂ emissions higher than those assumed in the General Plan Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1-3) Construction of reliever trunks such as the Emerald Relief Trunk project is a normal and expected part of maintaining City services and as such is consistent with the Urban Area General Plan. Trips associated with the operation and maintenance this portion of the
wastewater collection system are expected to be similar to the trips generally associated with maintenance of the collection system and this facility would not create an increase in vehicle trip lengths, as compared to those estimated in the General Plan Master EIR. The region does not yet have either an adopted Sustainable Communities Strategy or an Alternative Planning Strategy. Reducing energy use associated with the transmission of sewage is difficult because as a liquid, it has a limited potential for compression. Options for reducing energy use from sewage transmission are largely limited to reducing the amount of sewage generated and reducing the distance it must be transported. Because the houses served by the existing and proposed collections system already exist in their current locations, the City’s ability to reduce sewage flow or the distance it is transported are minimal.

13. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES (General Plan Master EIR Section 8)

The Wastewater Master Plan Master EIR incorporates the discussion of impacts on archaeological and historical sites from the 2003 General Plan Master EIR. The 2003 Master EIR (and the 1995 General Plan Master EIR) concluded that potential impacts on archaeological sites were limited to riparian areas. However, in 2008 Modesto certified a new General Plan Master EIR which concluded that although the likelihood of encountering archaeological sites in non-riparian areas is low, it is possible. Accordingly, policies and mitigation affecting these resources apply throughout Modesto. Because there has been a change in Modesto’s approach to addressing archaeological and historical sites, this section is tiered from the 2008 General Plan Master EIR to allow full disclosure of potential impacts and mitigation.

a. Significant Effects Identified in the General Plan Master EIR

The General Plan Master EIR discloses the following residual significant and unavoidable impacts pertaining to cultural resources expected after application of mitigations/policies. The analysis and detail of mitigations is available on pages V-8-1 through V-8-25 in the General Plan Master EIR.

Direct Impacts

Potential Impact: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Mitigation Measure AH-4: The City of Modesto shall implement regulations that identify important historic resources, and preserve the important aspects of those resources.

Mitigation Measure AH-5: The City shall ensure that zoning provisions for structures of historical significance are sufficiently flexible to ensure that parking or other structures requirements of the Zoning Ordinance allow the historic structures to remain viable in the future.

Mitigation Measure AH-6: The modification of historic structures and places can be mitigated through the application of existing regulations and consultation with the State Historic Preservation Officer, an interim procedure whereby the City evaluates proposals to modify historic structure and develops a program to reduce the impacts on an individual basis.

Mitigation Measure AH-8: As an ongoing measure, the City of Modesto shall maintain professional standard inventories of historic resources, with the findings of those inventories concurred by the SHPO and kept on file with the State Office of Historic Preservation.
Potential Impact: The modification or demolition of a structure more than 50 years in age may be significant.

Mitigation Measure AH-3: The City of Modesto Landmark Preservation Ordinance establishes the recognition, preservation, enhancement, perpetuation, and use of structures, natural features, sites, and areas within the City of Modesto that have historic, architectural, archaeological, structural engineering, or aesthetic significance.

Mitigation Measure AH-7: When structures or areas of historical significance more than 50 years old are proposed for demolition, alteration, or where construction is proposed within 100 feet of that structure, the applicant shall submit data to the City regarding the structure’s history or locations prepared by a qualified architectural historian.

Potential Impact: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Mitigation Measure AH-10: Prior to the adoption or amendment of the City of Modesto’s UAGP, the City shall conduct consultations with the NAHC and those individuals and organizations identified by the NAHC.

Mitigation Measure AH-11: If land designated or proposed to be designated for development within the City of Modesto contains a sacred or traditional place, the City shall conduct consultations with the Native American Heritage Commission and the appropriate Native American groups and individuals.

Mitigation Measure AH-12: Any project subject to CEQA that involves substantial earth-disturbing activities, where excavation/construction would occur outside of areas where previous development has occurred, or where excavation/construction would occur at depths greater than existing foundations, roads and/or trenches in the immediate vicinity, shall require evaluation of the site by a qualified archaeologist.

Mitigation Measure AH-14: Any project that involves earth-disturbing activities shall require consultation by the applicant for the purposes of determining archaeological and cultural resources impacts and creating appropriate mitigation to address such impacts.

Potential Impact: Construction in an area of high archaeological sensitivity.

Mitigation Measure AH-9: For all proposed development within an archaeological resource study area a combination of archival research, particularly through the Central California Information Center at Turlock, and preliminary surface field reconnaissance as well as consultations with the Native American Heritage Commission (NAHC) and those individuals and organizations identified by the NAHC shall be employed to identify any areas that may have been used by Native Americans.

Mitigation Measure AH-13: If Phase II archaeological evaluations are recommended, a report of all such surveys and excavations with recommendations shall be completed prior to Project approval.

Mitigation Measure AH-15: Any project that involves earth-disturbing activities within previously undisturbed soils in an area determined to be archaeologically or culturally sensitive by the City of Modesto through consultation with the Project Applicant and a qualified
archaeologist shall be subject to archaeological and Native American monitoring during all
ground disturbing activities.

**Mitigation Measure AH-16:** Any project that involves earth-disturbing activities within
previously undisturbed soils in an area determined to be archaeologically or culturally sensitive
by the City of Modesto through consultation with the Project Applicant and a qualified
archaeologist and the Native Americans will be required to have the following mitigation
measures (specified on pages V-8-18 and V-8-19 of the General Plan Master EIR).

**Cumulative Impacts**

Implementation of the Urban Area General Plan is not expected have a cumulatively considerable
impact on archaeological and historical resources. No mitigation is necessary. The following policy is
offered to promote historical awareness.

**Mitigation Measure AH-17:** The City of Modesto shall promote historical awareness through
provision of educational opportunities for residents of all ages

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

The following archaeological and historical resources mitigation measures pertinent to the proposed
project are found in detail on pages V-8-16 through V-8-19 in the General Plan Master EIR. All
mitigation measures appropriate to the project will be incorporated into or made conditions of
approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

**c. Project-Specific Effects**

Section V-8 of the MEIR discloses impacts on archaeological/historical resources resulting from
implementation of the Urban Area General Plan. The following is an analysis of whether the proposed
project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The
project-specific effects will be less than significant if impacts are equal to or less than impacts
disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

<table>
<thead>
<tr>
<th>13. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES</th>
<th>Potentially Significant Impact, as Compared to MEIR</th>
<th>No Significant Impact with MEIR Mitigation</th>
<th>Less Than Significant or No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>3) The proposed project would modify or demolish</td>
<td>☐</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

City of Modesto
Wastewater Master Plan Master EIR

Initial Study EA/PW No. 2008-19
June 2013
Discussion:

(1) As proposed, the project is consistent with the policies affecting archaeological and historical resources, as set forth the General Plan and the General Plan Master EIR.

(2-3) No buildings will be demolished or altered to construct the project, which will be located within existing street and utility rights-of-way. No mitigation is necessary.

(4) The project route is located well away from riparian areas, which are considered to have the greatest potential for encountering archaeological resources. Nevertheless, it is still possible that archaeological materials may be encountered during construction. Should that occur, the contractor shall stop work immediately, inform City staff, and a specialist shall be consulted, consistent with Mitigation Measure AH-14. No other mitigation is necessary.

(5) No trees will be removed by the project, which is within existing street and utility rights-of-way. No mitigation is necessary.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Wastewater Master Plan Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).
B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study. No new or additional mitigation measures are required.

Master EIR Mitigation Measures:

1. **Land Use, Plans, and Policies**
   
   No mitigation is necessary.

2. **Agricultural Resources**
   
   No mitigation is necessary.

3. **Parks and Recreation**
   
   No mitigation is necessary.

4. **Water Quality and Hydrology**

   **Mitigation Measure D.1:** The City shall prepare a SWPPP designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than one acre). The SWPPP shall emphasize measures designed to minimize erosion and off-site sedimentation during improvements to the collection system and installation of the new outfall.

5. **Biological Resources**

   **Mitigation Measure E.2.2:** Compensation for loss of Burrowing Owl habitat if a pre-construction survey finds that Burrowing Owls occupy the site and avoidance is not feasible.

   **Mitigation Measure E.6a:** Pre-construction survey and ensure that nesting Swainson's Hawks are not disturbed by construction activities.

6. **Transportation**

   No mitigation is necessary.

7. **Air Quality**

   **Mitigation Measure G.1:** The construction plans for each group of building permits shall incorporate recommendations from the San Joaquin Valley Air Pollution Control District specified on pages IV.G.17 and IV.G.18 in the Wastewater Master Plan Master EIR to minimize emissions during construction phases.

   **Mitigation Measure G.2:** The City shall abide by permit limits imposed by the SJVAPCD to reduce pollutant emissions from diesel-powered engines for emergency power generation and any other
sources requiring permits. The City shall abide by permit limits imposed by the SJVAPCD on operation of digester-gas burning equipment at the Primary Plant. If District Rule 9510 would apply, the City shall follow it and make the required emission reductions on-site (or pay for or create emission reductions off-site).

8. **Noise**

Mitigation Measure H.1 will be implemented in order to reduce construction noise impacts by specifying the following requirements in the construction contract:

a. Site work and equipment use will occur only between the hours of 7:00 a.m. and 9:00 p.m. Monday through Friday and between 9:00 a.m. and 9:00 p.m. Saturday and Sunday, as required by the City's noise ordinance.

b. Only noise-muffled equipment in good working order will be used and air compressors and pneumatic equipment will be equipped with mufflers, shrouds, or shields, as appropriate.

9. **Visual Resources**

No mitigation is necessary.


No mitigation is necessary.

11. **Public Health and Safety: Contaminated Soils and Demolition**

Mitigation Measure K.1a: Prior to activities involving soil disturbance for the improvements to the wastewater collection and treatment systems, the City shall use reasonable means to determine the presence of soil or groundwater contamination.

12. **Climate Change:**

No mitigation is necessary.

13. **Disturbance of Archaeological/Historical Sites:**

Mitigation Measure AH-14: Any project that involves earth-disturbing activities shall require consultation by the applicant for the purposes of determining archaeological and cultural resources impacts and creating appropriate mitigation to address such impacts.
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE EMMERALD TRUNK SEWER RELIEF PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH MCGUIRE AND HESTER, OF OAKLAND, CALIFORNIA IN THE AMOUNT OF $5,997,118.50, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Emerald Trunk Sewer Relief Project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Emerald Trunk Sewer Relief Project were opened at 11:00 a.m. on January 21, 2014, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of $5,997,118.50 received from McGuire and Hester of Oakland, CA be accepted as the lowest responsible and responsive bid and the contract be awarded to McGuire and Hester,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Emerald Trunk Sewer Relief Project, accepts the bid of McGuire and Hester of Oakland, CA in the amount of $5,997,118.50, and awards McGuire and Hester the contract for the Emerald Trunk Sewer Relief Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

(Attest: STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH BLACKBURN CONSULTING FOR CONSTRUCTION MANAGEMENT SERVICES FOR EMERALD TRUNK SEWER RELIEF PROJECT IN AN AMOUNT NOT TO EXCEED $497,115.37 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $49,712.00 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $546,827.37 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the bids received for the Emerald Trunk Sewer Relief Project were opened at 11:00 a.m. on January 21, 2014, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, due to the size and complexity of the project, construction management services are needed to facilitate construction activities, and

WHEREAS, these support services will promote timely and successful construction of the project, while also reducing risk to the City, and

WHEREAS, following Administrative Directive 3.1, City staff selected Blackburn Consulting as the most qualified firm to provide these services, and

WHEREAS, as Construction Manager, Blackburn Consulting will act as the City’s advisor relating to the contract and provide coordination between all parties as it relates to the construction activities, and

WHEREAS, the scope for Construction Management services includes review of the project documents, communication and correspondence, photographic record of construction activities, review and management of construction processes, attending and conducting meetings necessary for construction, inspection and reporting of construction, materials testing where required, review and processing of payments, onsite construction management, schedule review, change order management,
maintaining complete and accurate project records and drawings, potential claims review and analysis, project punch list and closeout services, and

WHEREAS, the total cost of construction management services, including the optional 10% Additional Services, is $546,827.37, which is 9.1% of the total construction costs, and

WHEREAS, staff has negotiated the scope and fees with Blackburn and believes the costs are reasonable for a project of this size and complexity, and

WHEREAS, staff recommends an agreement with Blackburn Consulting, as the City does not have the staffing level or subject matter expertise to perform construction management services for the Emerald Trunk Sewer Relief Project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Blackburn Consulting for Construction Management Services for Emerald Trunk Sewer Relief Project for an amount not to exceed $497,115.37 for the identified scope of services, plus $49,712 for additional services (if needed), for a maximum total amount of $546,827.37.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF $7,196,917 TO BE TRANSFERRED INTO THE PROJECT FROM WASTEWATER FUND RESERVES IN ORDER TO FULLY FUND CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION, AND ENGINEERING SUPPORT DURING CONSTRUCTION FOR THE EMERALD TRUNK SEWER RELIEF PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $7,196,917, in order to fund construction, contingency, construction administration and engineering support during construction for the Emerald Trunk Sewer Relief project, and

WHEREAS, the Fiscal Year 2013-2014 Capital Improvement Program Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2013-2014 Capital Improvement Program Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
Exhibit A

Due to the increase of estimated construction, contingency, construction administration, and engineering construction costs for CIP Account #100525 “Emerald Sewer Trunk Relief”, the total project costs need to be increased by $7,196,917. This would be done by adjusting Construction by $5,997,119, Contingency by $479,769, Construction Administration by $645,065, and Engineering/Design/Administration by $74,964.

To fund the above account, $7,196,917 will be transferred from Wastewater Fund Reserves into CIP Project 100525 for the Emerald Sewer Trunk Relief project.
RESOLUTION APPROVING A COST-SHARING AGREEMENT FOR ASSOCIATED TASK ITEMS OF WORK TO SHARE CERTAIN COSTS BETWEEN THE DEL PUERTO WATER DISTRICT, THE CITY OF TURLOCK, AND THE CITY OF MODESTO FOR THE DEVELOPMENT OF A REGIONAL RECYCLED WATER DELIVERY SYSTEM PHASE 3 FEASIBILITY STUDY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 12, 2010, the City Council, by Resolution No. 2010-016, approved moving forward with a Regional Recycled Water Delivery System Feasibility Study (Phase 1 Feasibility Study) in partnership with the Del Puerto Water District (DPWD) in a Cost-sharing Agreement in the amount of $25,000 each, and

WHEREAS, they would then seek a reimbursement from the Bureau of Reclamation (BOR) or other sources, and

WHEREAS, based on the BOR’s review of the request for proposals for the Phase 1 Feasibility Study, the estimate was revised to $150,000, and

WHEREAS, on April 27, 2010, the City Council, by Resolution No. 2010-149, approved an Amendment to the Cost-sharing Agreement with DPWD allowing the City of Modesto to fund the remainder of the Phase 1 Feasibility Study in the amount of $100,000, and

WHEREAS, DPWD hired RMC Water and Environment (RMC) to perform the Phase 1 Feasibility Study, and was responsible for managing the contract, and

WHEREAS, the final contract amount for RMC was $149,615.37, with the BOR reimbursing $75,149.30 to the agencies for the cost of the Phase 1 Feasibility Study, with Modesto paying $49,466.07, and DPWD paying the balance of $25,000, and
WHEREAS, subsequently, the proposed project expanded to include the Cities of Turlock and Ceres, and Stanislaus County as partners and is now truly regional in scope, and now referred to as the North Valley Regional Recycled Water Program, and

WHEREAS, the City of Ceres and Stanislaus County will participate in the project as stakeholders but will not participate in the Cost-sharing Agreement, and

WHEREAS, as the Phase 1 Feasibility Study work was drawing to a close, the Cities of Modesto, Turlock and the DPWD (parties) recognized that the project was feasible and that it was necessary to refine the program alternatives identified in the study, and

WHEREAS, therefore, the parties agreed that it was in their best interest for DPWD to employ RMC for further refinement of the program alternatives and subsequent tasks associated with the NVRRWP as shown in the Phase 2 Feasibility Study Scope of Work, and

WHEREAS, since DPWD is a BOR contractor, the parties agreed that DPWD should also act as lead for the Phase 2 Feasibility Study, and

WHEREAS, on May 22, 2012, the City Council, by Resolution 2012-180, approved the Cost-sharing Agreement for the Phase 2 Feasibility Study, and

WHEREAS, the Phase 2 Feasibility Study has determined that the preferred conveyance alternative is single or dual pipeline(s) to the Delta-Mendota Canal, and

WHEREAS, the cost sharing under this Agreement will provide up to $1.6 million toward refinement of the program alternatives and subsequent tasks associated with the NVRRWP, and
WHEREAS, the parties agreed that it was still in their best interest for DPWD to continue to employ RMC for further refinement of the program alternatives and subsequent tasks associated with the NVRRWP, and

WHEREAS, Del Puerto Water District Board and the Turlock City Council are expected to approve the Cost-Sharing Agreement at a later date,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cost-sharing Agreement for associated task items of work to share certain costs between the Del Puerto Water District, the City of Turlock, and the City of Modesto for the development of a Regional Recycled Water Delivery System Phase 3 Feasibility Study.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Cost-sharing Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF $341,260 TO FULLY FUND THE CITY’S PORTION OF THE RECYCLED WATER DELIVERY SYSTEM PHASE 3 FEASIBILITY STUDY, AND INCREASED STAFFING COSTS ASSOCIATED WITH THE PHRASE 3 FEASIBILITY STUDY REVIEW AND OVERALL PROGRAM SUPPORT

WHEREAS, certain budgetary transactions are necessary in the amount of $341,260 in order to fully fund the City’s share of the cost-sharing agreement with Del Puerto Water District and the City of Turlock for the Regional Recycled Water Delivery System Phase 3 Feasibility Study and increased staffing costs and administrative fees associated with the Phase 3 Feasibility Study review and overall program costs, and

WHEREAS, the Fiscal Year 2013-2014 Capital Improvement Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2013-2014 Capital Improvement Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
EXHIBIT A

Due to the City's portion of the Regional Recycled Delivery System Phase 3 Feasibility Study, project account #100521, is being increased to refine the program alternatives and subsequent tasks associated with the North Valley Regional Recycled Water Program, the total project costs needs to be increased by $205,260.

Additionally, funds are necessary to cover the cost of water rights review in the amount of $50,000.

Additionally, funds are necessary to cover increased staffing costs and administrative fees associated with Phase 3 Feasibility Study review and overall program support in the amount of $86,000.

This would be done by transferring from $341,260 from Wastewater Reserves Account.
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-70

RESOLUTION APPROVING THE AMENDED LONG RANGE PROPERTY MANAGEMENT PLAN OF THE CITY OF MODESTO REDEVELOPMENT SUCCESSOR AGENCY PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.5(B)

WHEREAS, on October 22, 2013, the City Council adopted Resolution No. 2013-385 approving the City of Modesto Redevelopment Successor Agency Long Range Property Management Plan (the Plan); and

WHEREAS, the Plan was submitted to the State Department of Finance (DOF) on October 24, 2013; and

WHEREAS, City staff was contacted by the DOF to discuss the permissible uses identified in the Plan for the following properties:

- Modesto Centre Plaza
- 9th Street parking garage
- 10th Street parking garage
- First floor retail space of Tenth Street Place; and

WHEREAS, City staff has amended the Plan to retain these properties as Government/Public Use until the debts are retired, at which time they will be evaluated for disposition if appropriate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amended Long Range Property Management Plan of the City of Modesto Redevelopment Successor Agency pursuant to Health and Safety Code Section 34191.5(b).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE STATE ROUTE 99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH TEICHERT/MCM, A JOINT VENTURE, FOWLER CALIFORNIA IN AN AMOUNT OF $30,999,968.53, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the State Route 99/Pelandale Avenue Interchange Reconstruction Project were opened at 2:00 pm on January 17, 2014, and later tabulated by the City Engineer for the consideration of the Council, and

WHEREAS, the City Engineer has recommended that the bid of $30,999,968.53 received from Teichert/MCM, A Joint Venture of Fowler, California be accepted as the lowest responsible bid, and the contract be awarded to Teichert/MCM, A Joint Venture, Fowler California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the State Route 99/Pelandale Avenue Interchange Reconstruction Project, accepts the bid of Teichert/MCM, A Joint Venture of Fowler, California, in the amount of $30,999,968.53, and awards Teichert/MCM, A Joint Venture of Fowler, California the contract for the State Route 99/Pelandale Avenue Interchange Reconstruction Project.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION AUTHORIZING THE CITY ENGINEER TO ISSUE CHANGES IN THE CONSTRUCTION CONTRACT VIA WRITTEN CHANGE ORDERS FOR THE STATE ROUTE 99/PELANDALE AVENUE INTERCHANGE PROJECT FOR AN AMOUNT OF ALL SUCH CHANGE ORDERS NOT TO EXCEED SIX PERCENT (6%) OF THE ORIGINAL CONTRACT PRICE

WHEREAS, due to the inherent nature of this type of construction, the change orders related to the project are anticipated, and

WHEREAS, it may become necessary to issue change orders to prevent the interruption of work which has the potential to result in substantial cost to the project, and

WHEREAS, it may become necessary to issue change orders to protect the work, equipment, or materials to be used in the work, human safety, or environment at or near the site of the work, from substantial and immediate danger or injury, and

WHEREAS, it may become necessary to issue change orders to protect, where damage or injury has occurred, the work, equipment, or materials to be used in the work, human safety, or environment, at or near the site of the work from further damage, injury or deterioration caused by man, nature or other sources, and

WHEREAS, it may become necessary to issue change orders to meet specific requirements of the project funding and the construction co-operative agreement with California Department of Transportation (Caltrans).

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby authorizes the City Engineer to issue changes in the construction contract via written change orders for the State Route 99/Pelandale Avenue Interchange Project for an amount of all such change orders not to exceed six (6%) percent of the original contract with Teichert/MCM, A Joint Venture, Fowler California.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2013/2014 CAPITAL IMPROVEMENT BUDGET AS REFLECTED IN EXHIBIT A, AND REDUCING ALLOCATION OF THE STATE ROUTE 99 PROPOSITION 1B BOND SAVINGS CIP PROJECT NO. 100786, FROM $43,800,000 TO $41,061,629, AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THE RESOLUTION

WHEREAS, certain budgetary transactions as shown on Exhibit A are necessary, in order to construct State Route 99/Pelandale Avenue Interchange reconstruction project, and

WHEREAS, the Fiscal Year 2013-2014 Capital Improvement Program budget should be amended for State Route 99/Pelandale Avenue Interchange Reconstruction Project as shown in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2013-2014 Capital Improvement Program budget as reflected in Exhibit A, and reducing allocation of the State Route 99 Proposition 1B Bond Savings CIP Project No. 100786, from $43,800,000 to $41,061,629, and authorizing the Finance Director, or her designee, to implement the provisions of the resolution.

BE IT FURTHER RESOLVED, that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember
Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal,

Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
## EXHIBIT A

<table>
<thead>
<tr>
<th>Task Number</th>
<th>Current Budget</th>
<th>Proposed Budget</th>
<th>100786 Bond Funding</th>
<th>100787 CFF Funding</th>
<th>100705 Water Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Admin</td>
<td>$550,000</td>
<td>$1,078,995</td>
<td>$1,078,995</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Consultant Charges</td>
<td>$4,650,000</td>
<td>$4,221,005</td>
<td>$4,221,005</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Construction</td>
<td>$36,000,000**</td>
<td>$30,999,969</td>
<td>$30,332,269</td>
<td>$397,819</td>
<td>$269,881</td>
</tr>
<tr>
<td>Contingency</td>
<td>$2,600,000</td>
<td>$3,100,000</td>
<td>$3,100,000</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Supplemental Work</td>
<td>$0</td>
<td>$2,329,360</td>
<td>$2,329,360</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Total Funding</td>
<td>$43,800,000</td>
<td>$41,729,329</td>
<td>$41,061,629</td>
<td>$397,819</td>
<td>$269,881</td>
</tr>
</tbody>
</table>
RESOLUTION AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS TO NEGOTIATE A CONTRACT WITH STORER TRANSIT SYSTEMS, INC. TO OPERATE MODESTO AREA DIAL-A-RIDE TRANSIT SERVICE FOR FIVE (5) YEARS COMMENCING ON JUNE 28, 2014, AND TERMINATING ON JUNE 28, 2019, WITH ONE ONE-YEAR EXTENSION OPTION AT THE SOLE DISCRETION OF THE CITY AND SUBMIT THE FINAL AGREEMENT TO THE CITY COUNCIL FOR CONSIDERATION

WHEREAS, the existing agreement with Storer Transit Systems to operate the Modesto Area Dial-A-Ride (MADAR) service expires June 27, 2014, and

WHEREAS, the City wishes to continue providing MADAR service to the citizens of Modesto, and

WHEREAS, a Request for Proposals (RFP 1314-06) was issued soliciting proposals from qualified firms for a new contract to be effective June 28, 2014, and

WHEREAS, Storer submitted a proposal that was determined to be reasonable and cost effective, and

WHEREAS, an evaluation panel reviewed all proposals and best and final offers and interviewed proposers, and

WHEREAS, after such evaluation the panel scored Storer highest utilizing the scoring criteria included in the RFP and recommended award of the contract to Storer,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Department of Public Works to negotiate a contract with Storer Transit Systems, Inc. to operate Modesto Area Dial-A-Ride transit service for five (5) years commencing on June 28, 2014, and terminating on June 28, 2019, with one one-year extension option at the sole discretion of the City, and submit the final agreement to the City Council for consideration.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, Interim City Attorney
RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE 2014-2015 ANNUAL ENGINEER’S REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1

WHEREAS, Resolution No. 88-935 adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 (“LMAD No. 1”) for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, LMAD No. 1 was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly, and

WHEREAS, the annual assessment for LMAD No. 1 has remained the same since 1996.

NOW, THEREFORE, BE IT RESOLVED that the Administrator of Infrastructure Financing Programs is designated by this Council as the Engineer of Work for LMAD No. 1, and is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 4th day of March, 2014, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Madrigal,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM LINDGREN, Interim City Attorney
RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE 2014-2015 ANNUAL ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2

WHEREAS, Resolution No. 89-460, adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Maintenance Assessment District No. 2 ("LMAD No. 2") for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7 through 10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 and 2, and

WHEREAS, LMAD No. 2 was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly, and

WHEREAS, the annual assessment for LMAD No. 2 has gradually increased since July 2000.

NOW, THEREFORE, BE IT RESOLVED, that the Administrator of Infrastructure Financing Programs is designated by this City Council as the Engineer of Work for LMAD No. 2, and is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [signature]

SEAL

APPROVED AS TO FORM:

By: [signature]

ADAM LINDGREN, Interim City Attorney
RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE 2014-2015 ANNUAL ENGINEER’S REPORT FOR THE SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT

WHEREAS, on June 29, 1999, the County of Stanislaus formed the Shackelford Landscape and Lighting District ("Shackelford LLD") for the purpose of administering the maintaining seventy-seven (77) 200-watt high-pressure sodium streetlights, and

WHEREAS, the Shackelford LLD was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, the Shackelford LLD is comprised of approximately 153 acres, includes 496 lots with both residential and commercial development, and is bounded by Crows Landing Road on the west, East Hatch Road on the south, Union Pacific Railroad on the east, and State Route 99 on the north, and

WHEREAS, on July 1, 2012, the City of Modesto assumed jurisdiction of the Shackelford Landscape and Lighting District from the County of Stanislaus, and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there are no proposed new improvements or any substantial changes in existing improvements in Shackelford LLD.
BE IT FURTHER RESOLVED that the Administrator of the Infrastructure Financing Programs is designated by this Council as the "Engineer of Work" for the Shackelford LLD, and is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
A RESOLUTION APPROVING IMPLEMENTATION OF A NEW MODESTO AREA EXPRESS (MAX) ROUTE 21 RX AND MODIFICATIONS TO VARIOUS EXISTING ROUTE SCHEDULES EFFECTIVE JULY 6, 2014, APPROVING THE OPERATION OF MAX SERVICE ON PRESIDENT’S DAY BEGINNING 2015, AND AUTHORIZING THE TRANSIT MANAGER TO IMPLEMENT THE IMPROVEMENTS

WHEREAS, to make the MAX system more efficient and productive, City staff recommends implementing a new Route 21 RX and modifications to the schedules for various MAX routes, and

WHEREAS, to meet the needs of the travelling public, City staff recommends operating MAX on Presidents’ Day beginning 2015, and

WHEREAS, the Economic Development Committee approved implementation of these activities at its January 6, 2014 meeting, and

WHEREAS, said matter was set for a duly noticed public hearing of the City Council of the City of Modesto to be held on March 4, 2014, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves implementation of a new Modesto Area Express (MAX) Route 21 RX and modifications to various existing route schedules effective July 6, 2014, approving the operation of MAX service on Presidents’ Day beginning 2015, and authorizing the Transit Manager to implement the improvements.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

(SEAL)

ATTEST: STEPHANIE LOPEZ, City Clerk
RESOLUTION APPROVING ADJUSTMENTS TO VARIOUS WATER USER FEES EFFECTIVE JULY 1, 2014, WITH INFLATIONARY ADJUSTMENTS EVERY TWO YEARS

WHEREAS, Water user fees recover the cost of service delivery, including labor, equipment, and materials, for services provided beyond the monthly water rates, and

WHEREAS, these fees are designed so the customer who receives the specific service pays for the full cost of providing that service, and

WHEREAS, the majority of these fees have not been updated since 2004; some fees have not been updated since 1991, and

WHEREAS, these costs are currently being recovered through all water customers through the water rates, and

WHEREAS, staff recommended an update to the fees structure as shown in “Attachment 1” so that the full cost of providing the services are recovered, and

WHEREAS, these proposed adjustments will not only cover the actual cost of providing the service, it will also encourage customers to pay in a timely manner to avoid interruption of service and reduce reoccurring delinquencies, and

WHEREAS, staff also recommended that a two-year inflationary adjustment on all the user fees on the proposed fee schedule be included similar to those authorized for Water Connection Fees and Wastewater Capacity Charges, which is based on an amount not to exceed the annual percentage increase reported in the month of April in the Construction Cost Index found in the Engineering News Record for the San Francisco region, and
WHEREAS, the Finance Committee reviewed this item at its January 27, 2014, and with minor revisions, recommended forwarding onto Council for consideration, and

WHEREAS, a duly noticed public hearing was held by the Council on March 4, 2014 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which all interested persons were given the opportunity to be heard relative to the proposed adjustments to various water user fees, and inflationary adjustments every two years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves adjustments to various Water User Fees as noted in Attachment 1, effective July 1, 2014.

BE IT FURTHER RESOLVED that inflationary adjustments to Water User Fees will be reviewed every two years for possible increases to keep fees more in line with actual costs of providing the services.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2014, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
## Proposed Water User Fee Schedule

<table>
<thead>
<tr>
<th>USER FEES</th>
<th>CURRENT</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utility Billing Service Charges</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Deposit</td>
<td>Not to exceed 3 times the estimated average bill or 2 times the normal monthly bill</td>
<td>No Change</td>
</tr>
<tr>
<td>2 Late Payment Penalty</td>
<td>$4.35</td>
<td>$10.00 or 1.5% whichever is greater</td>
</tr>
<tr>
<td>3 Returned Check</td>
<td>$25.00</td>
<td>No Change</td>
</tr>
<tr>
<td>4 Collection Agency</td>
<td>$37.25</td>
<td>No change</td>
</tr>
<tr>
<td>5 Final Disconnection Notice (FDN)</td>
<td>$10.00</td>
<td>No change</td>
</tr>
<tr>
<td><strong>Water Division Service Fees</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6 Disconnect</td>
<td>$10.00</td>
<td>$42.50</td>
</tr>
<tr>
<td>7 Reconnect</td>
<td>$10.00</td>
<td>$42.50</td>
</tr>
<tr>
<td>8 After Hours Service Fee (for customers who pay after the cut off time and request service turned on after hours)</td>
<td>No current fee</td>
<td>$60.00</td>
</tr>
<tr>
<td>9 Unauthorized Reconnect (Illegal On)</td>
<td>$25.00</td>
<td>$42.50</td>
</tr>
<tr>
<td>10 Lock Breakage (Broken/Cut Lock)</td>
<td>$75.00</td>
<td>No Change</td>
</tr>
<tr>
<td>11 Tamper Fee (damage to city service)</td>
<td>No current fee</td>
<td>$100 or Actual Time and Materials, whichever is greater</td>
</tr>
<tr>
<td>12 Removal of meter to install Wonderlock</td>
<td>No current fee</td>
<td>$67.50</td>
</tr>
<tr>
<td>13 Removal of Wonderlock to install meter</td>
<td>No current fee</td>
<td>$67.50</td>
</tr>
<tr>
<td>14 Line Cut or Line Cap for Non-Payment / Tampering (either at meter or back at the corp)</td>
<td>$375.00</td>
<td>$375 or Actual Time and Materials, whichever is greater</td>
</tr>
<tr>
<td>15 Reconnect Waterline after Line Cut or Line Cap</td>
<td>No current fee</td>
<td>Actual Time and Materials</td>
</tr>
<tr>
<td>16 Hydrant Meter Deposit</td>
<td>$500.00</td>
<td>$1250.00 – Now includes Backflow</td>
</tr>
<tr>
<td>USER FEES</td>
<td>CURRENT</td>
<td>PROPOSED</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>----------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td><strong>Development and Permit Fees</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Water Service Installation Fee</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17 Water Main Installation Charge</td>
<td>$18.00 / linear foot of lot frontage</td>
<td>$26.00 / linear foot of lot frontage</td>
</tr>
<tr>
<td>18 1&quot; Service</td>
<td>$1,108.00</td>
<td>No change</td>
</tr>
<tr>
<td>19 1 ½&quot; Service</td>
<td>$1,130.00</td>
<td>$1,754.00</td>
</tr>
<tr>
<td>20 2&quot; Service</td>
<td>$1,156.00</td>
<td>$1,772.00</td>
</tr>
<tr>
<td>21 4&quot; Service</td>
<td>$2,131.00</td>
<td>$2,937.00</td>
</tr>
<tr>
<td>22 6&quot; Service</td>
<td>$2,131.00</td>
<td>$3,009.00</td>
</tr>
<tr>
<td>23 8&quot; Service</td>
<td>$2,347.00</td>
<td>$3,717.00</td>
</tr>
<tr>
<td>24 10&quot; Service or Larger</td>
<td>At Cost</td>
<td>No Change</td>
</tr>
<tr>
<td><strong>Water Meter Fee</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25 1&quot; Meter New Svc - Ped Lid (FL12)</td>
<td>$115.00</td>
<td>$275.00</td>
</tr>
<tr>
<td>26 1&quot; Meter New Svc - Traffic Lid</td>
<td>$176.00</td>
<td>$314.00</td>
</tr>
<tr>
<td>27 1&quot; Meter/Retrofit - Ped Lid</td>
<td>$520.00</td>
<td>No change</td>
</tr>
<tr>
<td>28 1&quot; Meter/Retrofit - Traffic Lid</td>
<td>$600.00</td>
<td>No change</td>
</tr>
<tr>
<td>29 1 ½&quot; Meter – Pedestrian Lid</td>
<td>$484.00</td>
<td>No change</td>
</tr>
<tr>
<td>30 1 ¾&quot; Meter – Traffic Lid</td>
<td>$545.00</td>
<td>No change</td>
</tr>
<tr>
<td>31 2&quot; Meter – Pedestrian Lid</td>
<td>$520.00</td>
<td>$699.00</td>
</tr>
<tr>
<td>32 2&quot; Meter – Traffic Lid</td>
<td>$582.00</td>
<td>$707.00</td>
</tr>
<tr>
<td>33 4&quot; Meter *</td>
<td>$1,820.00</td>
<td>No change</td>
</tr>
<tr>
<td>34 6&quot; Meter *</td>
<td>$2,400.00</td>
<td>$3,684.00</td>
</tr>
<tr>
<td>35 8&quot; Meter *</td>
<td>$3,350.00</td>
<td>$4,147.00</td>
</tr>
<tr>
<td>36 10&quot; Meter or Larger *</td>
<td>At Cost</td>
<td>No change</td>
</tr>
<tr>
<td>* Includes Strainer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>37 Pavement for Residential (Local Street)</td>
<td>$445.00 for each trench</td>
<td>$500.00 for each trench</td>
</tr>
<tr>
<td>38 Pavement for Commercial or Non Local Street</td>
<td>Contractor Responsible or Actual Time and Materials</td>
<td></td>
</tr>
<tr>
<td>39 Water Connection for Main extension</td>
<td>$2,820.00</td>
<td>$665.00</td>
</tr>
<tr>
<td>40 Fire Hydrant Installation (each)</td>
<td>$2,635.00</td>
<td>$2,960.00</td>
</tr>
<tr>
<td>41 Fire Hydrant Line from Main per Lineal Foot</td>
<td>$3.00 per linear foot</td>
<td>$34.00 per linear foot</td>
</tr>
</tbody>
</table>
RESOLUTION APPROVING AN UPDATE TO THE UTILITY BILLING DELINQUENCY TIMELINE THAT REDUCES THE AMNESTY PERIOD FOR DELINQUENT CUSTOMERS BEFORE SERVICES ARE DISCONNECTED

WHEREAS, under the current Utility Billing Delinquency Timeline, a customer does not receive a Final Disconnect Notice (FDN) until they owe for two months of service.

WHEREAS, the FDN allows the customer an additional 15 days to pay before disconnection of service, and

WHEREAS, staff proposed shortening the billing period so that the customer would receive an FDN when they owe for one month of service, and

WHEREAS, this proposed update will help customers maintain lower balances on their account and reduce reoccurring delinquencies, and

WHEREAS, staff proposed these changes to Utility Billing Delinquency Timeline be effective May 1, 2014, with customer notifications via the March 2014 City Bill Insert and the April 2014 City Beat Newsletter.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an update to the Utility Billing Delinquency Timeline that reduces the amnesty period for delinquent customers before services are disconnected effective May 1, 2014.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2014, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers:  Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  None

ATTEST:  STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  ADAM LINDGREN, Interim City Attorney

WHEREAS, Council has received and considered the Written Checklist, Environmental Assessment No. EA/CEDD No. 2013-06, that concludes that the project entitled “Roselle and Merle Intersection Project,” is within the scope of the previously certified Village One Specific Plan Program Environmental Impact Report (SCH No. 90020181), as amended by the Village One 1994 Supplemental EIR and the 2003 addenda for the Village One Storm Drainage Master Plan and Village One Facilities Master Plan Update, and that, pursuant to Sections 15168(c) and 15162 of the CEQA Guidelines, no new environmental review is required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines:

1. As per Sections 15168(c) and 15162 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the Village One Program EIR, as amended by the 1994 Supplemental EIR and the 2003 Addenda to the EIR ("Program EIR") and no new environmental document or findings are required by CEQA.

2. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR are required.

3. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in
the severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.

4. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Program EIR; or,

   b. significant effects which were previously examined will be substantially more severe than previously shown; or,

   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

   d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

The City Council has received and considered the Written Checklist Environmental Assessment EA/CEDD No. 2013-06, which provides the substantial evidence to support findings 1-4 above.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE ROSELLE AND MERLE INTERSECTION PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH BRENEMAN, INC. IN THE AMOUNT OF $439,264.40 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Roselle and Merle Intersection project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Roselle and Merle Intersection project were opened at 11:00 a.m. on February 11, 2014, and later tabulated by the Director of Community and Economic Development for the consideration of the Council, and

WHEREAS, the Director of Community and Economic Development has recommended that the bid of $439,264.40, received from Breneman, Inc. of Walnut Creek, California, be accepted as the lowest responsive and responsible bid and the contract be awarded to Breneman Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Roselle and Merle Intersection project, accepts the bid of Breneman, Inc. of Walnut Creek, California, in the amount of $439,264.40, and awards Breneman, Inc. the contract for the Roselle and Merle Intersection project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

ADAM LINDGREN, Interim City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE ROSELLE AND MERLE INTERSECTION PROJECT, AND AUTHORIZING THE FINANCE DIRECTOR OR HER DESIGNEE TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, certain budgetary transactions are necessary in the amount of $113,515, in order to fund construction, contingency and construction administration for the Roselle and Merle Intersection Project, and

WHEREAS, the Fiscal Year 2013-2014 Capital Improvement Program budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2013-2014 Capital Improvement Program budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________

(Seal)

APPROVED AS TO FORM:

By: ______________________

ADAM LINDGREN, Interim City Attorney
Exhibit A

Due to the increase of estimated construction, contingency and construction administration costs for CIP Account #100095 “Roselle and Merle Intersection Project”, the total project costs need to be increased by $113,515. This would be done by increasing Construction by $139,265, Contingency by $13,927 and Construction Administration by $55,220. Land Acquisition will be reduced by $94,897.

To fund the above account, $113,515 will be transferred from the Village One #2 CFD, Fund 3290 into CIP Project 100095 for the Roselle and Merle Intersection Project.
RESOLUTION APPROVING THE ESTABLISHMENT OF A MID-BLOCK CROSSWALK ACROSS SOUTH SANTA CRUZ AVENUE 350’ NORTH OF LARKIN AVENUE IN THE CITY OF MODESTO PURSUANT TO SECTION 21106 OF THE CALIFORNIA VEHICLE CODE

WHEREAS, the 2013 California Vehicle Code 21106 (a) states that local authorities, by ordinance or resolution, may establish crosswalks between intersections, and

WHEREAS, Gallo Glass Company is expanding their existing storage facility which will require the existing employee parking lot be relocated across the street at the corner of South Santa Cruz Avenue and Larkin Avenue, and

WHEREAS, the Gallo Glass Company expansion will result in 6,000 fewer truck trips per year on South Santa Cruz Avenue and Yosemite Boulevard, and

WHEREAS, the new parking lot will have 146 parking spaces, and

WHEREAS, a mid-block crosswalk across South Santa Cruz Avenue (350’north of Larkin Avenue) would provide a safer pedestrian route for Gallo Glass Company employees, and

WHEREAS, Gallo Glass Company has proposed to construct a mid-block crosswalk across South Santa Cruz Avenue with their new parking lot development project, and

WHEREAS, staff has no objection to the mid-block crosswalk because its construction, along with the reduction of truck trips, would provide safe employee access to and from the parking lot, and
WHEREAS, the Economic Development Committee supported staff’s recommendation of the proposed mid-block crosswalk installation at its February 3, 2014 meeting and recommends the City Council approve the mid-block crosswalk,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council approves the establishment of the mid-block crosswalk on South Santa Cruz Avenue 350 feet north of Larken Avenue.

BE IT FURTHER RESOLVED, by the Council of the City of Modesto that the mid-block crosswalk will become effective when signs and pavement markings are installed under provisions of the Vehicle Code of the State of California and regulations adopted pursuant thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION ACCEPTING THE CITY MANAGER’S RECOMMENDATION TO AWARD NON-EXCLUSIVE NON-CONSENSUAL FRANCHISE TOWING SERVICES CONTRACTS AND GIVING NOTICE OF THE PUBLIC HEARING TO CONSIDER THE APPLICATIONS, AND DIRECTING THE CITY CLERK TO PUBLISH THE NOTICE, ALL IN ACCORDANCE WITH MODESTO MUNICIPAL CODE SECTION 11-2.01 ET SEQ.

WHEREAS, in April 2009, City Council awarded Non-Exclusive Non-Consensual Franchise Towing Services contracts to twenty-one applicants, and

WHEREAS, this contract expires April 13, 2014, and

WHEREAS, on January 14, 2014, the Purchasing Manager solicited Request for Applications (RFA) No. 1314-28, for City Generated Non-Exclusive Non-Consensual Franchise Towing Services, and

WHEREAS, on February 11, 2014 applications were opened in the City Clerk’s office, and

WHEREAS, a total of sixteen (16) applications were received, and all sixteen (16) met the requirements of Phase 1 and Phase 2 of the application process, and

WHEREAS, on March 4, 2014, City Council, by motion, unanimously approved staff’s recommendation for award of City of Modesto Non-Exclusive Non-Consensual Franchise Towing Services to the sixteen (16) applicants listed (Attachment B), and referring staff’s recommendation for award of contracts to the City Manager for recommendation and report, and

WHEREAS, the anticipated start date of the towing contracts is April 14, 2014.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the City Manager’s recommendation to consider the award of Non-
Exclusive Non-Consensual Franchise Towing Services contracts to the applicants listed in Attachment B, and gives notice of the public hearing on the applications, to be held at 5:30 p.m. on April 1, 2014 in City Council Chambers located in City Hall, at 1010 10th Street, Modesto, CA 95354, and directing the City Clerk to publish the notice of said hearing, all in accordance with Modesto Municipal Code Section 11-2.01 Et Seq.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(Seal)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
ATTACHMENT B

Non-Exclusive Non-Consensual Franchise Towing Services Applicants

1. A&R Tow, Modesto, California*
2. Anderson’s Tow, Ceres, California*
3. Central Valley Tow, Ceres, California
4. Ceres Pro Tow, Ceres, California
5. Craig’s Tow, Ceres, California
6. DBM Tow, Modesto, California
7. Dizney & Wise, Modesto, California*
8. E-Tow, Modesto, California
9. Four Star Recovery, Modesto, California*
10. Myers Towing, Modesto, California*
11. Ramont’s Tow, Modesto, California
12. Scenic Tow, Modesto, California*
13. Stanislaus Tow, Modesto, California*
14. State Tow, Modesto, California
15. Tow One, Modesto, California*
16. WS Towing, Modesto, California*

*Indicates conditional approval pending Live Scan/Background
RESOLUTION APPROVING AN AGREEMENT WITH V&A CONSULTING ENGINEERS, INC. OF OAKLAND, CALIFORNIA FOR WASTEWATER FLOW MONITORING SERVICES IN AN AMOUNT NOT TO EXCEED $248,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $24,800 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $272,800, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, wastewater flow monitoring services are essential to gathering flow data and understanding flow characteristics of Modesto's wastewater conveyance system to determine system capacities and conduct hydraulic modeling analysis, and

WHEREAS, this project supports the larger Wastewater Master Plan project currently out for proposals, and

WHEREAS, the purpose of this project is to provide current and accurate flow information for use by City staff and a future master plan consultant in developing the new Wastewater Master Plan, and

WHEREAS, the last flow monitoring effort was conducted in 2004 as part of the 2007 Wastewater Master Plan, and

WHEREAS, this will allow the City to not only collect current information on wastewater flow under various conditions, it will also compare this data with the 2004 data collected, and

WHEREAS, this data will be essential to updating the wastewater hydraulic model during the development of the Wastewater Master Plan, and

WHEREAS, in accordance with City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, the Acting Director of Utility Planning and Projects
allowed an accelerate selection process because there are a very limited number of firms, none of which qualify as Local, that provide these specialized services, and

WHEREAS, the City received three proposals, and

WHEREAS, upon review of the proposals and interviews, V&A Consulting Engineers (V&A) was considered the most qualified to provide flow monitoring services for this project, and

WHEREAS, staff recommends an agreement with V&A, as the City does not have the staffing level or subject matter expertise to perform wastewater flow monitoring services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with V&A Consulting Engineers, Inc. of Oakland, California for wastewater flow monitoring services for an amount not to exceed $248,000 for the identified scope of services, plus $24,800 for additional services (if needed), for a maximum total amount of $272,800.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, Interim City Attorney
RESOLUTION ACCEPTING THE WORK BY ROLFE CONSTRUCTION, FOR THE “2012 SANITARY SEWER COLLECTION SYSTEM REPLACEMENT PROJECT” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $799,723

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the 2012 Sanitary Sewer Collection System Replacement Project has been completed by Rolfe Construction, in accordance with the contract agreement dated January 8, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that 2012 Sanitary Sewer Collection System Replacement Project is hereby accepted as complete from said contractor, Rolfe Construction, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, to release securities upon expiration of statutory periods, and that payment of amounts totaling $799,723 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By:  ADAM LINDGREN, Interim City Attorney

(Seal)

ATTEST:  STEPHANIE LOPEZ, City Clerk
RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AN AMENDMENT TO THE VILLAGE ONE SPECIFIC PLAN AND PRECISE PLAN AREA NO. 15 TO ALLOW THE HILLGLEN PARKS SUBDIVISION (FLORSHEIM LAND COMPANY)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Florsheim Land Company has proposed an amendment to the Village One Specific Plan and Precise Plan Area No. 15 to allow the Hillglen Parks Subdivision, property located on the southeast corner of Caden Drive and Hillglen Avenue, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2013-29 ("Initial Study") which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on February 19, 2014, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and
WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 11, 2014, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Village One Specific Plan and Precise Plan Area No. 15 to allow the Hillglen Parks Subdivision, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.

2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

3. No new or additional mitigation measures or alternatives are required.

4. The subsequent project is within the scope of the project covered by the Master EIR.

5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

6. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Coggill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2013-29
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2013-29

For the proposed:
Hillglen Parks Subdivision

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

December 6, 2013

Updated: September 2013
City of Modesto  
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City’s Master Environmental Impact Report (“Master EIR” or “MEIR”). This Initial Study Environmental Checklist (“Initial Study”) is used in determining whether Hillglen Parks Subdivision is “within the scope” of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is “within the scope” of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

“Additional significant effects” means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. “Substantial evidence” means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Hillglen Parks Subdivision

B. Address or Location: East side of Caden Drive, south of Hillglen Drive

C. Applicant: Florsheim Land Company 1701 March Lane, Suite D Stockton, CA 95207

D. City Contact Person: David Wage

Project Manager: David Wage
Department: Community and Economic Development
Phone Number: (209) 577-5267
E-mail address: dwage@modestogov.com

E. Current General Plan Designation(s): Village Residential

F. Current Zoning Classification(s): Specific Plan

G. Surrounding Land Uses:
   North: Single-Family Residential
   South: Single-Family Residential
   East: Public Park and Middle School
   West: Single-Family Residential
H. Project Description, including the project type listed in Section II.C:

The project includes the development of a 62 lot single-family residential subdivision on a vacant 10 acre parcel located at the southeast corner of Caden Drive and Hillglen Drive. There are no structures on site. The entitlement includes an amendment to the Village One Specific Plan and Precise Plan 15 to redesignate the property from a school site to single-family residential. Sylvan School District has indicated they no longer need to site for a school and have no objections to the proposed development. Internal streets and utilities will be constructed to serve the proposed subdivision. In addition, Caden Drive and Hillglen Drive will be improved from partial width streets to the ultimate widths.

I. Other Public Agencies Whose Approval is Required:
   None.
AREA MAP OF PROPOSED SPECIFIC PLAN AMENDMENT, PRECISE PLAN AMENDMENT, & VESTING TENTATIVE SUBDIVISION MAP

SPA-13-001, PPA-13-001 & TSM-13-001

HILLGLEN AVENUE & CADEN DRIVE
PROPOSED VESTING TENTATIVE SUBDIVISION MAP
VTSM-13-001
HILLGLEN AVENUE & CADEN DRIVE
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **X** Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

   A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

   B. No new or additional mitigation measures or alternatives are required.

   C. The subsequent project is within the scope of the project covered by the Master EIR.

   D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   E. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

   D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

3. **Focused EIR Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.
B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.
4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.</td>
</tr>
<tr>
<td>2</td>
<td>City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.</td>
</tr>
<tr>
<td>3</td>
<td>Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).</td>
</tr>
<tr>
<td>4</td>
<td>No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.</td>
</tr>
<tr>
<td>5</td>
<td>The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan.</td>
</tr>
<tr>
<td>6</td>
<td>Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.</td>
</tr>
</tbody>
</table>

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any “no” response must be explained.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.</td>
</tr>
<tr>
<td>2</td>
<td>This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:</td>
</tr>
<tr>
<td>a</td>
<td>No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.</td>
</tr>
<tr>
<td>b</td>
<td>No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.</td>
</tr>
</tbody>
</table>
Discussion:

(1) The General Plan Master EIR was certified on October 14, 2008, so more than five years has passed since the MEIR was certified. However, the analysis contained in the MEIR is still adequate for subsequent projects, as documented in the discussion below.

(2) The project is consistent with the analysis contained in the MEIR. This is documented in the discussion of the individual issue areas of this initial study.

(2)(a) There have been no substantive changes to the General Plan since the MEIR was certified that would create additional significant environmental effects that were not analyzed by the MEIR.

(2)(b) There has been no new information that would affect the adequacy of the analysis contained in the MEIR.

(2)(c) All policies contained in the MEIR that require site-specific mitigation or avoidance of impacts remain in effect and will be applied to the project as appropriate.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.
1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto’s significance threshold for automobile traffic, or lower (LOS E or F).

**Effect:** The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG’s Congestion Management Plan for designated roads and highways.

**Effect:** A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

**Cumulative Impacts**

**Effect:** Potential for growth inducement or acceleration of development resulting from highway and local road projects.

**Effect:** Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

**Effect:** Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation measures regarding traffic from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

<table>
<thead>
<tr>
<th>1. TRAFFIC AND CIRCULATION</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>7) The proposed project would result in an increase</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Impact</td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------</td>
<td>-----------------------------------------------</td>
<td>-----------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Discussion:

(1) The project site was assumed as an elementary school per the Village One Specific Plan. The proposed change to allow a 62 lot subdivision will not result in an increase traffic compared to what was assumed for the site.

(2) The proposed project would not exceed a level of service standard established by the county congestion management agency (StanCOG).

(3) There are no significant changes in the level of service or the volume-capacity ratio as a result of the project and therefore there are no significant cumulative (long term) traffic impacts.

(4) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(5) The proposed single-family units will provide parking in accordance with the Municipal Code.

(6) The proposed project has been reviewed by Traffic, Planning and Transit staff and would not conflict with any adopted plans for alternative transportation.

(7) The proposed project would not result in a significant increase in automobile vehicle miles traveled (per capita) in excess of what was considered in the Urban Area General Plan.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NOx) (see MEIR Table 2-8, page V-2-27).

**Effect:** Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).

**Effect:** Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

**Cumulative Impacts**
The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NOx, PM_{10}, and PM_{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

MEIR AO-20
To be consistent with the SJVAPCD's Air Quality Guidelines for General Plans, the City of Modesto should determine air quality impacts using analysis methods and significance thresholds recommended by the SJVAPCD. (General Plan Policy VII-H.2[n])

MEIR AO-26
Review of new development shall be coordinated with SJVAPCD's staff to ensure all projects subject to the SJVAPCD rule 9510 (Indirect Source Review) comply fully with the rule. This rule fulfills the SJVAPCD's emission reduction commitments in the PM10 and Ozone Attainment Plans through design features and onsite approval for a development project, or any portion thereof, which upon full buildout will include any of the following:

- 50 residential units
- 2,000 square feet of commercial space
- 25,000 square feet of light industrial space
- 100,000 square feet of heavy industrial space
- 20,000 square feet of medical office space
- 39,000 square feet of general office space
- 9,000 square feet of educational space
- 10,000 square feet of government space
- 20,000 square feet of recreational space
- 9,000 square feet of space not identified above. (General Plan Policy VII-H.2[u])

MEIR AO-40
The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites.

MEIR AO-42
All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

MEIR AO-43
All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
MEIR AQ-44
All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

MEIR AQ-46
When materials are transported off-site, all 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.

MEIR AQ-47
All 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.)

MEIR AQ-48
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.

MEIR AQ-49
Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

MEIR AQ-50
Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts(note, these measures are to be implemented in addition to Regulation VIII requirements):

MEIR AQ-51
Limit traffic speeds on unpaved roads to 15 mph; and

MEIR AQ-52
Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

MEIR AQ-53
Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

MEIR AQ-54
Install wind breaks at windward side(s) of construction areas.

MEIR AQ-55
Suspend excavation and grading activity when winds exceed 20 mph. Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent (20%) opacity limitation.

MEIR AQ-56
Limit the area subject to excavation, grading and other construction activity at any one time.
c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>2. DEGRADATION OF AIR QUALITY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5} by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5}.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project includes the development of vacant land and future development of 62 lot subdivision on approximately 10 acres of land. Air pollution emissions associated with the proposed project would result from construction activities and increased traffic volumes. The net increase in emissions generated by these activities and other secondary sources would not exceed the thresholds of significance recommended by the San Joaquin Valley Air Pollution Control District or the development assumptions established in the Master EIR.

(2) The project was referred to the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) for comments. Best management practices established by the SJVAPCD for CO, ROG, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5} have been incorporated as conditions of approval. The project is required to comply with SJVAPCD Rule VIII (Fugitive Dust Rules) per MEIR Mitigation Measures MEIR AQ-42 – MEIR AQ-56, which identifies control measures for PM10 emissions.
during the construction phase, as listed above under Existing Mitigation Measures Applicable to this Project.

In addition, the project is subject to SJVAPCD rule 9510 (Indirect Source Review). This rule fulfills the SJVAPCD's emission reduction commitments in the PM10 and Ozone Attainment Plans through design features or by payment of applicable off-site mitigation fees.

(3) The project is consistent with the City's policies regarding air quality therefore; project-specific effects will be less than significant.

(4) The project is surrounded on three sides with land that is developed with residential uses. The land uses proposed are not in themselves significant contributors to air pollution levels. The primary source of air pollution associated with the development would be traffic related. Since the traffic impacts do not result in a significant impact, there are no traffic-related air quality impacts. The PM10 emissions created through construction activities will be mitigated as called for by the MEIR with the mitigation measure listed above.

(5) Construction activities for the project could potentially include the application of architectural coatings and asphalt paving materials that could generate localized temporary odors. The use of diesel-powered construction equipment could also generate localized temporary odors. Construction activities will be mitigated as called for by the MEIR with the mitigation measures listed above. Further, uses permitted within the proposed commercial development would not create objectionable odors that would affect a substantial number of people.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts
Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:
The mitigation measure to be applied to this project includes N-3 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project’s effects are based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>3. GENERATION OF NOISE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:
The proposed residential uses are not expected to generate a significant amount of noise. There will be construction noise associated with the project including heavy equipment. Noise mitigation measure N-3 called for by the General Plan for projects within the baseline developed area has been incorporated and will mitigate construction related noise impacts to a less than significant level.
4.  EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures regarding agricultural lands from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

City of Modesto
General Plan Master EIR

Initial Study EA No. 2013-29
18
12-6-13
### 4. EFFECTS ON AGRICULTURAL LANDS

<table>
<thead>
<tr>
<th>Impact Description</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the Urban Area General Plan’s policies relating to agricultural land.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan’s planning area boundary.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The project is consistent with the General Plan land use policies relating to agricultural land. It is an infill project proposed within the urbanized area of the City. The site is currently vacant and no agricultural land will be converted for the development of the proposed projects.

2. The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the 2008 planning area boundaries.

3. The project site is not zoned for agriculture nor is it under Williamson Act contract.

4. The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The surrounding properties are developed with urban uses.

### 5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

#### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts have been disclosed in the Master EIR.

**Cumulative Impacts**
Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures regarding water supply from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>--------------------------------</td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
</tr>
<tr>
<td>☐</td>
</tr>
<tr>
<td>2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.</td>
</tr>
<tr>
<td>☐</td>
</tr>
<tr>
<td>3) The proposed project would deplete groundwater</td>
</tr>
<tr>
<td>☐</td>
</tr>
</tbody>
</table>

City of Modesto
General Plan Master EIR

Initial Study EA No. 2013-29

12-6-13
Less Than Significant
Potentially with
Less Than Significant
Impact Mitigation Impact Impact
Incorporated

supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

Discussion:

(1) The project is consistent with the water supply policies in the General Plan.

(2) The project was referred to Land Development Engineering Staff who determined the proposed development will not exceed estimates or water supplies needed to serve other entitlements and resources.

(3) The proposed project is consistent with the ground water demands assumed in the General Plan. The project would not have a significant effect on ground water recharge or depletion of long-term water supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be
incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project is consistent with the wastewater policies in the General Plan, including Policy V.D.2a, which requires the City to maintain the standards for effluent and biosolids from its wastewater treatment plants as established by the Central Valley Regional Water Quality Control Board, in compliance with the Federal Clean Water Act and the State Porter-Cologne Act. Wastewater for the project will be treated at the City's primary and secondary wastewater treatment plants and discharged into the San Joaquin River. The existing wastewater plants have adequate capacity to serve the project.

(2-3) The project was reviewed by Land Development Engineering Staff who determined there is sufficient capacity in the City's wastewater collection system. The wastewater is ultimately treated at the City's Primary and Secondary treatment plant. According to the Wastewater Master Plan, recent improvements to the Primary and Secondary Plant have resulted in adequate treatment capacity to accommodate the City's anticipated growth through 2030. There is sufficient treatment capacity to serve the project in addition to existing demands.
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plant habitat are expected to occur with the application of the polices contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City’s contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

Master EIR Mitigation Measure SWPH-13 (Table V-7-1-(J)): Implementation of formal CDFG guidelines\(^1\) to avoid and minimize impacts to Burrowing Owls will mitigate potential impacts to Burrowing Owls to a less than significant level. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

---
\(^1\) Staff Report on Burrowing Owl mitigation, California Department of Fish and Game (Wildlife), Sacramento, CA
### 7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2)</td>
<td>Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3)</td>
<td>The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4)</td>
<td>The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5)</td>
<td>Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6)</td>
<td>The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Discussion:**

Portions of the Village One Specific Plan were known foraging habitat for Swainson's Hawks, a state-listed threatened species. In 2003 a habitat survey for Swainson's Hawk was completed for a portion of the Specific Plan that included Precise Plan Area 15. The study concludes that the quality of the foraging is low and loss of the area to development will not result in a significant impact and additional mitigation is not necessary. There have been changes to the physical characteristics of the surrounding property since the habitat survey was completed in 2003. The surrounding area has further developed with urban uses thereby degrading the area as foraging habitat for the reasons described on

---

2 Walter Tordoff, Ph.D. Swainson's Hawk Foraging Habitat Survey Village One, July 25, 2003
Development of the site will not significantly impact Swainson’s Hawk foraging habitat.

Burrowing owls are listed in the General Plan Master EIR as a Special Status Wildlife Species. Burrowing owl nests have been identified in a storm-drain basin at the northeast corner of Bear Cub Lane and Kodiak Drive. In 2013, the owls were passively relocated in accordance with Department of Fish and Wildlife Guidelines from the storm-drain basin to complete needed improvements to the basin. The owls were subsequently seen on the project site, which is approximately 1000 feet to the northwest from the storm-drain basin.

If Burrowing Owls are present on the project site, or adjacent to the site, at the time of construction, disturbance could destroy occupied burrows. Construction during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. The loss of occupied Burrowing Owl habitat (habitat known to have been occupied by owls during the nesting season within the past three years) or reductions in the number of this species within Stanislaus County, directly or indirectly through nest abandonment or reproductive suppression, is considered a significant impact by the Department of Fish and Wildlife. Furthermore, raptors, including owls and their nests, are protected under both federal and state laws and regulations, including the Migratory Bird Treaty Act and California Fish and Game Code Section 3503.5. Implementation of the following mitigation measure would reduce the potential impact on this species to a less-than-significant level.

Mitigation Measure SWPH-13 (Table V-7-1-(J)): Implementation of formal CDFG guidelines to avoid and minimize impacts to Burrowing Owls.

In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls shall be completed prior to the start of construction. Burrowing owl habitat on the project site and within a 500-foot (150 m) buffer zone shall be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat shall be mapped at an appropriate scale, and the following mitigation measures should be implemented:

1. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, shall be completed no more than 30 days prior to construction within suitable habitat.

2. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction.

3. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This protected area will remain in effect until August 31, or at the CDFG’s discretion and based upon monitoring evidence, until the young owls are foraging independently.

4. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.

---

3 Staff Report on Burrowing Owl mitigation, California Department of Fish and Game (Wildlife), Sacramento, CA
If pre-construction surveys determine that Burrowing Owls occupy the site and avoiding development of occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat Management (HM) lands comprising existing Burrowing Owl foraging habitat and breeding habitat should be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement, the project applicant shall secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would:

1. Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of HM lands;
2. Provide initial protection and enhancement activities on the HM lands, potentially including, but not limited to, such measures as fencing, trash clean up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG;
3. Establish an endowment for the long-term management of the HM lands; and
4. Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement.

(3) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.

(4) The project site is not a biologically sensitive site as defined by Figures V-7-la through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly affected by the project.

(5) There is no conflict with any local policies or ordinances protecting biological resources.

(6) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

**Effect:** Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

**Effect:** The modification or demolition of a structure more than 50 years in age may be significant.

**Effect:** Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

**Effect:** Construction in an area of high archaeological sensitivity.
Cumulative Impacts

**Effect:** No additional cumulative impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

**Discussion:**

The appropriate mitigation to be applied to this project includes the measures listed in MEIR Table V-S-1 (b-f) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would modify or demolish a structure more than 50 years in age.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Discussion:

(1) The project is consistent with the archeological and historical resource policies in the General Plan.

(2-3) There are no existing structures on the project site.

(4) The project would not affect a resource that is listed or eligible for listing in the California Register of Historic Resources.

(5) The project does not conflict with local policies affecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

City Engineering staff has reviewed the project and required conditions of approval to implement General Plan Policies for development including compliance with the Storm Drain Management Plan and the utilization of low impact strategies and meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures.” No new or additional
mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>9. INCREASED DEMAND FOR STORM DRAINAGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

1) The project is consistent with applicable storm drain policies in the Urban Area General Plan. Construction activities will comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity (MIER Policy SD-9). In addition, the City will ensure that new development complies with the City of Modesto's Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures (MIER Policy SD-11). These policies will be implemented as conditions of project approval.

2) The City's Land Development Engineering Staff have reviewed the project and determined the project would not create significant flooding or unanticipated sources of runoff. The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.
(3) The project will utilize low impact strategies and meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures." This requirement will be implemented as a condition of project approval.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>10. FLOODING AND WATER QUALITY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</td>
</tr>
</tbody>
</table>

City of Modesto
General Plan Master EIR

Initial Study EA No. 2013-29
12-6-13
<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>2)</td>
<td>The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>![ ]</td>
<td>![ ]</td>
<td>![ ]</td>
</tr>
<tr>
<td>3)</td>
<td>The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.</td>
<td>![ ]</td>
<td>![ ]</td>
<td>![ ]</td>
</tr>
<tr>
<td>4)</td>
<td>The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.</td>
<td>![ ]</td>
<td>![ ]</td>
<td>![ ]</td>
</tr>
<tr>
<td>5)</td>
<td>The proposed project does not comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures.</td>
<td>![ ]</td>
<td>![ ]</td>
<td>![ ]</td>
</tr>
<tr>
<td>6)</td>
<td>The proposed project would violate water quality standards or waste discharge requirements.</td>
<td>![ ]</td>
<td>![ ]</td>
<td>![ ]</td>
</tr>
<tr>
<td>7)</td>
<td>The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</td>
<td>![ ]</td>
<td>![ ]</td>
<td>![ ]</td>
</tr>
<tr>
<td>8)</td>
<td>The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.</td>
<td>![ ]</td>
<td>![ ]</td>
<td>![ ]</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the flooding and water quality policies in the General Plan.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project is not located within a 100-year flood plain and is limited to commercial uses.

(4) The project is not located within a 100-year flood plain.

(5) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures (MIER Policy SD-11). This will be implemented as a condition of project approval.
The project will not violate water quality standards or waste discharge requirements.

The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.

The City's Land Development Engineering Staff have reviewed the project and determined the project would not create significant flooding or unanticipated sources of runoff. The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:
No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

City of Modesto
General Plan Master EIR

Initial Study EA No. 2013-29
12-6-13
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2)</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3)</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the parks and open space policies in the General Plan.

(2) The project would not eliminate an existing park or designated open space. The project is on a vacant site previously designated as a school.

(3) The project would result in an increase in the use of existing park facilities; however, deterioration or other physical changes to the facilities are not expected to occur as a result of the project.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

**Direct Impacts**

*Effect:* No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

**Cumulative Impacts**
**Effect:** Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

**Discussion:**
No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>12. INCREASED DEMAND FOR SCHOOLS</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project is consistent with the policies relating to schools in the General Plan.

(2) The project was referred to Modesto City Schools and Sylvan Schools who indicated no opposition to the project. The site was previously anticipated to be developed as an
elementary school by the Sylvan School District; however, it was determined the by the District that the school site was not needed.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/polices:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>13. INCREASED DEMAND FOR POLICE SERVICES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in the need</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Less Than Significantly

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the policies relating to police services in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>14. INCREASED DEMAND FOR FIRE SERVICES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the fire service policies in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

(3) The project would not significantly impact adjacent fire districts or result in the elimination of fire protection services.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>15. GENERATION OF SOLID WASTE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the solid waste policies in the General Plan.

(2) This project was referred to the Solid Waste Division for review, and no indication was given that there would be a problem serving this project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts
**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

### b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>16. GENERATION OF HAZARDOUS MATERIALS</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
1. Discussion:

(1) The project is consistent with the hazardous materials policies in the General Plan.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

(4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:
### 17. GEOLOGY, SOILS, AND MINERAL RESOURCES

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>✗</td>
</tr>
<tr>
<td>2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>✗</td>
</tr>
</tbody>
</table>

**Discussion:**

1) The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.

2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

### 18. ENERGY

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

**Cumulative Impacts**
Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:
No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>18. ENERGY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:
(1) The project is consistent with the energy policies in the General Plan.

(2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan.

19. EFFECTS ON VISUAL RESOURCES
a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

**Cumulative Impacts**

**Effect:** No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

**Discussion:**

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>19. EFFECTS ON VISUAL RESOURCES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would degrade views of riverside areas from public roadways and nearby</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
properties to a greater degree than assumed in the Urban Area General Plan.

Discussion:

(1) The project is consistent with the policies relating the visual resources in the General Plan.

(2) The project would not impact views from riverside areas and parks.

(3) The project would not impact views of riverside areas from roadways or nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
## 20. LAND USE AND PLANNING

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The project is designated Village Residential the General Plan. The proposed residential subdivision is consistent with the current General Plan Land Use designation. The project is consistent with land use and planning policies in the General Plan.

2. The project would not divide an established community. The area to the north and west and south is developed with residential uses. There is an existing park to east. The proposed subdivision is consistent with the surround uses and would not divide existing neighborhood.

3. The project does not conflict with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

4. The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

## 21. CLIMATE CHANGE

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

**Direct Impacts**

*Effect:* Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

City of Modesto
General Plan Master EIR
Initial Study EA No. 2013-29
12-6-13
Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:
No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>21. CLIMATE CHANGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2) The proposed project would result in average automobile trip lengths or CO₂ emissions higher than those assumed in the Master EIR.</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1) The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would
make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City's contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City's increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project is required to develop in accordance with climate change policies included in the UAGP and the MIER.

(2) Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO₂ emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO₂ emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.

(3) A Sustainable Communities Strategy has not yet been implemented by the Air Resources Board. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.
V.  MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

N/A

Degradation of Air Quality:

SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites.

MEIR AQ-42
All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

MEIR AQ-43
All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

MEIR AQ-44
All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

**MEIR AQ-46**
When materials are transported off-site, all 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.

**MEIR AQ-47**
All 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.)

**MEIR AQ-48**
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.

**MEIR AQ-49**
Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

**MEIR AQ-50**
Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts(note, these measures are to be implemented in addition to Regulation VIII requirements):

**MEIR AQ-51**
Limit traffic speeds on unpaved roads to 15 mph; and

**MEIR AQ-52**
Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

**MEIR AQ-53**
Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

**MEIR AQ-54**
Install wind breaks at windward side(s) of construction areas.

**MEIR AQ-55**
Suspend excavation and grading activity when winds exceed 20 mph. Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

**MEIR AQ-56**
Limit the area subject to excavation, grading and other construction activity at any one time.
**Generation of Noise:**

**MEIR N-3**

The project shall comply with the City’s noise ordinance. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

**Effects on Agricultural Lands:**

N/A

**Increased Demand for Long-Term Water Supplies:**

N/A

**Increased Demand for Sanitary Sewer Services:**

N/A

**Loss of Sensitive Wildlife and Plant Habitat:**

Mitigation Measure SWPH-13 (Table V-7-1(J)): Implementation of formal CDFG guidelines to avoid and minimize impacts to Burrowing Owls.

In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls shall be completed prior to the start of construction. Burrowing owl habitat on the project site and within a 500-foot (150 m) buffer zone shall be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat shall be mapped at an appropriate scale, and the following mitigation measures should be implemented:

1. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, shall be completed no more than 30 days prior to construction within suitable habitat.

2. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction.

3. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This protected area will remain in effect until August 31, or at the CDFG’s discretion and based upon monitoring evidence, until the young owls are foraging independently.

4. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.
If pre-construction surveys determine that Burrowing Owls occupy the site and avoiding development of occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat Management (HM) lands comprising existing Burrowing Owl foraging habitat and breeding habitat should be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement, the project applicant shall secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would:

1. Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of HM lands;
2. Provide initial protection and enhancement activities on the HM lands, potentially including, but not limited to, such measures as fencing, trash clean up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG;
3. Establish an endowment for the long-term management of the HM lands; and
4. Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement.

**Disturbance of Archaeological/Historic Sites:**

**MEIR Table V-8-1 (b-f)**

b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

c. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor’s selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

d. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

e. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

f. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

**Increased Demand for Storm Drainage:**

**MEIR SD-9**
Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity.

**Flooding and Water Quality:**

N/A

**Increased Demand for Parks and Open Space:**

N/A

**Increased Demand for Schools:**

N/A

**Increased Demand for Police Services:**

N/A

**Increased Demand for Fire Services:**

N/A

**Generation of Solid Waste:**

N/A

**Generation of Hazardous Materials:**

N/A

**Geology, Soils, and Mineral Resources:**

N/A

**Energy:**

N/A

**Effects on Visual Resources:**

N/A

**Land Use and Planning:**

N/A

**Climate Change:**

N/A
Attachment A
Swainson's Hawk Foraging Habitat Survey
Village One
July 25, 2003
SWAINSON'S HAWK FORAGING HABITAT SURVEY
VILLAGE ONE
Precise Plan Areas 2, 15, 16, and 17

Prepared for:
ASSOCIATED ENGINEERING GROUP, INC.
4206 Technology Drive
Modesto, CA 95356

Prepared by:
WALTER TORDOFF, Ph.D.
Professor Emeritus of Biology
Department of Biological Sciences
California State University, Stanislaus
801 W. Monte Vista Ave.
Turlock, CA 95382

July 25, 2003
INTRODUCTION

Swainson’s Hawk, *Buteo swainsoni*, is a species of large hawk which nests in the Central Valley of California. It is a California state listed threatened species and thus it is protected, as is its nesting and foraging habitat. The large Village One development in Modesto, California has been divided into 35 “Precise Plan Areas”. An earlier study had identified, in general terms, possible Swainson’s Hawk foraging habitat within this development. This study was undertaken to assess the foraging habitat for Swainson’s Hawk in four of the Precise Plan Areas (2, 15, 16, and 17). Swainson’s Hawks forage for food in a prescribed manner. As is typical of a number of other large hawks, they forage during the daylight hours by soaring high above the ground and watching for suitable prey (mostly small mammals such as mice and ground squirrels, but also large insects like grasshoppers). Once prey is spotted the bird dives to the ground to capture it. Thus suitable foraging habitat must be relatively clear of high vegetation for two reasons: to allow the hawk to see the prey; and to allow the hawk to swoop down upon it without hitting branches or other high vegetation. Thus, open fields and low growing croplands are suitable but orchards, vineyards, and tall crops (mature corn) are not. Corn fields thus present different situations at different stages. Until the corn plants exceed a certain height (1-2 feet) the fields are suitable for foraging. Taller than that, they are not, but once cut down, they are suitable again. Since the Swainson’s Hawk is only present in the Central Valley during Spring and Summer and nesting occurs predominantly from April through July, it is the condition of the fields at that time which is most important.

QUALIFICATIONS

My Curriculum Vita (resume) is attached. In summary, I have a Ph.D. in Zoology with over 30 years of university teaching experience in ecology and ornithology and appropriate research experience in each including conducting numerous wildlife surveys in Stanislaus County. I am also an ardent bird watcher who has spent many hours observing Swainson’s Hawks both in California and throughout its range in the United States.

FIELD WORK

I visited the area on July 21 and 25, 2003 to both assess Swainson’s Hawk foraging habitat and to determine the extent of that habitat individually, as well as collectively, in each of the four Precise Plan Areas.

DESCRIPTION OF THE AREA(S)

The four Precise Plan Areas are located at the western end of Village One, areas 2 and 17 ording Oakdale Road to the west and extending from Syl van Avenue on the north (area 2) to Floyd Avenue on the south (area 17). Areas 16 and 15 continue east from the eastern edge of areas 2 and 17 to the eastern boundary of Ustach Middle School, occupying approximately the middle third of the land between Sylvan and Floyd.
Swainson's Hawk Foraging Habitat Survey - Precise Plan Areas 2, 15, 16, 17  page 2

Avenues. Table 1 indicates the acreage of each of the areas, the amount of acreage which is Swainson's Hawk foraging habitat, and the proportion of the area which is Swainson's Hawk foraging habitat. Overall, the four Precise Plan Areas include just over 176 acres of which about 116 acres (66%) is potential Swainson's Hawk foraging habitat. Below, I will discuss the specifics of each of the areas, including the apparent “quality” of the foraging habitat.

Table 1 - Total Acreage and Swainson’s Hawk Foraging Habitat for Precise Plan Areas 2, 15, 16, and 17

<table>
<thead>
<tr>
<th>Precise Plan Area</th>
<th>Total Acreage</th>
<th>Foraging Acreage*</th>
<th>% Foraging Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>45.8</td>
<td>23.6</td>
<td>52%</td>
</tr>
<tr>
<td>15</td>
<td>46.6</td>
<td>26.6</td>
<td>57%</td>
</tr>
<tr>
<td>16</td>
<td>33.5</td>
<td>28.2</td>
<td>84%</td>
</tr>
<tr>
<td>17</td>
<td>50.3</td>
<td>37.8</td>
<td>75%</td>
</tr>
<tr>
<td>Total</td>
<td>176.2</td>
<td>116.2</td>
<td>66%</td>
</tr>
</tbody>
</table>

* Foraging acreage includes fallow fields and low crop growth.

Precise Plan Area 2

This area contains the least amount of foraging acreage. The non-foraging areas include a block of commercial establishments at the corner of Sylvan Avenue and Oakdale Road, house lots further east along Sylvan Avenue and south along Oakdale Road, and a small vineyard (@3.3 acres) on Oakdale Road. All of the foraging area is fallow land at the present time with low scrubby grasses.

Precise Plan Area 15

This area has the next least amount of foraging acreage, due mainly to the presence of Ustach Middle School (@15.5 acres), but there is also a vineyard (@4.3 acres) to the west of the school. The potential foraging habitat includes the area to the north of the school (@6 acres) which is currently being developed as a city park. The rest of the area is currently planted in corn with the area north of the vineyard about 2½ feet tall (@13 acres) and that to the south of the vineyard about 6 inches tall (@13 acres).
Precise Plan Area 16

Just to the west of area 15, this is the only one of the four areas that does not have any human development at the present time. It is entirely agricultural with a vineyard (@4.3 acres) being the only non-foraging habitat, and the rest of the land planted in corn.

Precise Plan Area 17

The northern portion of this parcel is developed as a house, outbuildings, yard, and garden (@12.5 acres). The rest of the land is recently disked fallow cropland which is Swainson’s Hawk foraging habitat.

ASSESSMENT OF THE SWAINSON’S HAWK FORAGING HABITAT

Simply presenting the numbers above does not give an adequate picture of the value of this land as foraging habitat for the Swainson’s Hawk. On the one hand, I have seen Swainson’s Hawks in the vicinity of this land engaged in foraging behavior in the past so this land has probably been used. On the other hand, I would assess the quality of this land as Swainson’s Hawk foraging habitat as low for the following reasons.

First, the preferred food of this hawk is small mammals, the predominant one in this area being the California ground squirrel. This species is present in these areas in low numbers but only on higher ground (such as the dirt track running from Hillglen Avenue south on the west side of Ustach Middle School to the south end of the school and then turning east as the southern boundary of areas 15 and 16) because their burrows are destroyed in the lower areas that are plowed and flood irrigated. In less intensively cultivated areas, ground squirrels occur at much higher densities.

Second, since this land is surrounded by urban areas including housing developments, schools, and commercial establishments with a lot of automobile traffic on the roads and people walking through the area, the hawks are much more likely to be disturbed while foraging and feeding which may drastically reduce the foraging efficiency for the species. Such reductions in foraging efficiency have been shown to result in nest failure or nest abandonment by the parents.

Finally, the close proximity to many humans and their activities establishes the possibility of inadvertent poisoning of the hawks if people are intentionally or even unintentionally introducing toxic substances into the food chain. Poisons put out for rats, mice, and squirrels have been shown to be ingested by raptors causing illness, sterility, and/or death (this was one of the major causes of the decline in California condors in the 1980’s). Substances like antifreeze, while not meant to kill anything, may also be ingested by the hawks be fatal.
Swainson's Hawk Foraging Habitat Survey - Precise Plan Areas 2, 15, 16, 17  page 4

Thus, in summary, although almost two-thirds of the acreage of these four Precise Plan Areas is technically foraging habitat for the Swainson's Hawk at one time or another, the quality of this foraging habitat is so low that its loss to the hawks will have no significant impact on the species' population. I do not think that mitigation is called for.

Sincerely,

[Signature]

Walter Gordon, Ph.D.
Professor Emeritus of Biology

Curriculum Vitae attached
CURRICULUM VITAE

WALTER TORDOFF III
Professor Emeritus of Biology
Department of Biological Sciences
California State University, Stanislaus

Address
Work: Department of Biological Sciences
     California State University, Stanislaus
     801 W. Monte Vista Ave.
     Turlock, CA, 95382
     (209) 667-3480 or 667-3476
     FAX (209) 667-3694
     e-mail: wally@chem.csustan.edu

Home: 2891 Case Way
      Turlock, CA, 95382
      (209) 632-4495

Professional Experience

Professor Emeritus of Biology, Department of Biological Sciences, California State University, Stanislaus, 2001 to present.

Professor of Biology, Department of Biological Sciences, California State University, Stanislaus, 1981-2001. Department Chairman 1981-1990.

Professional Expertise


Academic Degrees


B.A. - University of Massachusetts, Amherst. 1965. Major: Zoology
Tordoff - Curriculum Vita -Page 2

Associate Professor of Biology, Department of Biological Sciences, California State College, Stanislaus, 1975-1981.

Assistant Professor of Biology, Department of Biological Sciences, California State College, Stanislaus, 1970-1975.

Papers Presented or Published


1981. Tordoff, W. III. Population and habitat surveys of the limestone salamander in Mariposa County. Presented at the annual meeting of the Western Section of the Wildlife Society, San Luis Obispo, CA.


Papers Presented or Published (continued)


Wildlife Surveys Completed


Wildlife Surveys Completed (continued)


Wildlife Surveys Completed (continued)


MODESTO CITY COUNCIL
RESOLUTION NO. 2014-89

RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT NO. 23 TO THE VILLAGE ONE SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATION FROM ELEMENTARY SCHOOL TO VILLAGE RESIDENTIAL TO FACILITATE DEVELOPMENT OF A SINGLE-FAMILY RESIDENTIAL SUBDIVISION IN PRECISE PLAN AREA NO. 15, PROPERTY LOCATED AT THE SOUTHEAST CORNER OF CADEN DRIVE AND HILLGLEN AVENUE. (FLORSHEIM LAND DEVELOPMENT COMPANY)

WHEREAS, on October 16, 1990, the City Council by Resolution No. 90-828A, adopted the Village One Specific Plan, and

WHEREAS, Government Code Section 65453 permits the amendment of Specific Plans as often as deemed necessary by the legislative body, and

WHEREAS, the City Council on June 18, 1991, by Resolution No. 91-405, adopted Specific Plan Amendment No. 1 to the Village One Specific Plan to adopt an amended Affordable Housing Program, and

WHEREAS, the City Council on May 5, 1992, by Resolution No. 92-222, adopted Specific Plan Amendment No. 2 to the Village One Specific Plan to improve technical correctness, readability, and comprehension, and

WHEREAS, the City Council on February 1, 1994, by Resolution No. 94-72, adopted Specific Plan Amendment No. 3 to the Village One Specific Plan to rewrite and reorganize the Plan to be more implementation oriented, and

WHEREAS, the City Council on May 24, 1994, by Resolution No. 94-297, certified the Final Supplemental EIR for Village One (SCH No. 90020181) which provided environmental analysis for the revisions in Specific Plan Amendment No. 4, and

WHEREAS, the City Council on May 24, 1994, by Resolution No. 94-298, adopted Specific Plan Amendment No. 4 to the Village One Specific Plan to widen Floyd
Avenue from three to five lanes, realign the Claus/Sylvan intersection, delete the nonpotable water supply for public landscaping, and integrate mitigation monitoring into the Specific Plan, and

WHEREAS, the City Council on June 28, 1994, by Resolution No. 94-372, adopted Specific Plan Amendment No. 5 to the Village One Specific Plan to revise the Residential Design Policies for cul-de-sacs, alleys, garage orientation, and plan processing, and

WHEREAS, the City Council on June 28, 1994, by Resolution No. 94-373, adopted Specific Plan Amendment No. 6 to the Village One Specific Plan to revise the school and park sites within the Specific Plan and redistribute residential units among the Village One Precise Plan Areas, and

WHEREAS, the City Council on October 10, 1995, by Resolution No. 95-487, adopted Specific Plan Amendment No. 7 to the Village One Specific Plan to reduce costs and to implement recommendations to increase the marketability of development within the Village One area, and

WHEREAS, the City Council on May 14, 1996, by Resolution No. 96-245, adopted Specific Plan Amendment No. 7.1 to the Village One Specific Plan to delete the multiple-family development designation from Precise Plan Areas Nos. 8 and 33, and Resolution No. 26-246, to amend the Design Standard portion of the Village One Specific Plan pertaining to single-family dwelling setbacks and three-car garages, limited to Precise Plan Areas Nos. 8, 32, and 33, and

WHEREAS, the City Council on June 4, 1996, by Resolution No. 96-295, adopted Specific Plan Amendment No. 8 to the Village One Specific Plan to incorporate
changes previously approved in Specific Plan Amendment No. 7 into the Specific Plan document itself, to make minor editorial changes to the Specific Plan, and to incorporate changes resulting from development of a revised Village One Facilities Master Plan, and

WHEREAS, the City Council on August 13, 1996, by Resolution No. 96-453, adopted Specific Plan Amendment No. 9 to the Village One Specific Plan to modify the standards for dwelling setbacks and three-car garages for the entire Specific Plan area, and

WHEREAS, the City Council on May 6, 1997, by Resolution No. 97-225, adopted Specific Plan Amendment No. 10 to the Village One Specific Plan to eliminate redundancy with the General Plan Housing Element policies and to eliminate language that was too restrictive, and

WHEREAS, the City Council on June 3, 1997, by Resolution No. 97-300, adopted Specific Plan Amendment No. 11 to the Village One Specific Plan to exempt public facilities from precise plan requirements, to streamline the Specific Plan amendment process, and to provide minor clarification to various policies and diagrams, and

WHEREAS, the City Council on October 21, 1997, by Resolution No. 97-602, adopted Specific Plan Amendment No. 12 to the Village One Specific Plan to allow changes in public service providers, delete the requirement for a business park market study, revise Amtrak station language, revise the business park precise plan diagram, and allow regional commercial uses in the business park, and

WHEREAS, the City Council on February 17, 1998, by Resolution No. 98-97, adopted Specific Plan Amendment No. 13 to the Village One Specific Plan to redesignate
9.8 acres in Precise Plan Area No. 3 from Multi-Family Residential to Village Residential, and

WHEREAS, the City Council on August 17, 1999, by Resolution No. 99-416, adopted Specific Plan Amendment No. 14 to the Village One Specific Plan to modify the mix of land uses allowed in the southeast quadrant of Precise Plan Area No. 20, and

WHEREAS, the City Council on September 26, 2000, by Resolution No. 2000-507, adopted Specific Plan Amendment No. 15 to the Village One Specific Plan to reduce the noise setback along Claus Road, and

WHEREAS, the City Council on May 7, 2002, by Resolution No. 2002-230, adopted Specific Plan Amendment No. 16 to the Village One Specific Plan to move 4.1 acres from Precise Plan Area No. 6 to Precise Plan Area No. 7, and

WHEREAS, the City Council on April 1, 2003, by Resolution No. 2003-177, adopted Specific Plan Amendment No. 17 to the Village One Specific Plan to allow for a revised infrastructure financing plan for Village One, including the formation of a new community facilities district for the remaining undeveloped, unvested property in Village One, and

WHEREAS, the City Council on December 7, 2004, by Resolution No. 2004-650, adopted Specific Plan Amendment No. 18 to the Village One Specific Plan to change the land use designation of Precise Plan Areas 23 and 24 from Commercial, Village Residential, and Multi-Family Residential to Village Residential and Medium-Density Residential and to amend some of the Village One design and development standards, and
WHEREAS, the City Council on March 8, 2005, by Resolution No. 2005-129, adopted Specific Plan Amendment No. 19 to the Village One Specific Plan to change the land use designation of a portion of Precise Plan Area No. 1 from Very-Low-Density Residential to Office and High School and to allow City Council approval of a Final Development Plan concurrent with approval of Precise Plan Area No. 1, and

WHEREAS, the City Council on November 1, 2005, by Resolution No. 2005-547, adopted Specific Plan Amendment No. 20 to the Village One Specific Plan to allow for a revised layout for the Village Center Retail Center, property located at the southeast corner of Roselle and Floyd Avenues, and

WHEREAS, the City Council on May 9, 2006, by Resolution No. 2006-290, adopted Specific Plan Amendment No. 21 to the Village One Specific Plan to modify policies related to the development of the Village One Town Center Housing Project, property located at the northeast corner of Roselle Avenue and Belharbour Drive, and

WHEREAS, the City Council on December 12, 2007 by Resolution No 2007-749, adopted Specific Plan Amendment No. 22 to the Village One Specific Plan to change the land use designation from Multi-Family Residential to Village Center for the property at the northeast corner of Floyd Avenue and Roselle Avenue, and

WHEREAS, Florsheim Land Company has filed an application to amend the Village One Specific Plan and Precise Plan Area No. 15 to change the land use designation for a vacant ten acre property from an elementary schools site to Village Residential to allow a 62 lot single family residential subdivision, property located at the southeast corner of Caden Drive and Hillglen Avenue, and
WHEREAS, on August 17, 2010, Sylvan Union School District Board determined the site was not needed based on actual enrollment with the build-out of the Village One Specific Plan Area and passed a motion to abandon plans to construct an elementary school on the subject property, and

WHEREAS, on October 28, 2013, the proposed Specific Plan Amendment was referred to the Sylvan and Modesto School Districts, Modesto Irrigation District, Local Agency Formation Commission, County Planning and Community Development, and the Environmental Resources Director, for a 45 day referral period in accordance with Government Code sections 65453 and 65352, and

WHEREAS, on January 27, 2014, at 6:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed Village One Specific Plan amendment, and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2014-02, recommended to the City Council approval of an amendment to the Village One Specific Plan to change the land use designation from Elementary School to Village Residential to facilitate development of a single family residential subdivision in Precise Plan Area No. 15, property located at the southeast corner of Caden Drive and Hillglen Avenue, and
WHEREAS, said matter was set for a public hearing of the City Council to be held on March 11, 2014, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed Amendment No. 23 to change the land use designation from Elementary School to Village Residential to facilitate development of a single family residential subdivision in Precise Plan Area No. 15, property located at the southeast corner of Caden Drive and Hillglen Avenue, is consistent with the Modesto Urban Area General Plan, which designated the site as Village Residential and allows for a mixture of uses, including single-family residential.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Village One Specific Plan is hereby amended to revise the land use designation from Elementary School to Village Residential, property located at the southeast corner of Caden Drive and Hillglen Avenue as shown on Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council that the City Clerk is hereby authorized and directed to send certified copies of this resolution and said amendment to the Village One Specific Plan to the Board of Supervisors of the County of Stanislaus.

BE IT FURTHER RESOLVED that the property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of
attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on March 11, 2014, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
Exhibit A

Proposed Amendment to the Village One Specific Plan
<table>
<thead>
<tr>
<th>Amendments to:</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter II</td>
<td>20-23</td>
</tr>
<tr>
<td>Chapter III</td>
<td>38-39</td>
</tr>
</tbody>
</table>
1. Comcast is the cable television provider for the area and does not anticipate significant problems in serving the area. The cost of providing service is typically passed to the consumer via initial hookup and monthly charges.

2. Pacific Gas and Electric will provide natural gas for the area. Currently, major natural gas facilities consist of an eight-inch high-pressure main located in Claus Road. Gas lines of lesser diameter are located in Oakdale Road.

c) Facilities Master Plan

Chapter IV presents the requirements for a Facilities Master Plan to implement the above Design Principles.

E. Schools

1. Overview

This section responds to the "Other Essential Facilities" requirements of Section 65451(a)(2) of the Government Code. Table II-2 presents supporting data for the need for school facilities, as explained below.

The need for schools is a function of the expected school-age population. Typically, the lower density housing types produce the greater number of school-age children. At the time of adoption of the Village One Specific Plan, it was assumed student generation in Village One would create the need for three new elementary schools, two middle schools, and less than one high school. These will be accommodated on-site and an additional middle school, Betty Ustach Middle School, has been built within Village One to serve existing developed areas. In addition, the Sylvan School District is pursuing the acquisition of an elementary school site in the southeastern residential neighborhood.

After exploring alternative sites with the City and the Sylvan and Modesto School Districts, four sites were selected as campuses to serve Village One. These school sites are central to the design and organization of the entire community. They contribute to the location of multi-family sites and are geographically central to best serve the residential population. The careful siting of these facilities requires that they be implemented as shown in the Specific Plan.

Actual student generation from the area allowed the Sylvan School District to determine in 2010 that the elementary school site in Precise Plan Area 15, adjacent to Ustach Middle School, was no longer needed. This property then reverted to its underlying R-1 Single Family Residential zoning, and became
available for development. The other planned schools sites and schools have all been acquired and constructed as of 2013.

2. Location and Design Policies

(a) The Village One Specific Plan provides for the development of new schools, that are geographically centered within an appropriate walking radius of new homes.
As in most growing communities in California today, Modesto is faced with the need to provide many new schools to serve its projected population. However, the development of schools has not kept pace with growth in the community. In a family-oriented place, such as Modesto, schools are important not only in providing for the educational needs of the school-age population, but also in providing a focus of social and community activities. To reinforce the important role that schools play in the community and to make them easily accessible from surrounding homes, they should be centrally located within each of the three residential neighborhoods.

(b) The Village One Specific Plan provides sites for three new elementary (K-5) schools, two new middle schools, and one new high school.

Based on Village One's projected school-age population, three, two elementary schools will be needed. In addition, two middle schools will be provided, one of which is planned to serve the local needs of the Village, and the other to serve existing needs in other parts of the City. Development of Village One is not expected to generate enough students to require an entirely new high school, although one is planned to the north of Sylvan Avenue and to the east of existing ranchettes. This campus is intended to accommodate Village One and future students residing in the future village to the north.

(c) The City shall encourage the Modesto and Sylvan School Districts to develop joint campuses on specific sites and utilize the schools as organizing elements within the community.

The elementary and middle schools are all planned as joint campuses with year-round attendance, sharing sites for a more efficient utilization of facilities and limited land. Three such campuses are planned, and are provided in locations that are centrally located within each of the three residential neighborhoods (see Figures II-1 and II-24). Two will combine elementary/middle school facilities, and the other two (located in the north-eastern and north-western districts of the site) will include one elementary school or middle school in one location. These schools are linked to one another by a looping road. In addition, the high school is located at the juncture of two villages, (Village One, and a new village to the north), to create a strong connection between the two communities and to better serve both within a campus capable of accommodating 3,500 students.

(d) The Village One Specific Plan shall establish buffers from existing agricultural areas surrounding the proposed High School site to the north of Sylvan Avenue.
The proposed high school and community park to the north of Sylvan Avenue will be surrounded by a rural/agricultural area. The proximity of these uses to agricultural land could result in potential vandalism of farm crops, as well as the spraying of agricultural chemicals and generation of dust by farm equipment working the land. It is therefore recommended that prior to the development of the proposed high school/community park, the City of Modesto and/or the Modesto School district shall acquire a buffer area on the site, or off-site, with a width of at least 350 feet. In addition, Section 11501.1, Division 6 of the State Food and Agricultural Code prohibits agricultural pesticide spraying and other chemical use within 350 feet of any school or park uses, in order to protect the health of the high school students and park users.

F. Parks

1. Overview

This section responds to the “Essential Facilities” requirement of Section 65451(a)(2) of the Government Code.

The need for specific park facilities is determined on the basis of population standards, and the City has adopted a standard of three acres per 1,000 population, which is consistent with the National Recreation and Park Association (NRPA) standards for community and neighborhood parks; it is also consistent with the minimum required under the State standards contained in the Government Code (Quimby Act). With roughly 20,000 new residents in Village One, 60 acres of new community and neighborhood parks would be required. (See Table II-3)

Consistent with adopted City policy, the neighborhood and community parks are shown adjacent to proposed school facilities in order to take better advantage of joint-use possibilities. Soccer and softball fields are shared to provide schools with expanded grounds during school hours, and to provide the community with augmented park space when school is not in session. However, while these provide the facilities for certain active sports, they do not address the wide range of recreational activities within a community, such as linear sports (jogging, walking and bike riding), passive sports (sitting, people watching), and socializing, and specialized activities specific to a particular age or interest group. These different types of parks and open spaces not only help to differentiate the constituent neighborhoods within the Village, but they also help to provide additional open space needed to serve a higher density residential community. Further, as schools increasingly expand their school year, the need for additional parks also increases.

2. Location and Design Policies

(a) The Village One Specific Plan provides for neighborhood and community parks adjacent to planned schools. Figures II-29 and II-30 illustrate compliance with this policy.
Precise Plan Area #15
(Figure III-16)

1. **Acreage:** 41.9 Acres (of which 0.0 Acres are devoted to noise setback area)

2. **Land Use Intensity**

   |   |   |
---|---|---|
   a. Village Residential | 10.0 Acres |
   b. Ustach Middle School | 14.9 Acres |
   c. Elementary School | 10.0 Acres |
   d. Neighborhood Park | 7.0 Acres |

3. **Special Considerations**

   The Precise Plan shall incorporate the following policies:

   a. The Village Residential, Middle School, Elementary School, and Neighborhood Park may be located in any configuration in this Precise Plan area. However, all three facilities should be designed to be compatible with each other.

      1. The average number of dwelling units in the Village Residential area is 50110.

   b. A Master Plan for the school and/or Neighborhood Park shall suffice as the Precise Plan. Figure II-29 presents a conceptual facility layout, which is not binding, but illustrates a comprehensive design approach.

   c. The Master Plan shall provide pedestrian access to the surrounding Precise Plan areas.

   d. The Master Plan shall illustrate the relationship of the school/park facilities to the Storm Drainage Basin at the northwest corner of Precise Plan Area #14.

   e. The Master Plan shall illustrate how pedestrian access will be provided to open space areas from the multi-family site in Precise Plan Area #18 consistent with Section II(G)(12)(h) in Chapter II.

   f. The School District and City should work together to provide a pedestrian trail through the site that is a continuation of Kodiak Drive in order to provide more direct access to the Village Center from Precise Plan Areas 2, 3, and 16.

   g. Aria Way and Lincoln Oak Drive shall tee into Kodiak Drive, and Hillglen Avenue (see map III-I). There should be a visual focal point at the terminus of these intersections.
4. **Principal Underlying Zone(s)**

   a. R-1, Low-Density Residential

   b. Aria Way and Lincoln Oak Drive shall tee into Kodiak Drive, and Hillglen Avenue (see map III-1). There should be a visual focal point at the terminus of these intersections.

5. **Principal Underlying Zone(s)**


   d. Sub-Area "D", R-1, Single-Family Residential.
RESOLUTION ESTABLISHING PASSENGER FARES FOR ALL MODESTO AREA EXPRESS (MAX) AND MODESTO AREA DIAL-A-RIDE (MADAR) SERVICES EFFECTIVE JULY 6, 2014, AND RESCINDING RESOLUTION NO. 2008-315

WHEREAS, passenger fares for Modesto Area Express (MAX) and Modesto Area Dial-A-Ride cover approximately 19% of the expenses to operate these services, and

WHEREAS, funding provided by the Transportation Development Act (TDA) covers approximately 56% of the revenue needed to operate the City’s transit services (Modesto Area Express/MAX and Modesto Area Dial-A-Ride/MADAR), and

WHEREAS, effective FY 2015/16 the City’s transit services are required to cover a minimum of 20% of their operating expenses from passenger fares to remain eligible to receive TDA funds, and

WHEREAS, a fare increase is needed to meet the 20% minimum, and

WHEREAS, the fare rates included in this resolution are projected to increase fare revenue by $478,480 in FY 2015/16 and cover approximately 20.5% of operating costs, and

WHEREAS, MAX and MADAR fares were last raised July 1, 2008 pursuant to Resolution No. 2008-315, and

WHEREAS, ON January 6, 2014, the Economic Development Committee reviewed and approved the staff recommendation to raise fares, and

WHEREAS, a duly noticed public hearing was held by the City Council on March 11, 2014, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto,
California, at which public hearing all interested persons were given an opportunity to be heard relative to the proposed fare increases,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following fares are hereby established for passengers riding on MAX and MADAR:

<table>
<thead>
<tr>
<th>MODESTO AREA EXPRESS</th>
<th>Urban Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash Fares (one trip)</td>
<td></td>
</tr>
<tr>
<td>Regular</td>
<td>$1.50</td>
</tr>
<tr>
<td>Student</td>
<td>$1.25</td>
</tr>
<tr>
<td>Senior/Disabled</td>
<td>$0.75</td>
</tr>
<tr>
<td>Day Pass (unlimited trips)</td>
<td>$3.25</td>
</tr>
<tr>
<td>Student Field Trip</td>
<td>$0.50</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Monthly Passes (unlimited trips)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Monthly Pass</td>
</tr>
<tr>
<td>Student Monthly Pass</td>
</tr>
<tr>
<td>Senior/Disabled Monthly Pass</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ticket Books (50 Tickets)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular</td>
</tr>
<tr>
<td>Student</td>
</tr>
<tr>
<td>Senior/Disabled</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BART Express Commuter Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly</td>
</tr>
<tr>
<td>Beginning the 8th of the month</td>
</tr>
<tr>
<td>Beginning the 15th of the month</td>
</tr>
<tr>
<td>Beginning the 22nd of the month</td>
</tr>
<tr>
<td>Half-Month Pass (1st – 15th ea Mo.)</td>
</tr>
<tr>
<td>One-Way</td>
</tr>
<tr>
<td>Round-Trip</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ACE Express Commuter Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Trip (No change proposed)</td>
</tr>
<tr>
<td>20 Ride Ticket</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MODESTO AREA DIAL-A-RIDE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
</tr>
<tr>
<td>Ticket Book (10 Tickets)</td>
</tr>
</tbody>
</table>
BE IT FURTHER RESOLVED that Resolution No. 2008-315 is hereby rescinded effective July 5, 2014.

BE IT FURTHER RESOLVED that this resolution shall go into effect on and after July 6, 2014.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION OF SUPPORT FOR THE FINANCIAL EXPENDITURE PLAN IF A STANISLAUS COUNTY 2014 REGIONAL TRANSPORTATION TAX MEASURE IS APPROVED

WHEREAS, the City Council of the City of MODESTO, through its adopted General Plan and Visioning Policies and Goals, seeks to provide for the transportation and infrastructure needs of the City of MODESTO as well as those which join MODESTO to the Stanislaus County – wide region, and

WHEREAS, the City Council of the City of MODESTO having adopted a Street Master Plan, and a Capital Improvement Plan, has identified those specific transportation capital infrastructure needs within the City and its Sphere of Influence, and

WHEREAS, the City Council seeks to provide for such improvements in the most fiscally responsible manner for the residents of MODESTO by securing all available sources of funding, and

WHEREAS, there is clear evidence that ‘self-help’ jurisdictions that generate local funding are better able to secure federal and state grants to fund transportation improvements, and

WHEREAS, the proposed 2014 Regional Transportation Tax Measure Financial Expenditures Plan (“Expenditure Plan”) will provide a source of funds that creates a self-help status for the City of MODESTO as well as the other jurisdictions in the Stanislaus County Region, and

WHEREAS, The City of MODESTO will benefit by receiving a proportionate share of the measure’s funds for specified projects in accordance with the Expenditure
Plan, and residents of MODESTO will further benefit from improvements made to streets and roads in the Stanislaus County Region, and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of MODESTO that in accordance with its established goals and objectives to provide, among other things, for better roads and safer streets, to support the long term wellbeing and economic benefits of the City of MODESTO, does hereby endorse and support the Expenditure Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
A RESOLUTION MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, MAKING FINDINGS CONCERNING ALTERNATIVES AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE MODESTO CITY-COUNTY AIRPORT OBSTRUCTION MANAGEMENT PROJECT

WHEREAS, the Modesto City-County Airport (Airport) is a federally obligated facility and is required to meet Federal Aviation Administration (FAA) standards, including maintaining navigable airspace per FAA Regulation (FAR) Part 77, Subpart C, and

WHEREAS, the FAA previously identified airway obstructions in and around the Airport, and

WHEREAS, the City was required to complete an Environmental Impact Report (EIR), with focus on airway obstructions, including trees that penetrate the navigable airspace within the jurisdictions of the City of Modesto, the City of Ceres and areas of unincorporated Stanislaus County, and

WHEREAS, City Council approved by Resolution 2012-443 that Environmental Science Associates (ESA) was the best consultant to perform the EIR, and

WHEREAS, the Notice of Preparation provided notice of the City’s determination to prepare an EIR, and solicited public input on the proposed scope and content of the EIR for the Project, and

WHEREAS, on August 20, 2013, the City held a public scoping meeting to receive public comments on the scope and content of the EIR, and

WHEREAS, on November 22, 2013, the City published and distributed a Draft EIR for the Modesto City-County Airport Obstruction Management Project (State
Clearinghouse Number 2013082036) ("DEIR") for public comment, in accordance with Section 21091 of the California Environmental Quality Act ("CEQA"), and

WHEREAS, the DEIR was available for public comment for a period of at least 45 days as required by Section 21091 of CEQA, the close of the public comment period being January 6, 2014, and

WHEREAS, during the 45-day public comment period the City received four letters commenting on the DEIR, and

WHEREAS, the City prepared written responses to all written comments received on the DEIR, said responses being contained in a Final EIR for the Modesto City-County Airport Obstruction Management Project (State Clearinghouse Number 2013082036) ("FEIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, on January 7, 2014, the FEIR was published and distributed, consisting of the Draft EIR, a list of commenters, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, and

WHEREAS, the Project would include trimming and perhaps limited removal of approximately 239 trees within the project site boundaries, and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects, and
WHEREAS, the City Council has received and considered the FEIR for the Modesto City-County Obstruction Management Project (SCH No. 2013082036) that analyzed the potential environmental effects of the proposed Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines in respect to the FEIR:

1. That the FEIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearing on the FEIR and the Project, prior to acting upon or approving the Project; and that the FEIR represents the independent judgment of the City of Modesto; and

2. That the Findings and Statements set forth in Exhibit “A” and incorporated herein by reference, be made by the Council as the City’s findings under the California Environmental Quality Act (“CEQA”) (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, §15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of the Council regarding the Project’s environmental impacts, mitigation measures and alternatives to the Project.

3. The Mitigation Monitoring and Reporting Program for the Modesto City-County Airport Obstruction Management Project is attached to this resolution as Exhibit “B” and is incorporated and adopted as part of this resolution herein. The Program identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

4. The City Council hereby finds and recognizes that the FEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft Environmental Impact Report for the Project (“DEIR”) and also incorporates information obtained by the City since the DEIR was issued. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and do not reflect any substantial increase in the severity of any environmental impact; that no feasible mitigation measures considerably different from those previously analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project; and that no
feasible alternatives considerably different from those analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, this Council hereby finds and determines that recirculation of the FEIR for further public review and comment is not warranted; and

5. The City Council does hereby designate the Public Works Director of the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354, as the custodian of documents and record of proceedings on which the decision is based; and

6. The City Council does hereby make the foregoing findings with respect to the significant effects on the environment of such Project, as identified in the FEIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the FEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the DEIR and were not adopted as part of the FEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the FEIR and elsewhere in the record.

BE IT FURTHER RESOLVED by the Council that it hereby certifies the Final Environmental Impact Report for the Modesto City-County Airport Obstruction Management Project (SCH No. 2013082036), on file in the office of the Public Works Department and incorporated herein by reference.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2014, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: Stephanie Lopez, City Clerk

APPROVED AS TO FORM:

By: Adam Lindgren, Interim City Attorney

03/11/2014/PWFischio/Item 12
Exhibit “A”

FINDINGS & STATEMENTS ON THE MODESTO CITY-COUNTY AIRPORT (MOD) OBSTRUCTION MANAGEMENT PROJECT EIR

SECTION I
INTRODUCTION

A. Project Description

Several trees, including oaks and other native species, grow in the vicinity of the Airport runways. 239 trees, 88 native and 151 non-native, have been identified as penetrating the navigable airspace as defined by the FAA (FAR) Part 77, Subpart C. The trees identified as penetrating navigable airspace are within the jurisdictions of the City of Modesto, the City of Ceres and areas of unincorporated Stanislaus County. An Environmental Impact Report was conducted. It has been determined the best approach for mitigation is the proposed project as described in the EIR, which includes trimming where appropriate and complete tree removal as necessary.

B. Legal Requirements

Public Resources Code Section 21002 states that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” Section 21002 further states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.”

Pursuant to Section 15091 of the State CEQA Guidelines, the City may only approve or carry out a project for which an EIR has been completed that identifies any significant environmental effects if the City makes one or more of the following written finding(s) for each of those significant effects, accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which will avoid or substantially lessen the significant environmental impact as identified in the EIR; or

2. Such changes or alterations are within the responsibility and jurisdiction of a public agency other than the City, and such changes have been adopted by such other agency, or can and should be adopted by such other agency; or

3. Specific economic, social, legal, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.
Notably, Public Resources Code Section 21002 requires an agency to “substantially lessen or avoid” significant adverse environmental impacts. Thus, mitigation measures that “substantially lessen” significant environmental impacts, even if not completely avoided, satisfy Section 21002’s mandate [Laurel Hills Homeowners Association v. City Council (1978) 83 Cal.App.3d 515, 521 (“CEQA does not mandate the choice of the environmentally best feasible project if through the imposition of feasible mitigation measures alone the appropriate public agency has reduced environmental damage from a project to an acceptable level”); Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles (1986) 177 Cal. App. 3d 300, 309 (“[t]here is no requirement that adverse impacts of a project be avoided completely or reduced to a level of insignificance . . . if such would render the project unfeasible”).

The Public Resources Code requires that lead agencies adopt feasible mitigation measures or alternatives to substantially lessen or avoid significant environmental impacts. An agency need not, however, adopt infeasible mitigation measures or alternatives [State CEQA Guidelines, § 15091, subs. (a), (b)]. Public Resources Code Section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” State CEQA Guidelines Section 15091 adds “legal” considerations as other indicator of feasibility. (See also Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 565.) Project objectives also inform the determination of “feasibility” (City of Del Mar v. City of San Diego (1982) 133 Cal.App.3d 401, 417). “[F]easibility under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors” (City of Del Mar v. City of San Diego (1982) 133 Cal.App.3d 401, 417; see also Sequoyah Hills Homeowners Assn. v. City of Oakland (1993) 23 Cal.App.4th 704, 715).

Environmental impacts that are less than significant do not require the imposition of mitigation measures (Leonoff v. Monterey County Board of Supervisors (1990) 222 Cal.App.3d 1337, 1347).

The California Supreme Court has stated, “[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 576). In addition, perfection in a project or a project’s environmental alternatives is not required; rather, the requirement is that sufficient information be produced “to permit a reasonable choice of alternatives so far as environmental aspects are concerned.” Outside agencies (including courts) are not to “impose unreasonable extremes or to interject [themselves] within the area of discretion as to the choice of the action to be taken” (Residents Ad Hoc Stadium Com. v. Board of Trustees (1979) 89 Cal.App.3d 274, 287).

C. Summary of Environmental Findings

As more fully explained below, the City Council has determined that based on all of the evidence presented, including, but not limited to, the EIR, written and oral
testimony given at meetings and hearings, and submission of comments from the public, organizations, and regulatory agencies, and the responses prepared to the public comments, the following environmental impacts associated with the project are:

1. **Topics That Were Scoped out of the EIR for Having Less Than Significant or No Impacts**
   - Agriculture and Forestry Resources (all)
   - Geology, Soils, and Seismicity (all)
   - Hazards and Hazardous Materials (all)
   - Land Use and Planning (all)
   - Mineral Resources (all)
   - Population and Housing (all)
   - Public Services (all)
   - Recreation (all)
   - Transportation and Traffic (all)
   - Utilities and Service Systems (all)

2. **Less Than Significant and No Impacts (Do Not Require Mitigation)**
   - Aesthetics (all)
   - Air Quality (all)
   - Biological Resources (Wetlands as defined by Section 404 of the Clean Water Act; Interference with the Movement of any Native Resident or Migratory Fish or Wildlife Species; Conflict with Local Policies Protecting Biological Resources; Conflict with an Adopted Habitat Conservation Plan)
   - Cultural Resources (Impact to a Historical Resource)
   - Greenhouse Gas Emissions (all)
   - Hydrology and Water Quality (Depletion of Groundwater Supplies; Alteration of Existing Drainage Pattern; Create Runoff; Place Housing or Structures within a 100-year Flood Hazard Area; Exposure to a Failure of a Dam or Levee; Exposure to Inundation by Seiche, Tsunami, or Mudflow)
   - Noise (Exposure to Groundbourne Vibration; Permanent Increase in Ambient Noise Levels; Increase in Noise Levels Near a Public or Private Airport)
3. **Potentially Significant Impacts That Can Be Avoided or Reduced to a Less Than Significant Level Through Implementation of Mitigation Measures**

- Biological Resources (Impacts to Elderberry Shrubs, Disturbance of Nesting Migratory Birds and Raptors, Disturbance of Western Pond Turtle, Disturbance of Roosting Special-Status Bats, and Impacts to Riparian Habitat)

- Cultural Resources (Disturbance or discovery of unknown Archeological Resources or Human Remains)

- Water Quality (Impacts to the turbidity and general quality of the Tuolumne River)

- Noise (Construction Noise Impacts to Sensitive Receptors)

This document contains the findings required under the California Environmental Quality Act ("CEQA") (Public Resources Code, § 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.).

Public Resources Code Section 21081.6 requires the City to prepare and adopt a Mitigation Monitoring and Reporting Program for any project for which mitigation measures have been imposed to assure compliance with the adopted mitigation measures. The City adopts a Mitigation Monitoring and Reporting Program for the project in Attachment "B" of this Resolution.

No comments made in the public hearings conducted by the City Council or any additional information submitted to the City has produced any substantial new information requiring recirculation or additional environmental review of the Final EIR under CEQA because no new significant environmental impacts were identified, no substantial increase in the severity of any environmental impacts would occur, and no feasible mitigation measures or project alternatives as defined in State CEQA Guidelines Section 15088.5 were rejected.

**SECTION II**

**FINDINGS REGARDING ENVIRONMENTAL IMPACTS NOT REQUIRING MITIGATION**

Section 15091 of the State CEQA Guidelines does not require specific findings to address environmental effects that an EIR identifies as having "no impact" or a "less than significant" impact. Nevertheless, these findings fully account for all resource areas evaluated in the EIR, including resource areas that were identified in the EIR to have either no impact or a less than significant impact on the environment. The City Council hereby finds that the project would either have no impact or a less than significant impact in the following resource areas:

A. **Aesthetics**
1. **Adverse Effect on a Scenic Vista (Impact 3.1-1):** The Proposed Project is located in an urban environment that contains scenic qualities such as the Tuolumne River. The Proposed Project would only remove a small number of trees along the bank of the Tuolumne River, therefore, the overall impact to this scenic resource is considered less than significant. [Draft EIR p. 3-4]

2. **Degrade Existing Visual Character or Quality of the Site (Impact 3.1-2):** The majority of trees that are currently located in the project site would remain; thus overall visual quality of the more urbanized portions of the study area would remain intact. Similarly, given that only a small number of trees located along the Tuolumne River may require removal, the Proposed Project would not substantially degrade the visual quality of that portion of the project site. Therefore, potential impacts related to the degradation of the existing visual character and qualities of the project site are considered less than significant. [Draft EIR p. 3-5]

3. **Substantial Cumulative Impact to an Aesthetic Resources or the Visual Quality of the Site (Impact 3.1-3):** The Proposed Project is determined to have a less-than-significant affect on the visual quality of the urban/suburban areas of the project site, as well as on the visual quality of the Tuolumne River. When considered in conjunction of other future tree trimming projects, including on proposed within the Tuolumne River Regional Park, which has a viewer group relatively distinct from the Proposed Project's, cumulative impacts to aesthetic resources or the visual quality of the project site are considered less than significant. [Draft EIR p. 3-6]

**B. Air Quality**

1. **Conflict or Obstruct with Implementation of an Air Quality Plan (Impact 3.2-1):** If a City's General Plan is consistent with the most recently adopted air quality plans, a project that is consistent with the General Plan’s land use designation is considered consistent with applicable air quality plans and policies. The Proposed Project would involve temporary tree trimming activities and would be consistent with the General Plan land use designations and zoning. Therefore, the Proposed Project would result in a less-than-significant impact because it would not conflict with the applicable air quality plans. [Draft EIR p. 3-20]

2. **Violate an Air Quality Standard or Substantially Contribute to an Existing Air Quality Violation (Impact 3.2-2):** Estimated emissions from construction during 2014 would not exceed SJVAPCD thresholds. However, the Proposed Project would need to comply with all applicable SJVAPCD Rules and Regulations. Since compliance is required by law, the SJVAPCD Rules and Regulations are not included as mitigation and no additional emission reduction controls would be required. The Proposed Project would result in less-than-significant criteria pollutant emissions. [Draft EIR p. 3-22]

3. **Expose Sensitive Receptors to Substantial Pollutant Concentrations (Impact 3.2-3):** Carbon Monoxide (CO) is a localized pollutant of concern.
Due to the distance between construction activities and sensitive receptors, and the minimal CO emissions associated with tree trimming activities, the Proposed Project would not emit CO in quantities that could pose health concerns. The Proposed Project would not result in long-term CO emissions. Thus, the Proposed Project would not result in or contribute to CO concentrations that exceed the California 1-hour or 8-hour ambient air quality standards. This impact would be less-than-significant and no mitigation is required. Furthermore, the short-term increase in toxic air contaminant (TAC) emissions from equipment and on-road vehicle fuel combustion associated with the Proposed Project would be insignificant (1 to 2 weeks) over the 70 year health risk assessment period. The use of equipment would be temporary and episodic, affecting only a few nearby receptors for a limited period of time. The Proposed Project would not result in long-term TAC emissions. Consequently, the Proposed Project would result in a less-than-significant impact. [Draft EIR p. 3-22]

4. Cumulative Increase in Criteria Pollutants (Impact 3.2-4): The Proposed Project would result in a negligible increase of criteria pollutant emissions in the SJVAB during the temporary tree trimming duration, would comply with all applicable SJVAPCD Rules and Regulations, and would not result in long-term emissions. Therefore, when considered in conjunction with other closely related projects, the Proposed Project would not be considered cumulatively considerable and would result in less-than-significant cumulative impacts on the air quality environment. [Draft EIR p. 3-23]

C. Biological Resources

1. Impact a Federally Protected Wetland as Defined by Section 404 of the Clean Water Act (Impact 3.3-3): Direct impacts to wetlands and other waters of the U.S. are not expected. The Proposed Project will not result in the loss of wetlands and other waters of the U.S., nor will any fill of wetlands and other waters of the U.S. occur. Project activities occurring near potentially jurisdictional features may result in a discharge of sediments downstream of these sites. Increased sedimentation to these features could lead to decreases in water quality and subsequent impacts to the biological community dependent on these features. BMPs have been proposed to protect wetlands and other waters of the U.S. from indirect impacts. With implementation of BMPs, impacts to wetlands and other waters of the U.S. are not expected. Overall, impacts to wetlands and other waters of the U.S. are considered less than significant. [Draft EIR p. 3-71]

2. Interfere with the Movement of a Native Resident or Migratory Fish or Wildlife Species (Impact 3.3-4): The Tuolumne River provides suitable habitat for special-status fish species and the river is also designated a critical habitat for Central Valley steelhead. Tree trimming and removal activities may temporarily disrupt wildlife movement within the study area. However, the disturbance would only occur during the trimming or removal activities and the disruption of wildlife movement is temporary in nature. Implementation of the Proposed Project would not interfere substantially with
the movement of fish or wildlife species or with established native resident or migratory wildlife corridors, or impeded the use of native wildlife nursery sites. Therefore, impacts to wildlife or fish movement or migration are considered less than significant. [Draft EIR p. 3-72]

3. **Conflict with Local Policies or Ordinances Protecting Biological Resources (Impact 3.3-5):** The Proposed Project would remove or trim trees in accordance with the Vegetation Management Plan, as well as standards set forth by American National Standards Institute guidelines for tree care operations and pruning (ANSI A300). The Plan was developed by the City of Modesto to enable MOD to remain in compliance with applicable FAA safety standards. The Vegetation Management Plan is in compliance with local policies and ordinances and is consistent with the Stanislaus County General Plan. The ANSI A300 standards are the generally accepted industry standards for tree care practices. They are voluntary industry consensus standards developed by Tree Care Industry Association (TCIA) and written by a committee called the Accredited Standards Committee (ASC) A300, whose mission is to develop consensus performance standards based on current research and sound practice for writing specifications to manage trees, shrubs, and other woody plants (TCIA 2012). As with the Vegetation Management Plan, the ANSI 300A standards are in compliance with local policies and ordinances. Thus, there would be no impact (no conflict) to local policies or ordinances as a result of the implementation of the Proposed Project in accordance to recommendations from the Vegetation Management Plan and ANSI A300. [Draft EIR p. 3-72]

4. **Conflict with an Adopted Habitat Conservation Plan (Impact 3.3-6):** Stanislaus and its nine incorporated cities currently do not have any adopted Habitat Conservation Plans (HCPs). The Proposed Project is not located within an adopted HCP, Natural Community Conservation Plan (NCCP), or other approved local, regional, or state habitat conservation plan. Therefore, the project would not conflict with any HCPs or NCCPs. [Draft EIR p. 3-72]

D. **Cultural Resources**

1. **Adverse Change in the Significance of a Historical Resource (Impact 3.4-1):** Field reconnaissance identified three historic period cultural resources potentially impacted by activities associated with the Proposed Project. These resources included MOD-1 (historic period ditch), MOD-2 (steel tanks), and Mitchell Road Bridge. At this time, only the Mitchell Road Bridge (38C-44) has been evaluated for potential eligibility for the National Register, and Caltrans previously recommended the bridge as not eligible. As currently designed, the Proposed Project would have no impact on MOD-1 or MOD-2, and would result in no impact to historical resources under CEQA. No additional mitigation or analysis is required. [Draft EIR p. 3-92]

E. **Greenhouse Gas Emissions**
1. **Generate Greenhouse Gas Emissions That May Have a Significant Impact on the Environment (Impact 3.5-1):** If annual construction emissions for a project component would exceed 1,100 metric tons of CO2e per year, emissions would be considered significant. Estimated GHG emissions from the Proposed Project would be approximately 8 metric tons, which would be negligible. No long-term GHG emissions would be generated by the Proposed Project. This impact would be less than significant without mitigation. [Draft EIR p. 3-113]

2. **Conflict with an Applicable Plan, Policy, or Regulation Adopted for the Purpose of Reducing Emissions of Greenhouse Gases (Impact 3.5-2):** The Proposed Project would not result in long-term activities and GHG emissions. The City of Modesto, City of Ceres, and Stanislaus County have not established a GHG reduction plan. The Proposed Project would not conflict with any applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. This would be a less than significant impact. [Draft EIR p. 3-113]

3. **Cause or Contribute to a Cumulative Impact Related to Greenhouse Gases (Impact 3.5-3):** GHG emissions are considered cumulative in nature. Impact 3.5-1, addresses the potential for the Proposed Project to generate GHG emissions, either directly or indirectly, that may have a cumulatively significant impact on the environment. Results presented above indicate that the Proposed Project would not have a cumulatively significant contribution on GHG emissions; therefore, cumulative impacts related to GHG emissions are considered to be less than significant. [Draft EIR p. 3-114]

### SECTION III

**FINDINGS REGARDING ENVIRONMENTAL IMPACTS MITIGATED TO A LEVEL OF LESS THAN SIGNIFICANT**

The City Council finds that the following environmental impacts identified in the EIR are potentially significant, but can be mitigated to a less than significant level. The potentially significant impacts and the mitigation measures which would reduce them to a less than significant level are set forth in the EIR and are summarized as follows:

**A. Biological Resources**

1. **Impacts to Candidate, Sensitive, or Special Status Species (Impact 3.3-1):** Through physical surveys of the project site and database research, it was determined that the Proposed Project site has the potential to contain habitat conducive to the following candidate, sensitive, or special status species: valley elderberry longhorn beetle, hardhead and Central Valley steelhead, Swainson's hawk, burrowing owl, great blue heron, yellow-breasted chat, western pond turtle, and special status bats. With the exception of the hardhead and Central Valley steelhead, implementation of the Proposed Project has the potential to impact these species through loss
of habitat or disturbance during nesting and roosting season. [Draft EIR p. 3-64 through 3-65]

**Finding:** The mitigation measures outlined below would reduce to a less-than-significant level the project's impacts to candidate, sensitive, or special status species. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

**Mitigation Measures 3.3-1: Avoid or Minimize Impacts to Elderberry Shrubs.**

In order to avoid potential direct and indirect impacts to valley elderberry longhorn beetle, the following avoidance and protective measures would be implemented based upon the USFWS's Conservation Guidelines for Valley Elderberry Longhorn Beetle:

- Fence and/or flag all areas to be avoided during trimming activities as directed or approved by a USFWS approved biologist. Provide a minimum setback of at least 20 feet from the dripline of each elderberry plant.

- Restore any temporary damage done to the buffer area (area within 100 feet of elderberry plants) during project activities. Provide erosion control and re-vegetate with appropriate native plants as approved by a qualified biologist.

- Prevent the use of insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or its host plant within 100 feet of any elderberry plant with one or more stems measuring 1.0 inch or greater in diameter at ground level.

- Elderberry shrub protection during tree trimming activities will be provided by use of cables or other measures to direct limb fall, and the cutting of trees in sections.

- When project activities may occur within 100 feet of a suitable shrub, a biologist will be on-site at all times to ensure that the buffer is maintained and monitor and quantify any unanticipated damage to the shrubs.

- Access routes for machinery will be located outside a 20 foot buffer wherever possible, and all mulching activity will occur outside of a 20 foot buffer.

- Contractors and work crews will be briefed about the status of the beetle, its biology and ecology, and the need to protect its host plant. They will also be briefed on the need to avoid damaging the elderberry shrubs and the possible penalties for not complying with these requirements.

- Signs will be erected every 50 feet along the edge of the avoidance area(s) with the following information: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and
imprisonment. “The signs should be clearly readable from a distance of 20 feet, and must be maintained for the duration of project activities.

- For shrub clusters that are located within a distance of 10 feet or less from a tree that needs to be treated, the following conservation measures shall be implemented:
  - Tree limbs and pieces of trunk will be removed via climbers with hand tools and will be lowered via ropes/cables or other means to a location outside of the 10 foot buffer zone.
  - Tarps, ropes, or other gently placed materials may be used to temporarily hold back elderberry stems while removing trees that are within the shrub’s canopy. [Draft EIR p. 3-66]

Mitigation Measure 3.3-2: Avoid Disturbance of Nesting Migratory Birds and Raptors. To avoid impacts on nesting birds and raptors, the following avoidance and minimization measures should be implemented:

1. To the extent feasible, tree treatment activities associated with the project will be conducted outside the breeding season (which generally occurs between March 1 and August 15) for migratory birds and raptors.

2. If tree treatment activities are to take place during the breeding season for these species, a qualified wildlife biologist will be hired to conduct focused pre-treatment nest surveys for active special and non-special status migratory bird and raptor nests. Pre-treatment surveys for tree-nesting raptors and migratory songbirds shall be conducted within 15 days prior to any project activities that will occur between March 1 and August 15 of any given year. All suitable nesting habitat for tree nesting raptors and migratory songbirds shall be surveyed within 250 feet of the proposed treatment areas. For Swainson’s hawk surveys, guidelines provided in the Recommended Timing and Methodology for Swanson’s Hawk Nesting Survey in the Central Valley (Swainson’s Hawk Technical Advisory Committee 2000) would be followed where possible (Appendix G).

3. Surveys for burrowing owls would be conducted between March and May and in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG, 2012; Appendix H).

Should active nests be identified by these surveys, the nest sites shall be protected from all treatment activities within 250 feet of the nest site until the young have fledged. Treatment activities that must occur within 250 feet of an active nest shall not take place without prior consultation with the California Department of Fish and Wildlife. [Draft EIR p. 3-66 through 3-77]

Mitigation Measure 3.3-3: Avoid Disturbance of Western Pond Turtle. To avoid impacts on western pond turtle, the following avoidance and minimization measure should be implemented:
1. Prior to treatment operations, a survey for the western pond turtle shall be performed by a qualified biologist within suitable habitat in the project area within 48 hours of construction. Any pond turtles found within the area shall be reported to the CDFW. Further mitigation, such as moving the pond turtle(s) outside of the treatment area, shall be conducted after consulting with the CDFW. [Draft EIR p. 3-67]

Mitigation Measure 3.3-4: Avoid Disturbance to Roosting Special-Status Bats.
To avoid impacts on roosting special-status bats, the following avoidance and minimization measure should be implemented:

1. If tree treatment activities commence on the project site during the breeding season of native bat species (April 1 to August 31), then a field survey shall be conducted by a qualified bat biologist to determine whether active roosts are present on site or within 50 feet of the project boundaries. Field surveys shall be conducted early in the breeding season before any treatment activities begin, when bats are establishing maternity roosts but before pregnant females give birth (April through early May). If no roosting bats are found, then no further mitigation is required.

If roosting bats are found, then disturbance of the maternity roosts shall be avoided by halting treatment activities until the end of the breeding season or a qualified bat biologist removes and relocates the roosting bats in consultation with CDFW. [Draft EIR p. 3-67 through 3-68]

**Rationale:** The EIR determined that Mitigation Measures 3.3-1, 3.3-2, 3.3-3, and 3.3-4 would set forth a series of procedures that would occur prior to and during construction activities. Pre-construction surveys would identify potential protected species, thus enabling the contractor to avoid their nests during construction activities. Similarly, the avoidance and protective measures recommended above would assist the contractor in minimizing impacts to valley elderberry longhorn beetle by avoiding direct take of their habitat during construction activities. With implementation of these measures, potential impacts to valley elderberry longhorn beetle special status raptor and other migratory birds, western pond turtle, and special-status bats would be reduced to less-than-significant levels. [Draft EIR p. 3-68]

2. **Adverse Effect on Any Riparian Habitat or Other Sensitive Natural Community (Impact 3.3-2):** The proposed trimming of trees within the project site would have potentially significant impacts on valley foothill riparian habitat and Valley oak woodland, both of which are identified as sensitive natural communities by the California Department of Fish and Wildlife. [Draft EIR p. 3-69 through 3-70]

**Finding:** The mitigation measures outlined below would reduce to a less-than-significant level the project's impacts related to valley foothill riparian habitat and Valley oak woodland. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which
would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measure 3.3-5: Conduct WEAP to Avoid or Minimize Impacts on Riparian Habitat. Prior to the start of project activities, a Worker Environmental Awareness Program shall be developed and presented to the contractor in order to address planned work procedures around trees, the locations where specialized treatments are required, and review the acceptable equipment that the contractor may use for project activities. This program will also address valley elderberry longhorn beetle and other sensitive biological resources on the project site. [Draft EIR p. 3-70]

Mitigation Measure 3.3-6: Establish Tree Removal and Trimming Guidelines to Minimize Disturbance. All trimming will be performed using hand tools to prevent additional damage to riparian vegetation. All slash materials (limbs, branches and other woody debris) resulting from trimming activities shall be removed from the study area and properly disposed of at an off-site location.

Furthermore, the City shall protect wetlands, riverine and associated riparian habitats by installing protective fencing. Protective fencing shall be installed along the edge of wetland, riverine and riparian areas, where project activities will occur within 200 feet of the edge of protected habitat (as determined by a qualified biologist). The location of fencing shall be marked in the field with stakes and flagging. [Draft EIR p. 3-70 through 3-71]

Rationale: The EIR determined that Mitigation Measures 3.3-3 and 3.3-4 would establish a pre-construction awareness program and establish construction guidelines to help educate contract workers on the biological issues prevalent within the Proposed Project area. By conducting WEAP training prior to the start of construction activities, workers will have a greater awareness of specialized work procedures around protected habitat such as elderberry shrubs and protected waters of the U.S., and adherence to the tree trimming and removal guidelines will help ensure impacts to these biological resources are avoided. Through implementation of Mitigation Measure 3.3-3 and Mitigation Measure 3.3-4 potential impacts to riparian habitat or other sensitive natural communities would be reduced to less-than-significant levels. [Draft EIR p. 3-71]

3. Cumulative Impacts to Biological Resources (Impact 3.3-7). The only other "closely related" project that was identified in the vicinity of the project site was another tree management project in the Tuolumne River Regional Park (TRRP). Similar to the Proposed Project, tree management activities would be subject to the guidelines set forth in the Vegetation Management Plan, as well as the ANSI A300 pruning standards. Furthermore, future management of trees within the TRRP would be conducted under the TRRP Management Plan (Plan). The Plan was designed with a strong conservation-oriented approach in order to protect and enhance the river, integrating the natural processes that shaped the landscape. Therefore, similar BMPs and
measures to avoid or limit impacts to biological resources such as native trees, wetlands, and threatened or endangered species would be required as a part of this separate project. Considering the nature of these projects, as well as the implementation of Mitigation Measures 3.3-1 through 3.3-6, cumulative impacts associated with the Proposed Project are considered to be less than significant. [Draft EIR p. 3-73]

**Finding:** The mitigation measures outlined below would reduce to a less-than-significant level the project’s potential cumulative impacts to biological resources. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measures 3.3-1 through 3.3-6. Implement these measures as described above. [Draft EIR p. 3-73]

**Rationale:** Implementation of Mitigation Measures 3.3-1 through 3.3-6, which establishes measures to avoid direct and indirect impacts to habitat and special status species, will ensure that the Proposed Project’s contribution to a potential cumulative impact to biological resources is less than significant. [Draft EIR p. 3-73]

**B. Cultural Resources**

1. **Cause an Adverse Change in the Significance of an Unknown Paleontological, Geological, or Archeological Resource (Impact 3.4-2):** Neither the archival search nor the field reconnaissance resulted in the identification of prehistoric archaeological resources within the Proposed Project area. Regardless, the possibility still exists for the discovery of such resources as a result of potential earthmoving activities associated with the Proposed Project (e.g., tree stump removal). Prehistoric materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs), as well as battered stone tools, such as hammerstones and pitted stones. Inadvertent damage to significant and unique archaeological or paleontological resources during construction would be a potentially significant impact. [Draft EIR p. 3-92]

**Finding:** The mitigation measure outlined below would reduce to a less-than-significant level the project’s potential impact to unknown paleontological, geological, or archeological resources. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Measure 3.4-1: Discovery of Archaeological Resources. In the event that previously unidentified archaeological, Native American, or paleontological resources are uncovered during project implementation, all work should
cease within 100 feet of the find until it can be evaluated by a qualified archaeologist, as defined as one meeting the Secretary of the Interior's Professional Qualification Standards for archaeology, or paleontologist (U.S. Department of the Interior, 2012). If the find is determined to be potentially significant, the archaeologist, in consultation with the lead agency and appropriate Native American group(s) (if the find is prehistoric or Native American in nature) or paleontologist should develop a treatment plan with an emphasis towards preservation in place. If resources are encountered, avoidance, or preservation in an undisturbed state is the preferable course of action. CEQA §21083.2(b). provides that preservation methods may include:

- Planning construction to avoid archaeological sites;
- Deeding sites into permanent conservation easements;
- Capping or covering sites with a layer of soil before building on the sites; and
- Planning parks, green space, or other open space to incorporate archaeological sites. [Draft EIR p. 3-92 through 3-93]

**Rationale:** The EIR determined that cessation of work within 100 feet of a discovered subsurface archaeological/paleontological resource shall prevent potential damage to the resource, and allow for a qualified archeologist/paleontologist to evaluate and make recommendations for the protection and recovery of the resource. Implementation of this measure will ensure that potential impacts to subsurface archaeological/paleontological resources are less than significant. [Draft EIR p. 3-93]

2. **Disturb any human remains, including those interred outside a formal cemetery (Impact 3.4-3):** There is no indication, either from the archival research results or the archaeological survey, that any particular location in Proposed Project area was used for human burial purposes in the recent or distant past. Therefore, it is unlikely that human remains would be encountered during the Proposed Project. However, in the unlikely event that human remains were discovered during subsurface activities, including those interred outside of formal cemeteries, the human remains could be inadvertently damaged, which could be a significant impact. [Draft EIR p. 3-93]

**Finding:** The mitigation measure outlined below would reduce to a less-than-significant level the project's potential impact to human remains interred outside a formal cemetery. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

**Measure 3.4-2: Accidental Discovery of Human Remains.** If human remains are encountered unexpectedly during construction excavation and grading activities, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to PRC Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission. The NAHC will then identify the person(s) thought to be the Most Likely
Descendent of the deceased Native American, who will then participate in consultation with the landowner to determine the appropriate future disposition of the remains. [Draft EIR p. 3-93]

**Rationale:** The EIR determined that implementation of this measure shall ensure that all applicable government regulations (as identified above) are adhered to in the event of the discovery of human remains. Potential impacts to human remains, with the implementation of this measure, are considered less than significant. [Draft EIR p. 3-93]

3. **Cumulative impacts to cultural resources (Impact 3.4-4):** Although the Proposed Project would have potentially significant impacts to unknown archaeological resources and human remains, there are no other past, present, or reasonably foreseeable future development projects which could combine with the project's impacts to form a significant, cumulative impact to archaeological resources or human remains. While the future project identified within the TRRP would potentially include earth-disturbing activities (i.e., stump removal), it is likely that similar measures to those identified in this EIR to avoid impacts to unknown cultural resources would be implemented for that project. Therefore, in order to avoid causing a cumulative impact to unknown cultural resources, implementation of Mitigation Measures 3.4-1 and 3.4-2 is required. [Draft EIR p. 3-94]

**Finding:** The mitigation measures outlined below would reduce to a less-than-significant level the project's potential impact to unknown paleontological, geological, or archeological resources or human remains interred outside a formal cemetery, thus avoiding contributing to a cumulative impact. The mitigation measures reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measures 3.4-1 and 3.4-2. Implement these measures as described above. [Draft EIR p. 3-94]

**Rationale:** Implementation of Mitigation Measures 3.4-1 through 3.4-2, which establishes measures to reduce indirect impacts to unknown paleontological, geological, or archeological resources or human remains interred outside a formal cemetery, will ensure that the Proposed Project's contribution to a potential cumulative impact to cultural resources is less than significant. [Draft EIR p. 3-94]

C. **Hydrology and Water Quality**

1. **Violate Any Water Quality Standards or Waste Discharge Requirements (Impact 3.6-1):** Implementation of the Proposed Project, which includes the trimming of trees obstructing MOD's navigable airspace, may generate minor, but adverse impacts to water quality. These impacts may be generated through tree trimming operations along the banks of the Tuolumne River. Potential impacts include falling wood debris, disturbed sediment, and additional sources of pollutants, including petroleum-based vehicle and equipment fluids and trash. The introduction or combined introduction of any of these pollutants could increase turbidity in the River, thus potentially violating the policies and guidelines identified in the Regulatory Setting above. Violation of these standards is considered a potentially significant impact. [Draft EIR p. 3-120]
Finding: Implementation of Mitigation Measures 3.6-1 through 3.6-3 would avoid potential violations to applicable water quality standards. The mitigation measures reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measures 3.6-1: Implement Mitigation Measure 3.3-5, which calls for the City to conduct WEAP training prior to construction to avoid or minimize impacts on riparian habitat.

Mitigation Measure 3.6-2: Implement Mitigation Measure 3.3-6, which calls for the establishment of tree removal and trimming guidelines to minimize disturbance to the Tuolumne River and other habitat.

Mitigation Measure 3.6-3: Implement soil erosion best management practices. Prior to and during demolition and construction activities, the contractor shall implement the following BMPs:

- Placing fiber rolls around onsite drain inlets to prevent sediment and construction-related debris from entering inlets.
- Placing fiber rolls along the perimeter of the site to reduce runoff flow velocities and prevent sediment from leaving the site.
- Placing silt fences downgradient of disturbed areas to slow down runoff and retain sediment.
- All disturbed soil will be seeded, mulched, or otherwise protected at the end of tree maintenance activities.
- Stabilizing construction entrance to reduce the tracking of mud and dirt onto public roads by construction vehicles. [Draft EIR p. 3-121 through 3-122]

Rationale: The EIR determined that implementation of Mitigation Measures 3.6-1 through 3.6-3 will ensure that debris and erosion associated with demolition and construction activities is minimized and that trimmings, fluids, trash, and top soil is retained and kept away from inlets, storm drains, and open surface water. With implementation of this measure, impacts to water quality associated with the generation of debris and the loss of topsoil are reduced to less-than-significant levels. [Draft EIR p. 3-122]

2. Otherwise Substantially Degrade Water Quality (Impact 3.6-2): Implementation of the Proposed Project, which includes the trimming of trees obstructing MOD’s navigable airspace, may generate minor, but adverse impacts to water quality. These impacts may be generated through tree trimming operations along the banks of the Tuolumne River. Potential impacts include falling wood debris, disturbed sediment, and additional sources of pollutants, including petroleum-based vehicle and equipment fluids and trash. The introduction or combined introduction of any of these pollutants could increase turbidity in the River, thus potentially degrading
water quality within the project site. This is considered a potentially significant impact. [Draft EIR p. 3-122]

**Finding:** Implementation of Mitigation Measures 3.6-1 through 3.6-3 would avoid potential degradation to the quality of the Tuolumne River. The mitigation measures reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

**Mitigation Measures 3.6-1 through 3.6-3.** Implement these measures as described above.

**Rationale:** The EIR determined that implementation of mitigation measures 3.6-1 through 3.6-3 will ensure that debris and erosion associated with demolition and construction activities is minimized and that trimmings, fluids, trash, and top soil is retained and kept away from inlets, storm drains, and open surface water. With implementation of this measure, impacts to water quality associated with the generation of debris and the loss of topsoil are reduced to less-than-significant levels.

3. **Considerable Cumulative Impacts to Water Quality (Impact 3.6-3):**

The only other "closely related" project that was identified in the vicinity of the project site was another tree management project in the TRRP. Similar to the Proposed Project, tree management activities would be subject to applicable guidelines, including the ANSI A300 pruning standards. Tree trimming activities within the TRRP, like the Proposed Project, has the potential to generate debris, erosion, and other pollutants that may damage water quality for wetlands, riverine, and other riparian habitat. [Draft EIR p. 3-123]

**Finding:** Implementation of Mitigation Measures 3.6-1 through 3.6-3 would avoid potential cumulative impacts to water quality in the project area. The mitigation measures reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

**Mitigation Measures 3.6-1 through 3.6-3.** Implement these measures as described above. [Draft EIR p. 3-123]

**Rationale:** Implementation of Mitigation Measures 3.6-1 through 3.6-3 will ensure that debris and erosion associated with demolition and construction activities is minimized and that trimmings, fluids, trash, and top soil is retained and kept away from inlets, storm drains, and open surface water. With implementation of this measure, will reduce impacts to less-than-significant levels, thus avoiding contribution to a cumulatively considerable water quality impact. [Draft EIR p. 3-123 through 3-124]
D. **Noise**

1. **Expose Persons to Noise Levels in Excess of Local Standards (Impact 3.7-1):** Pruning would occur during the winter season for approximately 1 to 2 weeks and would involve the use of hand tools (such as hand saws and chainsaws) and disposed of using a wood chipper and removed in accordance with the City of Modesto municipal code pertaining to the collection of pruned refuse. Although construction noise would likely exceed the Stanislaus County exterior standards described in Table 3.7-1 (as assessed in Impact 3.7-2 below), the tree trimming activity would be exempt from the standards per Subsection J of the Stanislaus County Code 10.46.080. In addition, all construction equipment would operate in accordance with the applicable ordinance and standards. To the greatest extent practical, the City will also make an effort to sell wood from trimmed trees, thus reducing potential noise from use of wood chippers. Finally, the following mitigation measure would also ensure that noise levels would be reduced to the extent feasible. [Draft EIR p. 3-135 through 3-136]

**Finding:** The mitigation measure outlined below would reduce to a less than significant level the project’s impacts related to exposure of persons to noise levels in excess of local standards. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

**Mitigation Measure 3.7-1: Implement Construction-Related Noise Reducing Measures.** The applicant shall require the construction contractor to implement the following measures:

- Construction activities shall be limited to the daytime hours between 7:00 a.m. and 8:00 p.m. Monday through Friday to avoid noise-sensitive hours of the day.
- Construction equipment and vehicles shall be equipped with properly operating mufflers according to the manufacturers’ recommendations.
- Construction contractors shall locate fixed construction equipment (such as the wood chipper) and construction staging areas as far as possible from nearby residences.
- Haul routes that affect the fewest number of people shall be selected.
- Affected property owners will be notified a week in advance of tree management activities. [Draft EIR p. 3-136]

**Rationale:** The EIR determined that Implementation of Mitigation Measure 3.7-1 (construction-related noise reducing measures) would ensure that noise associated with project construction would be reduced to the greatest extent feasible and would comply with applicable standards and regulations that pertain to the Proposed Project. This impact would be less-than-significant. [Draft EIR p. 3-136]
2. **Result in a Substantial, Temporary Increase in Ambient Noise Levels (Impact 3.7-2):** some obstructions located west of Mitchell Road are located on private residential parcels. In these areas, maintenance activities would occur in close proximity to homes (approximately 25 feet or closer). The closest residences to potential tree trimming activities would experience noise levels of potentially 96 dBA Lmax. Construction noise at these levels would be substantially greater than existing noise levels at nearby sensitive receptor locations. However, construction would be short-term (approximately 1 to 2 weeks) and intermittent. The use of equipment would be temporary and episodic, affecting only a few nearby receptors for a limited period of time. Overall, noise generated during short-term construction activities of the Proposed Project would result in a substantial increase in noise at the nearest residences. Consequently, the Proposed Project would result in a potentially significant impact. [Draft EIR p. 3-135 through 3-136]

**Finding:** The mitigation measure outlined below would reduce to a less than significant level the project’s impacts related to exposure of persons to a substantial, temporary increase in ambient noise levels. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

**Mitigation Measure 3.7-2:** Implement Mitigation Measure 3.7-1, which calls for a series of construction-related noise reducing measures. [Draft EIR p. 3-136]

**Rationale:** The EIR determined that implementation of Mitigation Measure 3.7-1 (construction-related noise reducing measures) would ensure that noise associated with project construction would be reduced to the greatest extent feasible and would comply with applicable standards and regulations that pertain to the Proposed Project. This impact would be less-than-significant. [Draft EIR p. 3-136]

3. **Result in Cumulatively Considerable Noise Increases (Impact 3.7-3):** The only other “closely related” project that was identified in the vicinity of the project site was another tree management project in the TRRP. It is assumed that actions associated with the eventual tree management project within the TRRP would be similar to those of the Proposed Project. Specifically, noise generated from the use of tree trimming equipment and vehicles would be of similar levels and short-term. Assuming that the Proposed Project and the other tree trimming project occurred at the same time a potential cumulative impact to temporary ambient noise levels could occur. [Draft EIR p. 3-137]

**Finding:** The mitigation measure outlined below would reduce to a less than significant level the project’s contribution to a potential cumulative impact related to exposure of persons to a substantial, temporary increase in
ambient noise levels. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measure 3.7-3: Implement Mitigation Measure 3.7-1, which calls for a series of construction-related noise reducing measures. [Draft EIR p. 3-137]

Rationale: Though the timing of the Proposed Project is unlikely to occur in concert with other tree trimming projects identified in the vicinity of the project area, even if other construction activities were to occur in the vicinity of the Proposed Project, compliance with the applicable City or County standards and implementing basic noise controls would ensure that temporary noise exposure due to construction would be less than significant. Implementation of Mitigation Measure 3.7-3 will further reduce potential cumulative noise impacts to less-than-significant levels. [Draft EIR p. 3-137]

SECTION IV

FINDINGS REGARDING PROJECT ALTERNATIVES

A. Background

Section 15126.6 of the State CEQA Guidelines requires EIRs to consider and discuss alternatives to the proposed actions. Subsection (a) states:

(a) An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

Subsection 15126.6(b) states the purpose of the alternatives analysis:

(b) Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would
impede to some degree the attainment of the project objectives, or would be more costly.

In Subsection 15126.6(c), the State CEQA Guidelines describe the selection process for a range of reasonable alternatives:

(c) The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency’s determination. Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

The range of alternatives required is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. Alternatives are limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project.

However, when significant impacts can be mitigated by the adoption of mitigation measures, the lead agency has no obligation to consider the feasibility of alternatives with respect to that impact in its findings, even if the alternative would mitigate the impact to a greater degree than the proposed project (Public Resources Code, § 21002; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 730-731; Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376, 400-403; Laurel Hills Homeowners Association v. City Council (1978) 83 Cal.App.3d 515, 521). The City has adopted mitigation measures to avoid or substantially lessen the potentially significant environmental impacts identified in the EIR.

The project seeks to achieve the following key objectives [Draft EIR p. 2-3]:

1. Provide a safe environment for air travelers and people who live and work in the vicinity of the Airport;
2. Comply with FAR Part 77: Objects Affecting Navigable Airspace; and,
3. Maintain object-free airspace while responsibly managing and preserving the environment around the Airport, particularly along the Tuolumne River.

The City evaluated a total of three alternatives in detail. Those alternatives are:
• **No Project Alternative** [Draft EIR pp. 4-2 through 4-4]

• **Complete Tree Removal Alternative** [Draft EIR pp. 4-4 through 4-6]

• **Only Twenty-Five Percent Trim Alternative** [Draft EIR pp. 4-7 through 4-9]

A complete discussion for alternatives that were considered in detail is provided below.

**B. Alternatives Considered in Detail in the EIR**

The following project alternatives were considered in detail in the EIR. These alternatives are rejected for various reasons as set forth below.

1. **No Project Alternative**

   Under the No Project Alternative, the Proposed Project site would remain in its current condition. Trees that currently obstruct MOD’s navigable airspace would not be trimmed or removed, and the Notice to Airmen regarding these hazards would remain in place. The No Project Alternative was selected to fulfill the requirements of CEQA Section 15126.6(3). [Draft EIR p. 4-2]

   **Finding:** Based upon the Supporting Explanation below, the City Council rejects the No Project Alternative because it does not comply with the project objectives of providing a safe environment for air travelers and people who live and work in the vicinity of the Airport; complying with FAR Part 77: Objects Affecting Navigable Airspace; and maintaining object-free airspace.

   **Supporting Explanation:** The No Project Alternative would have no effect on the existing environment. With no trimming or removal activities, trees would be left in their existing state. While this would have an overall neutral effect on the environment, as compared to the Proposed Project, the No Project Alternative would also allow objects that are considered obstructions to MOD’s navigable airspace to remain in place. In their current state, these trees constitute hazards to aircraft operating at the Airport. As a Primary commercial service airport in the FAA’s National Plan of Integrated Airport Systems (NPIAS), the City is obligated to maintain MOD’s airspace in compliance with operating regulations set forth in Federal Aviation Regulations (FARs); specifically FAR Part 77: Objects Affecting Navigable Airspace, which identifies the criteria that are used to define obstructions for airports and their surrounding airspace. Therefore, while there would be no effect on the environment, because it allows obstructions to navigable airspace to remain in place, the No Project Alternative is less feasible than the Proposed Project. [Draft EIR p. 4-4]

2. **Complete Tree Removal Alternative**

   This alternative assumes that all trees identified as obstructions within MOD’s navigable airspace would be removed [Draft EIR p. 4-4]

   **Finding:** Based upon the Supporting Explanation below, the City Council rejects the Complete Tree Removal Alternative because it does not meet maintaining an object-
free airspace while responsibly managing and preserving the environment around the Airport; particularly the Tuolumne River.

**Supporting Explanation:** The Complete Tree Removal Alternative would result in the complete removal of the 239 trees that have been identified as obstructions to MOD's navigable airspace. With complete removal, the Complete Tree Removal Alternative provides a permanent solution to the current obstruction issue, and ensures that the Airport meets its Federal obligations to maintain an object-free airspace. Conversely, the Complete Tree Removal Alternative would result in greater environmental impacts. In particular, potential impacts to the visual qualities of the project site and to biological resources would be much greater under this alternative. Because of the potential for greater environmental impacts, the Complete Tree Removal Alternative is less feasible than the Proposed Project. [Draft EIR p. 4-6]

3. **Only Twenty-Five Percent Trim Alternative**

This alternative would trim all 239 trees identified for maintenance under the Proposed Project. However, under this alternative, trees would have no more than twenty-five percent of their crowns removed, thus eliminating the potential need to remove any trees from the project site. [Draft EIR p. 4-7]

**Finding:** Based upon the Supporting Explanation below, the City Council rejects the Only Twenty-Five Percent Trim Alternative because it would only be able to partially meet the City's three objectives. While trimming up to twenty-five percent of a tree's respective crown may avoid or reduce some environmental impacts and remove some identified obstructions, this alternative would fail to remove all the trees obstructing MOD's navigable airspace.

**Supporting Explanation:** The Only Twenty-Five Percent Trim Alternative would avoid or reduce some of the impacts generated under the Proposed Project. Furthermore, by trimming twenty-five percent of a tree's crown, this alternative would remove some of the obstructions that have been identified within the project site. However, constraining the trimming of trees to only twenty-five percent of their crowns would also mean that some trees would continue to obstruct MOD's navigable airspace. As such, MOD would not be in full compliance with the standards set forth in FAR Part 77. Therefore, this Alternative is less feasible than the Proposed Project. [Draft EIR p. 4-9]

**SECTION V
CERTIFICATION OF EIR**

The City Council finds that it has reviewed and considered the Final EIR in evaluating the project, that the EIR is an accurate and objective statement that fully complies with the Public Resources Code and the State CEQA Guidelines, and that the EIR reflects the independent judgment of the City Council. The City Council consequently certifies the EIR.
The City Council declares that no new significant information as defined by State CEQA Guidelines Section 15088.5 has been received by the City after circulation of the Draft EIR nor added by the City to the EIR that would require recirculation.

The City Council certifies the EIR based on, without limitation, the following finding and conclusions:

A. **Finding:** The significant environmental impacts set forth in Section V of this Resolution have been identified in the EIR and will require mitigation, which will reduce potential impacts to less-than-significant levels.

B. **Conclusions**

1. All significant environmental impacts from the implementation of the proposed project have been identified in the EIR and, with implementation of the identified mitigation measures, impacts will be mitigated to a less-than-significant level.

2. Other reasonable alternatives to the proposed project that could feasibly achieve the basic goals and objectives of the project have been considered and rejected in favor of the proposed Modesto City-County Obstruction Management Project.
This page intentionally left blank
RESOLUTION (i) APPROVING THE INCLUSION OF PROPERTIES WITHIN THE CITY OF MODESTO’S JURISDICTION IN THE CALIFORNIA HERO PROGRAM; AND (ii) AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS JOINT POWERS AGREEMENT TO ADD THE CITY AS AN ASSOCIATE MEMBER IN ORDER TO AUTHORIZE THE CITY’S PARTICIPATION IN THE CALIFORNIA HERO PROGRAM, WHICH WILL ENABLE PROPERTY OWNERS TO FINANCE PERMANENTLY FIXED RENEWABLE ENERGY, ENERGY AND WATER EFFICIENCY IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE ON THEIR PROPERTIES

WHEREAS, the Western Riverside Council of Governments (“Authority”) is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the “Act”) and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the “Authority JPA”); and

WHEREAS, Authority has established the California HERO Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure (the “Improvements”) pursuant to Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code (“Chapter 29”) within counties and cities throughout the State of California that elect to participate in such program; and

WHEREAS, City of Modesto is committed to development of renewable energy sources and energy efficiency improvements, reduction of greenhouse gases, protection of our environment, and reversal of climate change; and
WHEREAS, in Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing improvements through a voluntary contractual assessment program; and

WHEREAS, installation of such Improvements by property owners within the jurisdictional boundaries of the counties and cities that are participating in the California HERO Program would promote the purposes cited above; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency and independence, and in doing so cooperate with Authority in order to efficiently and economically assist property owners the City in financing such Improvements; and

WHEREAS, Authority has established the California HERO Program, which is such a voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally made and entered into April 1, 1991, as amended to date, and the Amendment to Joint Powers Agreement Adding the City of Modesto as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of Property Assessed Clean Energy (PACE) Program Services within the City (the “JPA Amendment”), by and between Authority and the City, a copy of which is attached as Exhibit “A” hereto, to assist property owners within the jurisdiction of the City in financing the cost of installing Improvements; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that this City Council finds and declares that properties in the City’s incorporated area will be benefited by the availability of the California HERO Program to finance the installation of the improvements.

BE IT FURTHER RESOLVED this City Council consents to inclusion in the California HERO Program of all of the properties in the jurisdictional boundaries of the City and to the improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to such program, and to the assumption of jurisdiction thereafter by Authority for the purposes thereof.

BE IT FURTHER RESOLVED the consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the California HERO Program and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent such contractual assessments.

BE IT FURTHER RESOLVED this City Council hereby approves the JPA Amendment and authorizes the City Manager, or his designee, to execute the necessary documents.

BE IT FURTHER RESOLVED City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the California HERO Program within the City, and report back periodically to this City Council on the success of such program.
BE IT FURTHER RESOLVED this Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority Executive Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of March, 2014, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
This Amendment to the Joint Powers Agreement ("JPA Amendment") is made and entered into on the ___ day of ____, 2014, by City of Modesto ("City") and the Western Riverside Council of Governments ("Authority") (collectively the "Parties").

RECITALS

WHEREAS, Authority is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the "Joint Exercise of Powers Act") and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the "Authority JPA"); and

WHEREAS, as of October 1, 2012, Authority had 18 member entities (the "Regular Members").

WHEREAS, Chapter 29 of the Improvement Act of 1911, being Division 7 of the California Streets and Highways Code ("Chapter 29") authorizes cities, counties, and cities and counties to establish voluntary contractual assessment programs, commonly referred to as a Property Assessed Clean Energy ("PACE") program, to fund certain renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure (the "Improvements") that are permanently fixed to residential, commercial, industrial, agricultural or other real property; and

WHEREAS, Authority has established a PACE program to be known as the "California HERO Program" pursuant to Chapter 29 which authorizes the implementation of such PACE financing program for cities and counties throughout the state; and

WHEREAS, City desires to allow owners of property within its jurisdiction to participate in the California HERO Program and to allow Authority under Chapter 29, as it is now enacted or may be amended hereafter, to finance Improvements to be installed on such properties; and

WHEREAS, this JPA Amendment will permit City to become an Associate Member of Authority and to participate in the California HERO Program for the purpose of facilitating the implementation of such program within the jurisdiction of City; and

WHEREAS, pursuant to the Joint Exercise of Powers Act, the Parties are approving this JPA Agreement to allow for the provision of PACE services through the California HERO Program, including the operation of such PACE financing program, within the incorporated territory of City; and
WHEREAS, the JPA Amendment sets forth the rights, obligations and duties of City and Authority with respect to the implementation of the California HERO Program within the incorporated territory of City.

MUTUAL UNDERSTANDINGS

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter stated, the Parties hereto agree as follows:

A. JPA Amendment.

1. The Authority JPA. City agrees to the terms and conditions of the Authority JPA, attached.

2. Associate Membership. By adoption of this JPA Amendment, City shall become an Associate Member of Authority on the terms and conditions set forth herein and the Authority JPA and consistent with the requirements of the Joint Exercise of Powers Act. The rights and obligations of City as an Associate Member are limited solely to those terms and conditions expressly set forth in this JPA Amendment for the purposes of implementing the California HERO Program within the incorporated territory of City. Except as expressly provided for by the this JPA Amendment, City shall not have any rights otherwise granted to Authority's Regular Members by the Authority JPA, including but not limited to the right to vote on matters before the Executive Committee or the General Assembly, the right to amend or vote on amendments to the Authority JPA, and the right to sit on committees or boards established under the Authority JPA or by action of the Executive Committee or the General Assembly, including, without limitation, the General Assembly and the Executive Committee. City shall not be considered a member for purposes of Section 9.1 of the Authority JPA.

3. Rights of Authority. This JPA Amendment shall not be interpreted as limiting or restricting the rights of Authority under the Authority JPA. Nothing in this JPA Amendment is intended to alter or modify Authority Transportation Uniform Mitigation Fee (TUMF) Program, the PACE Program administered by Authority within the jurisdictions of its Regular Members, or any other programs administered now or in the future by Authority, all as currently structured or subsequently amended.

B. Implementation of California HERO Program within City Jurisdiction.

1. Boundaries of the California HERO Program within City Jurisdiction. The boundaries within which contractual assessments may be entered into under the California HERO Program (the “Program Boundaries”) shall include the entire incorporated territory of City.

2. Determination of Eligible Improvements. Authority shall determine the types of distributed generation renewable energy sources, energy efficiency or water conservation improvements, electric vehicle charging infrastructure or such other improvements as may be authorized pursuant to Chapter 29 (the "Eligible Improvements") that will be eligible to be financed under the California HERO Program.
3. **Implementation of California HERO Program Within the Program Boundaries.** Authority will undertake such proceedings pursuant to Chapter 29 as shall be legally necessary to enable Authority to make contractual financing of Eligible Improvements available to eligible property owners within the Program Boundaries.

4. **Financing the Installation of Eligible Improvements.** Authority shall implement its plan for the financing of the purchase and installation of the Eligible Improvements under the California HERO Program within the Program Boundaries.

5. **Ongoing Administration.** Authority shall be responsible for the ongoing administration of the California HERO Program, including but not limited to producing education plans to raise public awareness of the California HERO Program, soliciting, reviewing and approving applications from residential and commercial property owners participating in the California HERO Program, establishing contracts for residential, commercial and other property owners participating in such program, establishing and collecting assessments due under the California HERO Program, adopting and implementing any rules or regulations for the California HERO Program, and providing reports as required by Chapter 29.

City will not be responsible for the conduct of any proceedings required to be taken under Chapter 29; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

6. **Phased Implementation.** The Parties recognize and agree that implementation of the California HERO Program as a whole can and may be phased as additional other cities and counties execute similar agreements. City entering into this JPA Amendment will obtain the benefits of and incur the obligations imposed by this JPA Amendment in its jurisdictional area, irrespective of whether cities or counties enter into similar agreements.

C. **Miscellaneous Provisions.**

1. **Withdrawal.** Authority may withdraw from this JPA Amendment upon six (6) months written notice to City; provided, however, there is no outstanding indebtedness of Authority within City. The provisions of Section 6.2 of the Authority JPA shall not apply to City under this JPA Amendment. City may withdraw approval for conduct of the HERO Program within the jurisdictional limits of City upon thirty (30) days written notice to WRCOG without liability to the Authority or any affiliated entity. City withdrawal shall not affect the validity of any voluntary assessment contracts (a) entered prior to the date of such withdrawal or (b) entered into after the date of such withdrawal so long as the applications for such voluntary assessment contracts were submitted to and approved by WRCOG prior to the date of City’s notice of withdrawal.

2. **Indemnification and Liability.** Authority shall defend, indemnify and hold City and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses,
damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the acts, errors or omissions of Authority or its directors, officials, officers, employees and agents in connection with the California HERO Program administered under this JPA Amendment, including without limitation the payment of expert witness fees and attorneys' fees and other related costs and expenses, but excluding payment of consequential damages, provided that the Authority shall not be required to defend or indemnify City and its directors, officials, officers, employees and agents for City's sole negligence or willful misconduct. Without limiting the foregoing, Section 5.2 of the Authority JPA shall not apply to this JPA Amendment. In no event shall any of Authority's Regular Members or their officials, officers or employees be held directly

3. **Environmental Review.** Authority shall be the lead agency under the California Environmental Quality Act for any environmental review that may required in implementing or administering the California HERO Program under this JPA Amendment.

4. **Cooperative Effort.** City shall cooperate with Authority by providing information and other assistance in order for Authority to meet its obligations hereunder. City recognizes that one of its responsibilities related to the California HERO Program will include any permitting or inspection requirements as established by City.

5. **Notice.** Any and all communications and/or notices in connection with this JPA Amendment shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed as follows:

**Authority:**

Western Riverside Council of Governments  
4080 Lemon Street, 3rd Floor. MS1032  
Riverside, CA 92501-3609  
Att: Executive Director

**City:**

City of Modesto  
1010 10th Street  
Modesto, CA 95353  
Att: City Manager

6. **Entire Agreement.** This JPA Amendment, together with the Authority JPA, constitutes the entire agreement among the Parties pertaining to the subject matter hereof. This JPA Amendment supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or
otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

7. **Successors and Assigns.** This JPA Amendment and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this JPA Amendment with prior written approval of the other Party, which approval shall not be unreasonably withheld.

8. **Attorney's Fees.** If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, each Party to the litigation shall bear its own attorney's fees and costs.

9. **Governing Law.** This JPA Amendment shall be governed by and construed in accordance with the laws of the State of California, as applicable.

10. **No Third Party Beneficiaries.** This JPA Amendment shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this JPA Amendment to maintain a suit for personal injuries or property damages under the provisions of this JPA Amendment. The duties, obligations, and responsibilities of the Parties to this JPA Amendment with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

11. **Severability.** In the event one or more of the provisions contained in this JPA Amendment is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this JPA Amendment and the remaining parts of this JPA Amendment shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this JPA Amendment.

12. **Headings.** The paragraph headings used in this JPA Amendment are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

13. **Amendment.** This JPA Amendment may be modified or amended by the Parties at any time. Such modifications or amendments must be mutually agreed upon and executed in writing by both Parties. Verbal modifications or amendments to this JPA Amendment shall be of no effect.

14. **Effective Date.** This JPA Amendment shall become effective upon the execution thereof by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this JPA Amendment to be executed and attested by their officers thereunto duly authorized as of the date first above written.

[SIGNATURES ON FOLLOWING PAGES]
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: ________________________________  Date: ________________
Executive Committee Chair
Western Riverside Council of Governments

CITY OF MODESTO

By: ________________________________  Date: ________________
Title: City Manager
RESOLUTION REAPPOINTING DAVID BORING, BART BARRINGER, TOM SLATER, AND DON PHILLIPS TO THE DOWNTOWN IMPROVEMENT DISTRICT ADVISORY BOARD

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Downtown Improvement District Board of Directors are recommending the reappointments of David Boring, Bart Barringer, Tom Slater, and Don Phillips to a term ending January 2018 to the Downtown Improvement District Advisory Board.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. David Boring, Bart Barringer, Tom Slater, and Don Phillips are hereby reappointed to the Downtown Improvement District Advisory Board.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this Resolution to the reappointed members of Downtown Improvement District Advisory Board, and as Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING AMENDMENTS TO THE CITY OF MODESTO POLICY AGAINST HARASSMENT AND DISCRIMINATION, THE CITY OF MODESTO NON-RETALIATION POLICY AND THE COMPLAINT PROCEDURE

WHEREAS, the Affordable Care Act’s anti-retaliation provisions reference new protections provided to employees, and prohibit an employer from retaliating against an employee who (1) receives a health insurance tax credit or subsidy through Covered California (aka the “Marketplace” or “Exchange”); (2) Reports potential violations of protections afforded under Title I of the Act, which provides guaranteed protections among other things; (3) Testifies in a proceeding concerning such violation; (4) Assists or participates in a proceeding concerning a violation; (5) Objects to, or refuses to participate in, any activity, policy, practice, or assigned task that the employee reasonably believes to be in violation of any provision of Title I of the Act, and

WHEREAS, California AB 263, provides that it is unlawful for an employer to engage in an unfair immigration-related practice for the purposes of retaliating against any person for exercising a right under state labor and employment laws, and

WHEREAS, California AB 263, prohibits the taking of adverse action and/or retaliating against an employer for updating their personal information, and for making an oral or written claim for unpaid wages, and

WHEREAS, California AB 556, amends the Fair Employment and Housing Act (FEHA) to add Military and Veteran status to the enumerated characteristics that require equal rights and opportunities under the law and prohibit harassment, discrimination and retaliation,
WHEREAS, California SB 559 amends the Fair Employment and Housing Act (FEHA) to add Genetic Information status to the enumerated characteristics that require equal rights and opportunities under the law and prohibit harassment, discrimination and retaliation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City of Modesto Policy Against Harassment and Discrimination is hereby amended as set forth in Exhibit “A”, the City of Modesto Non-Retaliation Policy is hereby amended as set forth in Exhibit “B”, and the City of Modesto Complaint Procedure is hereby amended as set forth in Exhibit “C”.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(Seal)

APPROVED AS TO FORM:

By:  

ADAM LINDGREN, Interim City Attorney
EXHIBIT A

CITY OF MODESTO
POLICY AGAINST HARASSMENT AND DISCRIMINATION

It is the policy of the City of Modesto that harassment is unacceptable and will not be tolerated. Further, it is the policy of the City of Modesto to treat its citizens, customers and employees with respect and dignity and to strive to provide a working environment free of discrimination and harassment. This policy applies to all employees, officials, agents and volunteers, and all non-employees who have contact with employees during working hours.

Any City employee who has been found, after an investigation, to have harassed another City employee, official, agent, volunteer, consultant or non-employee because of their race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation, genetic information, gender identity, gender expression, political affiliation or belief, or Military or Veteran status will be subject to disciplinary action up to and including termination.

Definition of Harassment

Harassment based on a person’s race, color, ancestry, religion or creed, sex, national origin, marital status, age, mental or physical disability, or perceived disability, medical condition, pregnancy-related condition, sexual orientation, gender identity, gender expression, political affiliation or belief, or Military or Veteran status can constitute a violation of Title VII of the Civil Rights Act, the California Fair Employment Act and/or the City of Modesto’s Equal Opportunity Policy. Harassment based on a person’s race, color, ancestry, religion or creed, sex, national origin, marital status, age, mental or physical disability, or perceived disability, medical condition, pregnancy-related condition, sexual orientation, genetic information, gender identity, gender expression, political affiliation or belief, or Military or Veteran status occurs when:

1. The focus and/or content of the harassing act is race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation, genetic information, gender identity, gender expression, political affiliation or belief, or Military or Veteran status; and,
2. The harassing act tends to create an intimidating, oppressive, hostile or offensive working environment or tends to otherwise interfere with an individual’s emotional well being or ability to perform work.

Sexual harassment is a form of sex discrimination. It includes an unwelcome or unsolicited sexual advance, a request for sexual favors, and other verbal or physical conduct of a sexual nature, and can constitute a violation of Title VII of the Civil Rights Act, and Fair Employment Housing Act.

Conduct is considered sexual harassment when:

a. Submission is made an express or implied term or condition of employment; or
b. Submission to or rejection of the harassing act is used as a basis for employment or business decisions affecting an individual; or
c. Such conduct may have the purpose or effect of interfering with an individual’s work performance and/or may create an intimidating, hostile or otherwise offensive work or business environment.

rev 03/14
Examples of Harassment

- Written examples include suggestive or obscene letters, notes, jokes, e-mails and invitations.
- Verbal examples include derogatory comments, slurs, jokes, and racial epithets.
- Physical examples include assault, touching, impeding or blocking movements.
- Visual examples include leering, gestures or displays of sexually suggestive objects or pictures, cartoons or posters.

Other examples include, but are not limited to, threats of reprisal, implying or actually withholding support for appointments, promotion or transfer, rejection during probation, punitive actions, changes of assignments, or suggesting that a poor performance report will be prepared if requests for sexual favors are not met.

The harassing act may be focused on an individual who is not physically present at the time, or who was present but did not actually see or hear the acts.

Responsibilities

1. Except as set forth below, the City Manager is responsible for enforcement of the City Policy Against Harassment and Discrimination.
2. The City Attorney is responsible for ensuring that all complaints of harassment are investigated thoroughly and promptly, including presentation of recommendations for any necessary action to the City Manager, Department Director, or Supervisor.
3. Every Department Director is responsible for informing all employees of the City Policy Against Harassment and Discrimination and for taking the steps necessary to set a positive example in the prevention of harassment.
4. Every Supervisor is responsible for taking immediate and appropriate corrective action upon the observation of any incident of harassment or upon receipt of an oral or written report of any occurrence of harassment.
5. Every City Employee is responsible for reporting any act of harassment to the immediate Supervisor or Department Director, or the City Attorney.

Complaint Resolution Procedures

City employees shall report any act of harassment to their immediate Supervisor or Department Director, and to the City Attorney. The City Attorney will investigate and attempt resolution of harassment complaints in accordance with the City’s Complaint Process as outlined in Exhibit B to the City’s Equal Opportunity Plan.
EXHIBIT B

CITY OF MODESTO
NON-RETALIATION POLICY

PURPOSE

The City of Modesto is committed to providing a workplace conducive to open discussion of the City=s business practices. The purpose of the policy is to reassure City employees that they can raise workplace concerns regarding alleged violations of City policy or local, State or Federal Law without retaliation.

Our commitment to integrity includes a responsibility to foster an environment that allows individuals to report violations without the fear of retaliation or retribution. No one should be discouraged from using any available channel within the organization.

SCOPE OF APPLICATION

This Policy prohibits City officials, officers, employees, or contractors from retaliating against applicants, officers, officials, employees, or contractors because of any of the protected activity as defined below.

POLICY

City employees are expected and encouraged to promptly raise questions and concerns regarding possible violations of City policy or local, State or Federal law with his/her immediate supervisor, Human Resources or the City Attorney=s office. Promptly raising questions and concerns allows the opportunity for such concerns to be addressed quickly and can help prevent problems from occurring or escalating.

Complaints and concerns are accepted in person, by telephone, email and regular mail, and can be anonymous. A complaint form and copy of this Policy can be obtained at the City Attorney=s office at 1010 Tenth Street, Modesto, CA 95353, or on the City=s website at http://www.modestogov.com/hr/policies/. Employees are also free to file a complaint with the appropriate outside agency.

It is the policy of the City to prohibit the taking of any adverse employment action against those who in good faith report or participate in investigations into complaints of alleged violations of City policy or local, State or Federal law in retaliation for that reporting or participation. (Refer to definitions of Aprotected activity@ and Aadverse employment action@ below.)

No employee of the City shall directly or indirectly use or attempt to use the authority or influence of such employee for the purpose of intimidating, threatening, coercing, directing or influencing any person with the intent of interfering with that person=s duty to disclose alleged violations of City policy or local, State or Federal law.

Adopted 03/2012
Disciplinary action, up to and including termination, will be taken against an employee who is found to have violated this Non-Retaliation Policy, and any contractor who violates this Policy will be subject to appropriate sanctions. However, employees who file reports or provide evidence which they know to be false or without a reasonable belief in the truth and accuracy of such information will not be protected by this Policy and may be subject to disciplinary action, including termination.

**DEFINITIONS**

1. **PROTECTED ACTIVITY:** Includes but is not limited to the following:

   1. Making or filing an internal complaint with the City regarding alleged violations of City policy, local, State or Federal law.
   2. Providing informal notice to the City regarding alleged violations of City policy, local, State or Federal law.
   3. Participating in investigations and/or in court/administrative hearings regarding alleged violations of City policy, local, State or Federal law.
   4. Filing a complaint with a Federal or State enforcement or administrative agency.
   5. Disclosing information to a government or law enforcement agency where an employee has reasonable cause to believe the information discloses a violation of State or Federal statute, or a violation or noncompliance with a State or Federal rule or regulation.
   6. Participating in or cooperating with a Federal or State enforcement agency that is conducting an investigation of the City regarding alleged unlawful activity.
   7. Reporting conflicts of interest, dishonesty or unethical conduct.
   8. Calling an internal or outside governmental agency=s AWhistleblower hotline.@
   9. Receiving a health insurance tax credit or subsidy through Covered California (aka the "Marketplace" or "Exchange").
   10. Reporting potential violations of protections afforded under Title I of the Affordable Care Act.
   11. Testifying in a proceeding concerning such violation.
   12. Assisting or participating in a proceeding concerning a violation.
   13. Objecting to, or refusing to participate in any activity, policy, practice, or assigned task that the employee reasonably believes to be in violation of any provision of Title I of the Affordable Care Act.
   14. Exercising a right under state labor and employment laws.

Adopted ________
15. Updating personal information.

16. Making an oral or written claim for unpaid wages.

17. Associating with another employee who is engaged in any of the protected activities enumerated here.

II. **ADVERSE EMPLOYMENT ACTION:** May include, but is not limited to, any of the following:

1. Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of protected activity.

2. Denying promotion to an individual because of protected activity.

3. Taking any form of disciplinary action because of protected activity.

4. Extending a probationary period because of protected activity.

5. Altering work schedules, work assignments or work location because of protected activity.

6. Issuing a poor evaluation because of protected activity.

7. Shunning or avoiding an individual who has engaged in any of the forms of protected activity described above.

This policy does not prohibit adverse action that is taken for legitimate or non-discriminatory reasons, such as: discipline for just cause, or refusing to hire because of inadequate qualifications. As a result, adverse action is only prohibited if it is causally connected to, or taken because of, the alleged protected activity.

**COMPLAINT PROCEDURES**

An applicant, employee, officer, official, or contractor who believes he or she has been retaliated against in violation of this Policy should immediately report the conduct to their supervisor, Human Resources, or the City Attorney’s office. Department Directors, Supervisors and Managers who receive complaints regarding alleged retaliation must immediately notify the City Attorney’s office at (209) 577-5284.

Adopted ________
EXHIBIT C

CITY OF MODESTO
COMPLAINT PROCEDURE
VIOLATION OF POLICY AGAINST HARASSMENT AND DISCRIMINATION

1. **Intent** - Any person who feels that he/she has encountered discrimination and/or harassment is encouraged to come forward and present that information. All complaints are kept confidential to the extent permitted by law. However, it should be noted that when a supervisor or other management employee is made aware of a situation of potential harassment or discrimination, he/she is required to take steps to verify whether or not the discrimination/harassment occurred and to take whatever action is necessary to correct the situation. A prompt and appropriate investigation may require disclosure of the allegations, the person making the allegations and may necessitate the use of other parties to assist in the investigation.

   It is the intent of this procedure to provide an effective means for resolving individual or group problems of a sensitive nature quickly and with a minimum of formal procedural requirements.

2. **Scope** - This procedure should be used for perceived discrimination or harassment based on age (40 and over), ancestry, color, mental or physical disability including HIV and AIDS or perceived disability, marital status, medical condition (cancer and genetic characteristics), pregnancy-related condition, national origin, race, religion or creed, sex, sexual orientation, genetic information, gender identity, gender expression, political affiliation or belief, or Military or Veteran status.

3. **Limitations** - This procedure for resolving complaints of discrimination and harassment is not intended to supplant or prohibit employees or applicants from filing complaints with the federal Equal Employment Opportunity Commission (EEOC), the state Department of Fair Employment and Housing (DFEH), other appropriate state or federal agencies, or with the courts.

PROCEDURE: The procedure for reporting incidents of discrimination or harassment is meant to be as flexible as possible. It is the goal that complaints be resolved informally, if possible. If informal resolution is not achieved, then a process for formal resolution is provided.

a) Complainants should come forward as soon as possible after an incident of harassment or discrimination. Generally, an issue or concern should be raised no later than 30 days from the date the complainant knew or should have known about the incident.

b) Complainants have the option of contacting their immediate supervisor for assistance or contacting the City Attorney. If an employee goes directly to a supervisor, the supervisor should notify the City Attorney that he/she has received
the complaint. This can be done informally and confidentially.

c) Depending on the nature of the complaint, the supervisor may refer the complaint immediately to the City Attorney so that a formal investigation be conducted. Alternatively, the supervisor may conduct an informal investigation or may recommend an alternative means of dispute resolution. If the complainant declines the informal or alternative process, a formal investigation by the City Attorney will be initiated.

d) The City Attorney should begin a confidential investigation of the complaint as soon as possible. A reasonable time line to begin an internal investigation would be two-five (2-5) working days, depending on employees' work schedules.

e) The complainant should be assured that the matter will be kept confidential to the extent possible, but be advised that a full investigation will include advising the alleged discriminator/harasser of the charges and interviewing witnesses. The alleged discriminator/harasser should be cautioned that DFEH, EEOC and this Policy prohibit any retaliation against the complainant, witnesses or other parties to the complaint. A verified allegation of retaliation will be treated as a violation of this policy and the City may take action against the retaliator, even if the original complaint is not determined to have merit.

f) The investigation may include witness interviews, review of documents or materials and discussions with the complainant and the alleged discriminator/harasser. Witnesses shall be directed to maintain confidentiality during the investigation and shall be admonished not to engage in retaliation against either the complainant or alleged discriminator/harasser.

g) The investigation should be completed in a timely manner. If the investigation will require greater than 30 days, the investigator or department shall notify the complainant of the status of the investigation and anticipated completion date.

h) The investigator will prepare a written report including a finding related to each allegation. The complainant and the alleged discriminator/harasser shall be notified of the findings.

i) If the investigator finds that discrimination or harassment has occurred, the department management, in consultation with the City Attorney and the Personnel Director, shall determine what remedial action is appropriate. Remedial action may include but is not limited to coaching the responsible employee, training, a record of discussion, written reprimand, or formal discipline.

j) If the complainant has first taken their complaint to a supervisor and is not satisfied with the supervisor’s or department’s timeliness or efforts, he/she may then contact the City Attorney and the Personnel Director. He/she should notify the department that this is being done. If the supervisor or department cannot effect conciliation and
negotiation within a reasonable amount of time, the complainant should contact the City Attorney. The City Attorney may assist the department in completing the investigation or in identifying an alternate investigator to complete the confidential investigation and come to a resolution.

k) The complainant should be notified that he/she has the right to file a complaint with the federal Equal Employment Opportunity Commission (EEOC) or the state Department of Fair Employment and Housing (DFEH) or other appropriate state or federal agency or the court.

l) Complaints against the City Attorney shall be made to and investigated by the City Manager in a manner consistent with this procedure who shall report his/her findings to the City Council who shall determine the appropriate remedial action.
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT
BETWEEN THE CITY OF MODESTO AND ANSELMO MALDONADO
CERVANTES, A SINGLE MAN AND YOLANDA VALENCIA GONZALES, A
SINGLE WOMAN, BOTH AS JOINT TENANTS, FOR SEWER SERVICE FOR
THE PROPERTY LOCATED AT 1725 JOHN STREET IN THE ROBERTSON
ROAD NEIGHBORHOOD, MODESTO, (APN: 037-024-027); AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE AGREEMENT

WHEREAS, the property located at 1725 John Street is not connected to City’s
sewer system, and

WHEREAS, the property is located outside Modesto City limits, and inside the
City’s Sphere of Influence, and

WHEREAS, the property is inside the Modesto Municipal Sewer District No. 1,
and

WHEREAS, The City of Modesto can and is willing to provide domestic sewer to
the subject area, and

WHEREAS, the Stanislaus County Redevelopment Agency installed complete
sewer infrastructure in the “neighborhood” and individual laterals to each parcel to
connect the property to the City of Modesto’s sewer system, and

WHEREAS, consistent with adopted LAFCO Policy 15, the extension of sewer
service is proposed to remedy a health and safety concern in an area with failing septic
system, and

WHEREAS, the installation of the sewer service lines will upgrade the
infrastructure in this already developed unincorporated area to facilitate a later
annexation, and
WHEREAS, the sewer connection fees shall be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, that the property owner is required to enter into an outside service agreement for sewer service with the City.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves an Outside Service Agreement for the property located at 1725 John Street Modesto (APN: 037-024-027).

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________

ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND ROBERT L. TYLOR, A TRUSTEE OF THE MORETTI FAMILY TRUST, FOR SEWER SERVICE FOR THE PROPERTY LOCATED AT 2232 ROBERTSON ROAD IN THE ROBERTSON ROAD NEIGHBORHOOD, MODESTO, (APN: 037-020-003); AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 2232 Robertson Road is not connected to the City’s sewer system, and

WHEREAS, the property is located outside Modesto City limits, and inside the City’s Sphere of Influence, and

WHEREAS, the property is inside the Modesto Municipal Sewer District No. 1, and

WHEREAS, The City of Modesto can and is willing to provide domestic sewer to the subject area, and

WHEREAS, the Stanislaus County Redevelopment Agency installed complete sewer infrastructure in the “neighborhood” and individual laterals to each parcel to connect the property to the City of Modesto’s sewer system, and

WHEREAS, consistent with adopted LAFCO Policy 15, the extension of sewer service is proposed to remedy a health and safety concern in an area with failing septic system, and

WHEREAS, the installation of the sewer service lines will upgrade the infrastructure in this already developed unincorporated area to facilitate a later annexation, and
WHEREAS, the sewer connection fees shall be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, that the property owner is required to enter into an outside service agreement for sewer service with the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Outside Service Agreement for the property located at 2232 Robertson Road Modesto (APN: 037-020-003).

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: [Signature]

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 5404 KIERNAN AVENUE, (APN: 135-001-022) TO CONNECT TO THE CITY OF MODESTO’S EXISTING WATER SYSTEM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council approved Resolution No.2012-203, and

WHEREAS, it amended City of Modesto Municipal Code section 11-1.05 and Council Policy 5.001 relating to water connection charges, and

WHEREAS, it required that the City Manager, upon the recommendation of the Director responsible for utility system planning, to request City Council approval for all extensions of water and sewer services into unincorporated areas, and

WHEREAS, the property located at 5404 Kiernan Avenue, is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside the former service area of the Del Este Water Company, and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to extend water service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees are paid and associated permits be obtained prior to connecting to the City water system.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve letter for the property located at 5404 Kiernan Avenue.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve letter.

The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Muratore, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:
By: [Signature]

ADAM LINDBRED, Interim City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT
BETWEEN THE CITY OF MODESTO AND BEST CARE CENTER, INC., A
CALIFORNIA CORPORATION, FOR WATER SERVICE FOR THE
PROPERTY LOCATED AT 5404 KIERNAN AVENUE, (APN: 135-001-022), AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE AGREEMENT

WHEREAS, the property located at 5404 Kiernan Avenue is not connected to
City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside the
former service area of the Del Este Water Company, and

WHEREAS, if it is determined that it is reasonable for the City to extend water
service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is
available for normal usage by the proposed development, and

WHEREAS, the water connection fees will be paid and associated permits be
obtained prior to beginning any on site construction, and

WHEREAS, that the property owner enters into an Outside Service Agreement
for water with the City, as required for water service outside of City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the outside service agreement for the property located at 5404
Kiernan Avenue, (APN: 135-001-022).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the agreement.
The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 4844 3RD STREET, (APN: 133-007-044) TO CONNECT TO THE CITY OF MODESTO’S EXISTING WATER SYSTEM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council approved Resolution No. 2012-203, and

WHEREAS, it amended city of Modesto Municipal Code section 11-1.05 and Council Policy 5.001 relating to water connection charges, and

WHEREAS, it required that the City Manager, upon the recommendation of the Director responsible for utility system planning, to request City Council approval for all extensions of water and sewer services into unincorporated areas, and

WHEREAS, the property located at 4844 3rd Street, is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, inside the sphere of Influence, and inside the former service area of the Del Este Water Company, and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to extend water service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees are paid and associated permits be obtained prior to connecting to the City water system.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve letter for the property located at 4844 3rd Street.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve letter.

The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND ARTHUR B. WRIGHT AND SALLIE M. WRIGHT, HUSBAND AND WIFE AS JOINT TENANTS, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 4844 3RD STREET, (APN: 133-007-044), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 4844 3rd Street in Empire is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and inside the former service area of the Del Este Water Company, and

WHEREAS, if it is determined that it is reasonable for the City to extend water service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees will be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, that the property owner enters into an Outside Service Agreement for water with the City, as required for water service outside of City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the outside service agreement for the property located at 4844 3rd Street, (APN: 133-007-044).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.
The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-102

A RESOLUTION APPROVING A PREQUALIFIED VENDOR LIST FOR SURVEYING AND PLAN LINE DEVELOPMENT SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS

WHEREAS, the Community and Economic Development Department – anticipates developing several Capital Improvement Projects that require surveying and plan line development services that are beyond the City’s current staffing levels and workload to accomplish in a timely manner, and

WHEREAS, the Community and Economic Development Department has found it necessary to utilize a vendor list for surveying and plan line development services, and

WHEREAS, retaining prequalified consultants allows the division to have quick access to specific surveying and plan line development services when needed, and

WHEREAS, using experienced consultants provides a quick turnaround, which is essential for an efficient response to the large undertaking of projects, and

WHEREAS, the goal in having a vendor list is to promote project cost savings, which is a positive budget impact to the Capital Improvement Program, and

WHEREAS, all four consultant firms are familiar with the layout of the City as well as City Standards, and

WHEREAS, all four consultant firms have established experience and were the most qualified consultants from those who submitted Statement of Qualifications, and

WHEREAS, City staff recommends approving the following prequalified vendor list:

- DF Engineering, Inc., Modesto, CA
- Hawkins & Associates Engineering, Inc., Modesto, CA
- North Star Engineering Group, Inc., Modesto, CA
- O'Dell Engineering, Modesto CA
WHEREAS, the selected consultant will be determined on a project basis once a scope of work and contract have been negotiated with the most qualified firm(s) from the vendor list.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the prequalified vendor list of consultants for surveying and plan line development services for three years, with the option of revising or renewing the vendor list after three years at the sole discretion of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

ADAM LINDGREN, Interim City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2013-2014.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2013-2014 Annual Operating and Capital Improvement budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
EXHIBIT A

FISCAL YEAR 2013-14

PARKS, RECREATION AND NEIGHBORHOODS
A budget adjustment is necessary to transfer $350,000 in Federal Funding from Capital Improvement Project #100709, Tuolumne River Regional Park Gateway Phase 1.3 Trails, to Capital Improvement Project #100599, Tuolumne River Regional Parge Gateway Phase 2. The transfer also reduces the State Funding in Capital Improvement Project #100599 by $500 thus making the total state funding for Tuolumne River Regional Parge Gateway project $2,200,000. Construction expenses are being increased by $27,118 to bring the overall expense budget in line with the amount of Federal and State funding approved for this project.

POLICE DEPARTMENT
A budget adjustment in the amount of $396,061, over multiple divisions, is necessary to increase the Fiscal Year 2013-14 overtime expense budget, reduce the Direct Charge-Intrafund expense budget by $141,733, and increase the Direct Charge revenue budget in the amount of $254,328 to account for overtime costs received from Grants and outside service contracts from July 01, 2013 through December 31, 2013.

A budget adjustment in the amount of $76,227, in the Modesto Police Department’s Records and Support Division, is necessary to increase the Fiscal Year 2013-14 part-time expense budget, reduce the Direct Charge-Intrafund expense budget by $19,533, and increase the Direct Charge revenue budget in the amount of $56,674 to account for part-time costs received from Grants and outside service contracts from July 01, 2013 through December 31, 2013.
RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2013-2014,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2013-2014 Annual Operating and Capital Improvement budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
A budget adjustment in the amount of $100,484 is necessary to recognize unbudgeted revenue to the 2012-13 State Law Enforcement Supplemental Fund (SLESF) Capital Improvement Project # 100724, and reallocate to offsetting program expense.
A RESOLUTION ADOPTING THE REVISED DEBT MANAGEMENT POLICY

WHEREAS, pursuant to the City of Modesto Debt Management Policy, the City of Modesto is required to periodically review and update its Debt Management Policy to address changes to the primary objectives related to the City’s debt and financing related activities, and

WHEREAS, staff has identified the need to update the City’s Debt Management Policy in order to continue to maintain cost-effective access to capital markets through prudent yet flexible policies; moderate debt principal and debt service payments through effective planning and project cash management; and achieve the highest practical credit ratings, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby adopts the revised Debt Management Policy, for consideration by this City Council,

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, following the adopted policy guidelines pursuant to this Resolution, in connection with the future issuances of the City Debt, for future consideration by this City Council.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
A RESOLUTION ADOPTING THE REVISED ANNUAL INVESTMENT POLICY

WHEREAS, staff has identified the need to update the City’s Annual Investment Policy in order to continue to effectively invest funds in accordance with the principles of sound treasury management and applicable laws, and

WHEREAS, the City desires adopting the Annual Investment Policy and the changes made in this revision, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby adopts the Annual Investment Policy, for consideration by this City Council,

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, following the adopted policy guidelines pursuant to this Resolution, in connection with the future investments of funds, for future consideration by this City Council.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Madrigal,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

ADAM LINDGREN, Interim City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A VAC-CON HOT SHOT SEWER AND STORM DRAIN CLEANER TRUCK FOR THE WATER QUALITY CONTROL DIVISION, WASTEWATER AND STORMWATER COLLECTION SECTIONS THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, BY “ACCESSING THE TERMS” OF A COMPETITIVELY BID CONTRACT WITH NATIONAL JOINT POWERS ALLIANCE (NJPA) TO ATLANTIC MACHINERY, SILVER SPRING, MD, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $235,845

WHEREAS, the Water Quality Control Division, Wastewater and Stormwater Collection Sections utilizes Vac-Con Hot Shot sewer and storm drain cleaner trucks to clean, maintain and repair sewer pipes to comply with the Clean Water Act, and

WHEREAS, the Vac-Con Hot Shot sewer and storm drain cleaner trucks are used to clean out roots and grease in sewer lines, keeping them clear of blockages and reducing the potential for sewer system overflows. The trucks are also utilized to clean out storm drain lines and to provide flood control support during storm events, and

WHEREAS, one Vac-Con truck is replacing two (2) Sewer Rodder trucks that are at the end of their useful life.

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The Vac-Con Hot Shot truck replaces two vehicles and is included in the vehicles and equipment list authorized by the City, and

WHEREAS, the National Joint Powers Alliance (NJPA) went through a competitive bid process for the purchase of heavy construction equipment and issued contract #031710-AMI. The most responsive and responsible bidder that met the bid
specifications was Atlantic Machinery, Inc., and is extending the NJPA discount to the City of Modesto, and

WHEREAS, there are no local vendors for this type of equipment. Taking advantage of this process and awarding a contract by “accessing the terms” of the NJPA contract is an efficient and effective way to purchase the Vac-Con Hot Shot sewer and storm drain cleaner truck, and saves the time and expense for the City to formally solicit RFB’s, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code, and

WHEREAS, one exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase due to the cost savings of staff time and the limited number of competitors. The purchase of the Vac-Con Hot Shot sewer and storm drain cleaner truck, by “accessing the terms” of the NJPA contract with Atlantic Machinery, Silver Spring, MD, will conform to MMC Section 8-3.204(d), and

WHEREAS, sufficient funds are budgeted in Fiscal year 2013-14 in the following Fleet Equipment replacement account: 5409-53246-57003.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of a Vac-Con Hot Shot sewer and storm drain cleaner truck for the Water Quality Control Division, Wastewater Collection and Stormwater Sections through the Public Works Department, Fleet Services Division, by “accessing the terms” of a competitively bid contract with the National Joint Powers Alliance (NJPA) to Atlantic Machinery, Silver Spring, MD.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $235,845.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
A RESOLUTION AMENDING SECTION 1.7(k) OF PERSONNEL RULE 1 OF THE CITY OF MODESTO RELATING TO THE REVISION OF THE DEFINITION OF CLASSIFIED SERVICES

WHEREAS, Section 1202 of Article XII of the Charter of the City of Modesto provides that the Personnel System provided by said Article shall be implemented by such rules and regulations governing the administration thereof as are adopted by the City Council upon recommendation of the City Manager, and

WHEREAS, the City Council has adopted Personnel Rules as authorized by the City Charter, and

WHEREAS, the City Council last amended Personnel Rule 1 on February 21, 1991 by adoption of Resolution 91-129, and

WHEREAS, the City Manager has recommended an amendment to Personnel Rule 1 section 1.7(k), and

WHEREAS, the City Council finds that said proposed amendment as recommended by the City Manager promotes the purposes and objectives of the Personnel System.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Personnel Rule 1 section 1.7(k) is hereby amended to read as follows:

Classified Service. All positions in the city service EXCEPT: (1) all elected officers; (2) City Manager, Deputy City Manager (as revised July 6, 1965), City Attorney, City Clerk and Auditor, and all heads of departments; (3) all members of boards and commissions; (4) persons employed as unskilled laborers; (5) positions in any class or grade created for a special or temporary purpose for a period of no longer than one year;
(6) persons employed to render professional, scientific, technical or expert services of any occasional or exceptional character; (7) part-time employees paid on an hourly or per diem basis and work nineteen hours or less per week.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: ADAM LINDGREN, Interim City Attorney
A RESOLUTION AMENDING SECTION 7.5(d) and (e) OF PERSONNEL RULE 7 OF THE CITY OF MODESTO RELATING TO THE REVISION OF THE TYPES OF APPOINTMENT FOR TEMPORARY AND PART-TIME POSITIONS

WHEREAS, Section 1202 of Article XII of the Charter of the City of Modesto provides that the Personnel System provided by said Article shall be implemented by such rules and regulations governing the administration thereof as are adopted by the City Council upon recommendation of the City Manager, and

WHEREAS, the City Council has adopted Personnel Rules as authorized by the City Charter, and

WHEREAS, the City Council last amended Personnel Rule 7 on February 6, 1990 by adoption of Resolution 90-77, and

WHEREAS, the City Manager has recommended an amendment to Personnel Rule 7 sections 7.5(d) and (e), and

WHEREAS, the City Council finds that said proposed amendment as recommended by the City Manager promotes the purposes and objectives of the Personnel System,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Personnel Rule 7 sections 7.5(d) and (e) are hereby amended to read as follows:

(d) Temporary: appointment to a position of limited duration.

1. Temporary positions shall be limited to (1) one year or 1,000 hours whichever comes first and are in the unclassified service.

2. Temporary positions shall be limited to working 29 hours or less per week.
3. Temporary appointees hired on an hourly or per diem basis shall not receive paid vacation, holiday, sick leave, or retirement benefits.

(e) Part-Time: appointment to a position which requires less than full time.

1. Part-time positions are limited to working 19 hours or less per week are in the unclassified service and pay shall be on an hourly or per diem basis for the time worked only.

2. Part-time positions requiring twenty (20) hours or more per week are in the classified service. Vacation, holiday, sick leave or retirement benefits shall be proportional to time worked.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
RESOLUTION ACCEPTING A DONATION OF APPROXIMATELY $33,057 FROM MACERICH PROPERTY MANAGEMENT CO., LLC, FOR THE PURCHASE OF TECHNOLOGY TO FIGHT CRIME; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the City of Modesto Ranks Fifth in Violent Crime and Ranks Fourth in Property Crime (Per Capita) of the Top 25 California Cities by Population, and

WHEREAS, with comparable cities in California by population (175,000 to 250,000) Modesto Ranks Second in Violent Crime and Ranks First in Property Crime (Per Capita), and

WHEREAS, the Modesto Metropolitan Area has been ranked Number One in the National for Auto Theft in six of the last ten years, and Number Two in three years during that decade, and

WHEREAS, Macerich Property Management Co., LLC, has donated approximately $33,057 for the Modesto Police Department to purchase technology to assist the department in fighting crime and reducing these statistics, and

WHEREAS, the City will pay all operation and maintenance of the equipment during its useful life,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a donation of approximately $33,057 from Macerich Property Management Co., LLC, for the purchase of technology to fight crime.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT FOR THE PURCHASE OF EIGHT AUTOMATIC LICENSE PLATE RECOGNITION CAMERA SYSTEMS EQUIPMENT, SOFTWARE, LICENSE PLATE READERS, INSTALLATION AND MAINTENANCE FOR THE MODESTO POLICE DEPARTMENT, TO 3M, KNOXVILLE, TN; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL OF $174,789.62

WHEREAS, the Modesto Metropolitan Area has been ranked Number One in the Nation for Auto Theft in six of the last ten years, and Number Two in three years during that decade, and

WHEREAS, the Modesto Police Department’s goal is to reduce the number of vehicle thefts in the area by implementing an effective auto theft program consisting of properly trained personnel who are equipped with modern crime fighting technology, and

WHEREAS, on November 13, 2013 council approved, by Resolution No. 2013-392, accepting the AB 109 funds from the State of California, Board of State and Community Corrections (BSCC), for a minimum of $541,473 for police overtime, specialized training, equipment, and technology, and

WHEREAS, the Modesto Police Department desires to use some of the AB 109 funds to purchase eight 3M License Plate Recognition Camera Systems to better identify stolen vehicles and other suspect vehicles, and

WHEREAS, 3M Company is the only manufacturer of the 3M™ Automatic License Plate Recognition (“ALPR”) Cameras Systems equipment and software, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for materials, equipment or contractual services to be formally bid, and
WHEREAS, there are exception to the rule set forth in the Modesto Municipal exception, MMC Section 8-3.204(b), states whereas the purchasing agencies’ requirements can be met solely by a single article or process, and

WHEREAS, the sole source procurement of the License Plate Recognition Camera Systems equipment, software, installation and maintenance for the Modesto Police Department, to 3M, conforms to the Modesto Municipal Code.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement for the purchase of eight Automatic License Plate Recognition Cameras system equipment, software license plate readers, installation and maintenance for the Modesto Police Department, to 3M, Knoxville, TN,

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $174,789.62.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-112

RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT FOR THE PURCHASE OF TWO CAMERA LICENSE PLATE RECOGNITION SYSTEMS AND INSTALLATION TO 3M, KNOXVILLE, TN; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $78,463.06

WHEREAS, the Modesto Metropolitan Area has been ranked Number One in the Nation for Auto Theft in six of the last ten years, and Number Two in three years during that decade, and

WHEREAS, the Modesto Police Department’s goal is to reduce the number of vehicle thefts in the area by implementing an effective auto theft program consisting of properly trained personnel who are equipped with modern crime fighting technology, and

WHEREAS, on November 13, 2013, Council approved, by Resolution No. 2013-392, accepting the AB 109 funds from the State of California, Board of State and Community Corrections (BSCC), for a minimum of $541,473 for police overtime, specialized training, equipment, and technology, and

WHEREAS, the Modesto Police Department desires to use some of the AB 109 funds to purchase two license plate recognition camera systems to better identify stolen vehicles and other suspect vehicles, and

WHEREAS, 3M Company is the only manufacturer of the 3M™ Automatic License Plate Recognition Cameras Systems equipment and software, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for materials, equipment or contractual services to be formally bid, and
WHEREAS, there are exception to the rule set forth in the Modesto Municipal exception, MMC Section 8-3.204(b), states whereas the purchasing agencies' requirements can be met solely by a single article or process, and

WHEREAS, the sole source procurement of the License Plate Recognition Camera Systems equipment, software, installation and maintenance for the Modesto Police Department, to 3M, conforms to the Modesto Municipal Code.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement for the purchase of two Camera License Plate Recognition Systems and installation to 3M, Knoxville, TN,

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $78,463.06.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE TRANSIT SERVICES 4TH FLOOR REMODEL PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH NETBUILDS OF MARYSVILLE, CALIFORNIA IN THE AMOUNT OF $78,810, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Transit Services 4th Floor Remodel, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Transit Services 4th Floor Remodel were opened at 11:00 a.m. on July 23, 2013, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $78,810 received from Netbuilds of Marysville, California be accepted as the lowest responsible and responsive bid and the contract be awarded to Netbuilds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Transit Services 4th Floor Remodel, accepts the bid of Netbuilds of Marysville, California in the amount of $78,810, and awards Netbuilds the contract for the Transit Services 4th Floor Remodel.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: 

ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING AN ON-CALL AGREEMENT WITH RMC WATER AND ENVIRONMENT FOR GRANT RESEARCHING AND WRITING SERVICES IN THE AMOUNT OF $40,000 FOR ONE YEAR, WITH TWO, ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Utility Planning and Projects Department (UP&P) is interested in pursuing grants and low-interest loan opportunities for a variety of utility-related projects and programs, and

WHEREAS, Grants and low interest loan opportunities typically range from $100,000 in planning grants from federal resources to $1 million or more from state programs such as the Proposition 84 Grant Program, and

WHEREAS, successful grant and loan applications require the applicant’s thorough understanding of the funding program requirements, high quality product delivery, and credibility with the granting authorities, and

WHEREAS, UP&P staff does not have expertise or needed time to fully research each funding opportunity presented by the state or federal agencies, and

WHEREAS, in accordance with City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, staff solicited and formally advertised Requests for Qualifications/Requests for Proposals for On-call Grant Research and Writing Services, which included three qualified local consultants, and

WHEREAS, the City received five proposals, and
WHEREAS, upon review of the proposals and interviews, RMC Water and Environment was considered one of the most qualified to provide grant research and writing services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-call Agreement with RMC Water and Environment for grant research and writing services for an amount not to exceed $40,000 for one year, with two, one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

ADAM LINDGREN, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-115

RESOLUTION APPROVING AN ON-CALL AGREEMENT WITH PROVOST AND PRITCHARD CONSULTING GROUP FOR GRANT RESEARCHING AND WRITING SERVICES IN THE AMOUNT OF $40,000 FOR ONE YEAR, WITH TWO, ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Utility Planning and Projects Department (UP&P) is interested in pursuing grants and low-interest loan opportunities for a variety of utility-related projects and programs, and

WHEREAS, Grants and low interest loan opportunities typically range from $100,000 in planning grants from federal resources to $1 million or more from state programs such as the Proposition 84 Grant Program, and

WHEREAS, successful grant and loan applications require the applicant’s thorough understanding of the funding program requirements, high quality product delivery, and credibility with the granting authorities, and

WHEREAS, UP&P staff does not have expertise or needed time to fully research each funding opportunity presented by the state or federal agencies, and

WHEREAS, in accordance with City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, staff solicited and formally advertised Requests for Qualifications/Requests for Proposals for On-call Grant Research and Writing Services, which included three qualified local consultants, and

WHEREAS, the City received five proposals, and
WHEREAS, upon review of the proposals and interviews, Provost and Pritchard Consulting Group, a local consultant, was considered one of the most qualified to provide grant research and writing services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-call Agreement with Provost and Pritchard Consulting Group for grant research and writing services for an amount not to exceed $40,000 for one year, with two, one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH HORIZON WATER AND ENVIRONMENT, LLC FOR PROJECT LEVEL ENVIRONMENTAL IMPACT REPORT FOR THE DEL RIO TANK AND WELL PROJECT IN AN AMOUNT NOT TO EXCEED $91,361 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $9,136 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $100,497, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City owns and operates the outlying water system in the community of Del Rio, located in Stanislaus County, and

WHEREAS, a hydraulic assessment of this water system has identified necessary upgrades to correct existing supply and pressure deficiencies, and

WHEREAS, the major components of the upgrades include the construction of two new domestic water wells, a storage tank, and booster pump station, and

WHEREAS, the City is currently obligated to provide these improvements by January 31, 2014 in accordance with the amended terms of a Settlement Agreement between the City and the Del Rio Community Association, and

WHEREAS, project delays due to current litigation have made it not feasible to meet this deadline; however, staff will continue working towards delivery of these improvements as soon as possible, and

WHEREAS, staff will also continue working with the Del Rio Community Association to extend the deadline, and

WHEREAS, since the project inception, staff has worked towards delivery of the required upgrades to the Del Rio water system, and

WHEREAS, these efforts have led to prior Council actions to adopt the project’s environmental analysis on March 13, 2012, by City Council Resolution No. 2012-100, as
well as to accept a Preliminary Design Report for the new tank, booster pump, and well on December 4, 2012, by City Council Resolution No. 2012-496, and

WHEREAS, on December 20, 2012, a lawsuit was filed against the City by the North Modesto Groundwater Alliance (Stanislaus County Superior Court Case No. 680381), and

WHEREAS, in general, the lawsuit alleged deficiencies in the environmental review of the project, as well as a lack of sufficient notice to affected parties, and

WHEREAS, the lawsuit further requested the court require the City to rescind the prior project approvals, and to prepare a new environmental analysis for the project, and

WHEREAS, additionally, the court granted a preliminary injunction in January 2013, which prevented the City from undertaking any activity in furtherance of the project prior to a ruling on the current lawsuit, and

WHEREAS, in granting the preliminary injunction, the Court found that the City had not given adequate notice to surrounding neighbors of the City’s consideration of the project, and

WHEREAS, in response to the lawsuit, on November 12, 2013, by Resolution No. 2013-413, City Council rescinded the previous March 13, 2012 adoption of the project’s environmental analysis, and directed staff to prepare a new environmental analysis pursuant to California Environmental Quality Act (CEQA) requirements, and

WHEREAS, concurrently, by Resolution No. 2013-414, City Council also rescinded the previous December 4, 2012 acceptance of the Preliminary Design Report for the tank, pump station, and new well, and
WHEREAS, the intent of these actions was to resolve both the due process and CEQA issues raised in the litigation without further litigation, and

WHEREAS, while staff disagrees with the allegations in the lawsuit, these actions will move the project forward in the most expedient manner by avoiding the significant time and expense of pursuing further litigation, and

WHEREAS, in consultation with the City Attorney’s Office, as well as outside counsel, staff determined that preparation of a project level Environmental Impact Report (EIR) would be the most legally defensible means of complying with CEQA regulations, and

WHEREAS, this document will be prepared and circulated in accordance with CEQA regulations, and will determine and address known environmental impacts to such topics as noise, aesthetics, land use, groundwater, and other considerations, and

WHEREAS, the EIR will also discuss project alternatives, and

WHEREAS, given the highly specialized and technical nature of this document, as well as the magnitude of effort involved in its preparation, staff intends to utilize a consultant, Horizon Water and Environment, LLC, to perform this work, and

WHEREAS, Horizon specializes in environmental analysis for water and wastewater projects, and

WHEREAS, additionally, they have uniquely relevant experience, as they performed most of the work in preparing the 2010 City of Modesto Water System Engineer’s Report Program Environmental Impact Report, and

WHEREAS, City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital
Projects, allows the Director to approve an accelerated selection process where staff may select a consultant from a roster of qualified consultants maintained by the Department, if it is in the best interest of the City, and

WHEREAS, based on the need to move this study forward quickly, as well as Horizon’s unique qualifications, staff elected to use this accelerated process to select Horizon to prepare the project EIR, and

WHEREAS, staff therefore recommends approval of an agreement with Horizon for preparation of a project level EIR for the Del Rio Water System Upgrades projects.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Horizon Water and Environment, LLC for Project Level Environmental Impact Report for Del Rio Tank and Well Project for an amount not to exceed $91,361 for the identified scope of services, plus $9,136 for additional services (if needed), for a maximum total amount of $100,497.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST:  

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH URS CORPORATION DBA URS CORPORATION AMERICAS FOR GROUNDWATER IMPACTS ANALYSIS FOR DEL RIO WATER SYSTEM IMPROVEMENTS PROJECT IN AN AMOUNT NOT TO EXCEED $54,096 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $5,410 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $59,506, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City owns and operates the outlying water system in the community of Del Rio, located in Stanislaus County, and

WHEREAS, a hydraulic assessment of this water system has identified necessary upgrades to correct existing supply and pressure deficiencies, and

WHEREAS, the major components of the upgrades include the construction of two new domestic water wells, a storage tank, and booster pump station, and

WHEREAS, the City is currently obligated to provide these improvements by January 31, 2014 in accordance with the amended terms of a Settlement Agreement between the City and the Del Rio Community Association, and

WHEREAS, project delays due to current litigation have made it not feasible to meet this deadline; however, staff will continue working towards delivery of these improvements as soon as possible, and

WHEREAS, staff will also continue working with the Del Rio Community Association to extend the deadline, and

WHEREAS, since the project inception, staff has worked towards delivery of the required upgrades to the Del Rio water system, and

WHEREAS, these efforts have led to prior Council actions to adopt the project’s environmental analysis on March 13, 2012, by City Council Resolution No. 2012-100, as
well as to accept a Preliminary Design Report for the new tank, booster pump, and well on December 4, 2012, by City Council Resolution No. 2012-496, and

WHEREAS, on December 20, 2012, a lawsuit was filed against the City by the North Modesto Groundwater Alliance (Stanislaus County Superior Court Case No. 680381), and

WHEREAS, in general, the lawsuit alleged deficiencies in the environmental review of the project, as well as a lack of sufficient notice to affected parties, and

WHEREAS, the lawsuit further requested the court require the City to rescind the prior project approvals, and to prepare a new environmental analysis for the project, and

WHEREAS, additionally, the court granted a preliminary injunction in January 2013, which prevented the City from undertaking any activity in furtherance of the project prior to a ruling on the current lawsuit, and

WHEREAS, in granting the preliminary injunction, the Court found that the City had not given adequate notice to surrounding neighbors of the City’s consideration of the project, and

WHEREAS, in response to the lawsuit, on November 12, 2013, by Resolution No. 2013-413, City Council rescinded the previous March 13, 2012 adoption of the project’s environmental analysis, and directed staff to prepare a new environmental analysis pursuant to California Environmental Quality Act (CEQA) requirements, and

WHEREAS, concurrently, by Resolution No. 2013-414, City Council also rescinded the previous December 4, 2012 acceptance of the Preliminary Design Report for the tank, pump station, and new well, and
WHEREAS, the intent of these actions was to resolve both the due process and CEQA issues raised in the litigation without further litigation, and

WHEREAS, while staff disagrees with the allegations in the lawsuit, these actions will move the project forward in the most expedient manner by avoiding the significant time and expense of pursuing further litigation, and

WHEREAS, in consultation with the City Attorney’s Office, as well as outside counsel, staff determined that preparation of a project level Environmental Impact Report (EIR) would be the most legally defensible means of complying with CEQA regulations, and

WHEREAS, this document will be prepared and circulated in accordance with CEQA regulations, and will determine and address known environmental impacts to such topics as noise, aesthetics, land use, groundwater, and other considerations, and

WHEREAS, the EIR will also discuss project alternatives, and

WHEREAS, staff intends to utilize a consultant, URS Corporation, to perform an enhanced groundwater impacts analysis, which will be incorporated into the project EIR, and

WHEREAS, URS has previously performed an analysis for the project to predict impacts to groundwater levels as a result of the new Del Rio wells, and

WHEREAS, the proposed enhanced analysis will utilize this information, but will also incorporate additional site-specific data for a more accurate prediction of impacts to groundwater levels, and
WHEREAS, an agreement with URS to perform the original groundwater impacts analysis for the Del Rio well project was approved on April 5, 2011 by City Council Resolution 2011-118, and

WHEREAS, URS prepared this analysis as authorized by the agreement and performed admirably in this task, and

WHEREAS, given this previous effort, URS has unique experience relevant to the proposed enhanced groundwater analysis, and

WHEREAS, in addition, City staff lacks the resources and expertise required to perform this work, and therefore recommends that URS be retained to perform the enhanced groundwater impacts analysis, and

WHEREAS, staff therefore recommends approval of an agreement with URS for preparation of a Groundwater Impacts Analysis for the Del Rio Water System Upgrades projects, and

WHEREAS, URS was selected to perform the groundwater impacts analysis given its specific and unique prior experience with the Del Rio project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with URS Corporation dba URS Corporation Americas for Groundwater Impacts Analysis for Del Rio Water System Improvements Project in an amount not to exceed $54,096 for the identified scope of services, plus $5,410 for additional services (if needed), for a maximum total amount of $59,506.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Gunderson,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki,
        Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]
STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
ADAM LINDGREN, Interim City Attorney
RESOLUTION ACCEPTING THE WORK BY HOBBS CONSTRUCTION, FOR THE “MODESTO WEST BASIN IMPROVEMENTS PROJECT” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $406,515

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Modesto West Basin Improvements Project has been completed by Hobbs Construction, in accordance with the contract agreement dated December 4, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Modesto West Basin Improvements Project is hereby accepted as complete from said contractor, Hobbs Construction, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, to release securities upon expiration of statutory periods, and that payment of amounts totaling $406,515 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(Seal)

APPROVED AS TO FORM:

By:  

ADAM LINDGREN, Interim City Attorney
RESOLUTION ACCEPTING THE WORK BY ROLFE CONSTRUCTION, FOR THE “STREET IMPROVEMENTS EAST OF EL VISTA ELEMENTARY SCHOOL PROJECT” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $297,994

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Street Improvements East of El Vista Elementary School Project has been completed by Rolfe Construction, in accordance with the contract agreement dated March 26, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Street Improvements East of El Vista Elementary School Project is hereby accepted as complete from said contractor, Rolfe Construction, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, to release securities upon expiration of statutory periods, and that payment of amounts totaling $297,994 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
RESOLUTION ACCEPTING THE WORK BY DSS COMPANY, dba KNIFE RIVER CONSTRUCTION, FOR THE “EAST SUTTER AVENUE SOUTH OF MARSHALL STREET IMPROVEMENTS PROJECT” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $369,339

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the East Sutter Avenue South of Marshall Street Improvements Project has been completed by DSS Company, dba Knife River Construction, in accordance with the contract agreement dated March 26, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that East Sutter Avenue South of Marshall Street Improvements Project is hereby accepted as complete from said contractor, DSS Company, dba Knife River Construction, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, to release securities upon expiration of statutory periods, and that payment of amounts totaling $369,339 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES:   Councilmembers:  Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES:   Councilmembers:  None

ABSENT: Councilmembers:  None

ATTEST:  
STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  
ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, INC. (CAROLLO) FOR PRELIMINARY DESIGN REPORT FOR RIVER TRUNK REALIGNMENT, BEARD BROOK SIPHON, AND CANNERY SEGREGATION LINE IMPROVEMENT IN AN AMOUNT NOT TO EXCEED $953,929 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $95,393 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $1,049,322, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the River Trunk consists of a pipeline that ranges from 24-inches to 60-inches in diameter that conveys flow from the Beard Industrial Park to the Sutter Avenue Wastewater Treatment Plant, and

WHEREAS, the total length of the River Trunk is approximately five miles and conveys approximately 24 percent of the City’s domestic wastewater flow, and

WHEREAS, the City’s 2007 Wastewater Collection System Master Plan (WCSMP) identified rehabilitation improvements to the River Trunk, from the Sutter Plant to the Beard Brook Siphon (RV-1), as well as capacity improvements to the Sutter Trunks (S1, S-2, and S-3), and

WHEREAS, the current location of the River Trunk, adjacent to the Tuolumne River, poses access limitations to operations staff and could be subject to catastrophic damage in the event of elevated river flows, and

WHEREAS, as City staff evaluated these projects, consideration was given to realigning the River Trunk away from its current location to an alternate route within public right-of-way, and

WHEREAS, additional consideration was given to realigning the Sutter Trunk to connect to the new River Trunk, and
WHEREAS, the River Trunk Realignment will essentially combine the identified projects into one project, and

WHEREAS, the WCSMP also identified two additional projects related to the River Trunk: the Beard Brook Siphon (BB-1) and the Cannery Segregation Diversion Structures (CSL-1 and CSL-2), and

WHEREAS, the Beard Brook Siphon consists of a 48-inch diameter trunk that starts at the west end of Oregon Drive, at the Gallo facility, and crosses under Beard Brook Park to Morton Boulevard, and

WHEREAS, the Cannery Segregation Diversion Structures project consists of a diversion structure at Beard Brook Park and another at the Dryden Golf Course that would allow the diversion of flow from the municipal trunk sewer to the Cannery Segregation Line during substantial rain events, and

WHEREAS, these two projects were both scheduled to begin preliminary design this fiscal year, and

WHEREAS, since these two projects will likely be impacted by the River Trunk realignment, staff determined that it was appropriate to include these projects with the River Trunk Realignment design effort, and

WHEREAS, in accordance with the Public Works Department’s Major Scope Policy approved on September 26, 2006, all projects exceeding $1,000,000 are required to have a Preliminary Design Report (PDR) prepared at the 35% design level, and

WHEREAS, the PDR evaluates design options and provides a summary of the recommended project scope and estimated construction costs, and
WHEREAS, the PDR is presented to Council for acceptance and subsequently followed with a request for approval to proceed with the final design, and

WHEREAS, the intent of this PDR will be to evaluate the WCSMP projects with alternative alignments to determine the most economical and operationally efficient improvements, and

WHEREAS, considering the size of the sewer trunks and the flows involved, hydraulic expertise will be necessary to evaluate alignment alternatives, and

WHEREAS, the level of effort anticipated to evaluate the alternatives and prepare the PDR for these projects is beyond the availability of current staffing, and

WHEREAS, therefore, considering the expertise needed and current staff workload, staff is recommending the use of an engineering consultant to complete the PDR, and

WHEREAS, on September 3, 2013, by Resolution 2013-315, the City Council approved a prequalified list of consultants for Engineering Design Services for Wastewater and Storm Drain CIP projects, and

WHEREAS, in accordance with City Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, UP&P staff issued a Request for Proposal (RFP) to the prequalified list of five firms for Engineering Design Services for Wastewater/Storm Drain projects, and

WHEREAS, four proposals were received on December 6, 2013, and were reviewed by a selection committee that consisted of the City’s Public Works and UP&P staff, and
WHEREAS, subsequently, consultant interviews were held on January 14, 2014, and

WHEREAS, after the interviews and discussion, the selection committee determined that Carollo Engineering, Inc. (Carollo) was the most responsive and qualified firm to prepare the PDR for the River Trunk Realignment, Beard Brook Siphon, and Cannery Segregation Diversion Structures, and

WHEREAS, Carollo has completed several projects for the City and has provided exceptional service, and

WHEREAS, Carollo’s original proposed fee was $780,234; however, the scope and fee was negotiated to include condition and capacity assessment of the Cannery Segregation Trunk, and

WHEREAS, this resulted in a final negotiated cost of $953,929, and

WHEREAS, Carollo’s involvement of local subconsultants accounts for 21% of the total contract amount to prepare the PDR, and

WHEREAS, the additional scope will assist in determining design options that could provide reliability to the Cannery Segregation Trunk by upsizing the Beard Brook Siphon to include an additional pipeline for cannery flows, and

WHEREAS, considering these projects are all within the same general area, including this effort will improve efficiency, and

WHEREAS, the scope of services to be provided under this agreement includes:
1) Coordination of stakeholder meetings and workshops; 2) Preliminary site investigation including geotechnical reporting, topographic survey, utility coordination and permitting; 3) Evaluation of WCSMP-identified projects and alternative alignments; 4) Hydraulic
evaluation of viable alignments; 5) Providing a condition assessment of the River Trunk, Sutter Trunks, and Cannery Segregation Trunk; and 6) Completion of the 35% design (plans, specifications and estimate) for the River Trunk Realignment, Beard Brook Siphon, and Cannery Segregation Diversion Structures projects, and

WHEREAS, given the high priority for completion of these projects, staff recommends approval of an agreement with Carollo to prepare the PDR for the River Trunk Realignment, Beard Brook Siphon and Cannery Segregation Diversion Structures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, Inc. (Carollo) for Preliminary Design Report for River Trunk Realignment, Beard Brook Siphon, and Cannery Segregation Line Improvement in an amount not to exceed $953,929 for the identified scope of services, plus $95,393 for additional services (if needed), for a maximum total amount of $1,049,322.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 CIP BUDGET IN THE AMOUNT OF $526,705 TO BE TRANSFERRED INTO THE PROJECTS FROM WASTEWATER FUND RESERVES IN ORDER TO FULLY FUND AN AGREEMENT WITH CAROLLO ENGINEERS, INC. FOR PRELIMINARY DESIGN REPORT FOR RIVER TRUNK REALIGNMENT, BEARD BROOK SIPHON, AND CANNERY SEGREGATION LINE IMPROVEMENT, INCLUDING SUPPORT BY CITY STAFF

WHEREAS, certain budgetary transactions are necessary in the amount of $526,705, in order to fund engineer/design/administration for the agreement, including support by City staff for the River Trunk Realignment, Beard Brook Siphon, and Cannery Segregation Line Improvement project, and

WHEREAS, the Fiscal Year 2013-2014 Capital Improvement Program Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2013-2014 Capital Improvement Program Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
Exhibit A

Due to the increase of estimated engineering/design/administration costs for the agreement, including support by City staff for CIP Account #100646-"River Trunk Realignment" and 100739-"Beard Brook Siphon", the total project costs need to be increased by $526,705. This would be done by adjusting Engineering/Design/Administration in CIP Account #100646-"River Trunk Realignment" by $478,609 and Engineering/Design/Administration in CIP Account 100739-"Beard Brook Siphon" by $48,096.

To fund the above accounts, $526,705 will be transferred from Wastewater Fund Reserves into CIP Project #100646-"River Trunk Realignment" and #100739- "Beard Brook Siphon" for the River Trunk Realignment, Beard Brook Siphon, and Cannery Segregation Line Improvement project.
A RESOLUTION AWARDING NON-CONSENSUAL TOWING FRANCHISE CONTRACTS TO SIXTEEN (16) TOWING COMPANIES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACTS

WHEREAS, in April 2009, City Council awarded Non-Exclusive Non-Consensual Franchise Towing Services contracts to twenty-one applicants, and

WHEREAS, this contract expires April 13, 2014, and

WHEREAS, on January 14, 2014, the Purchasing Manager solicited Request for Applications (RFA) No. 1314-28, for City generated Non-Exclusive Non-Consensual Franchise Towing Services, and

WHEREAS, on February 11, 2014 applications were opened in the City Clerk’s office, and

WHEREAS, a total of sixteen (16) applications were received, and all sixteen (16) met the requirements of Phase 1 and Phase 2 of the application process, and

WHEREAS, on March 4, 2014, City Council, by motion, unanimously approved staff’s recommendation for award of City of Modesto Non-Exclusive Non-Consensual Franchise Towing Services to the sixteen (16) applicants listed in Attachment A, and referring staff’s recommendation for award of contracts to the City Manager for recommendation and report, and

WHEREAS, on March 11, 2014, City Council, by Resolution No. 2014-85, accepted the City Manager’s recommendation to award Non-Exclusive Non-Consensual Franchise Towing Services contracts and schedule a public hearing in accordance with Modesto Municipal Code Section 11-2.01 Et Seq., and

WHEREAS, the anticipated start date of the towing contracts is April 14, 2014.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Non-Exclusive Non-Consensual Franchise Towing Services contracts to the sixteen (16) towing companies listed in Attachment A to this Resolution.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contracts.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
ATTACHMENT A

Non-Exclusive Non-Consensual Franchise Towing Services Applicants

1. A&R Tow, Modesto, California
2. Anderson's Tow, Ceres, California
3. Central Valley Tow, Ceres, California
4. Ceres Pro Tow, Ceres, California
5. Craig's Tow, Ceres, California
6. DBM Tow, Modesto, California
7. Dizney & Wise, Modesto, California
8. E-Tow, Modesto, California
9. Four Star Recovery, Modesto, California
10. Myers Towing, Modesto, California
11. Ramont's Tow, Modesto, California
12. Scenic Tow, Modesto, California
13. Stanislaus Tow, Modesto, California
14. State Tow, Modesto, California
15. Tow One, Modesto, California
16. WS Towing, Modesto, California
RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 ANNUAL OPERATING BUDGET FOR THE GOLF FUND

WHEREAS, the City of Modesto entered into a new golf management agreement with KemperSports in October 2013 to operate the pro-shops and restaurants at Creekside Golf Course and Dryden Park Golf Course,

WHEREAS, the City of Modesto will be receiving new revenue sources at Creekside Golf Course and Dryden Park Golf Course including golf cart rentals, merchandise sales, food and beverage sales and driving range fees,

WHEREAS, the City of Modesto will be responsible for new expenditures at Creekside Golf Course and Dryden Park Golf Course including staff payroll, cost of goods, and all operating expenses,

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Operating Budget for the Golf Fund of the City of Modesto for Fiscal Year 2013-2014,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2013-2014 Annual Operating budget as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
EXHIBIT A

Golf Fund Account Detail· FY 2013/2014
REVENUES
4600
4600
4600
4605
4605
4600
4500
4600
4600
4605
4605
4605
4605
4605
4605
4605
4605
4600
4600
4600
4600
4600
4600
4600
4500
4600

34170
34170
34170
341S1
341S2
34170
34170
34170
34170
34181
34182
34181
341S2
34181
34182
34181
34182
34170
34170
34170
34170
34170
34170
34170
34170
64600

42503 Mise Grants/Donations
43505 Muni Green Fees
43506 Dryden Green Fees
43506 Dryden Green Fees(Kemper)
43506 Creekside Green Fees(Kemper)
43507 Creekside Green Fees
43508 Annual Membership Fees
43509 First Tee Green Fees
43510 NCGA-YOC Green Fees
43512 Dryden Cart Fees
43512 Creekside Cart Fees
43513 Dryden Range Fees
43513 Creekside Range Fees
43514 Dryden Food & Beverage
43514 CreekSide Food & Beverage
43515 Dryden Merchandise
43515 Creekside Merchandise
43516 FootGolf Revenues
43550 High School Rounds
46002 Lease of Land (Water Dept)
46004 Mise lease-Cell Tower
47005 Mise Revenue - FM Golf above $250K
47031 Misc Donation
49500 Revenue Clearing - Creekside
49501 Revenue Clearing- Dryden
60100 Transfer in from Fund 0100
TOTAL REVENUES:

EXPENDITURES
4600 34170
4600 34170
4600 34180
4600 34190
4600 34170
4600 34170
4605 34181
4605 34182
4600 34170
4600 34170
4605 34181
4605 34182
4605 34181
4605 34182
4600 34170
4605 34181
4605 34182
4605 34181
4605 34182
4605 34181
4605 34182
4600 34190
4600 34190
4600 34190
4605 34181
4605 34182
4600 34190
4600 34190
4600 34170
4600 34180
4600 34190
4605 34181
4600 34170
4605 34181
4605 34182
4600 34170
4600 34190
4605 34181
4605 34182
4600 34170
4600 34170
4600 34170

58010 Internal Service - Mail
58030 Internal Service - Cost Allocation
58030 Internal Service - Cost Allocation
58030 Internal Service· Cost Allocation
58060 Internal5eNice - Property Insurance
58070 Internal SeNtCe -liability Insurance
52001 Pro Shop Expense - Dryden
52001 Pro Shop Expense - Creekside
52010 Office Supplies
52015 Printing & Binding
52117 Cost of Sales - Dryden Merchandise
52117 Cost of Sales - Creekside Merchandise
52118 Cost of Sales - Dryden Food & Beverage
52118 Cost of Sales - Creekside Food & Beverage
52170 PC Software & Supplies
52240 Food & Beverage EXpense - Dryden
52240 Food & Beverage Expense - Creekside
52300 Range Expense - Dryden
52300 Range Expense - Creekside
53001 Marketing - Dryden
53001 Marketing - Creekside
53040 Utility Expense - Electric
53041 Utility Expense - Gas
53045 Utility Expense - Garbage
53072 Cart Lease - Dryden
53072 Cart Lease - Creekside
53100 Repair & Maintenance
53150 Repair & Maintenance-Real Property
53300 Professional Services
53300 ProfessionalSeNices
53300 Professlonal Services
53300 Professional5eNlces
54160 Memberships & Dues
54450 Payroll- Dryden
54450 Payroll- Creekside
54500 Services City Forces
54500 SeNices City Forces
54900 General & Admin· Dryden
54900 Genera! & Admin - Creekside
59001 Principal Retirement
59002 interest Expense
59006 Trustee Fees
TOTAL EXPENDITURES:

Existing

Proposed

Budget

Budget

Difference

15,000.00
238,000.00
584,000.00
0.00
0.00
752,000.00
1,000.00
2,300.00
6,800.00
0.00
0.00
0.00
0.00
0.00
0.00
0.00
0_00
0.00
16,000.00
889.00
95,000.00
323,289.00
750.00
0.00
0.00
268,174.00
2,303,202.00

15,000.00
238,000.00
167,000.00
408,626.00
531,490.00
225,000.00
0.00
2,300.00
6,SOO.00
160,616.00
198,602,00
14,877.00
24,999.00
87,115.00
118,265.00
22,372.00
53,590.00
33,533,00
4,180.00
889.00
95,000.00
0.00
750.00
0.00
0.00
665,434.00
3,074,438.00

0.00
0.00
(417,000_00)

4,606,404.00
89,00
6,926.00
35,490.00
519.00
19,113.00
12,677.00
0.00
0.00
100.00
100.00
0.00
0.00
0.00
0.00
2,000.00
0.00
0.00
0.00
0.00
0.00
0.00
32,000.00
2,700.00
0.00
0.00
0.00
5,000.00
5,000.00
7,920.00
1,734,029.00
3,020.00
115,000.00
300.00
0.00
0.00
33,737.00
7,804.00
0.00
0.00
290,000.00
204,730.00
3,000.00
2,521,254.00

408,626.00
531,490,00
{527,OOO.00j
(1,000.00)
0.00
0.00
160,616.00
19S,602_00
14,877.00
24,999.00
87,115.00
118,265_00
22,372.00
53,590.00
33,533.00
(11,S20.00)
0.00
0.00
(323,289.00)
0.00
0.00
0.00
397,260.00

771,236.00
89.00
6,926.00
35,490.00
519.00
19,113.00
12,677.00
1,585.00
l,777.00
100.00
100.00
15,196.00
37,549.00
38,523.00
54,168.00
0.00
6,078.00
7,341.00
3,018.00
6,056.00
7,569.00
10,375.00
42,000.00
3,BOO.OO
765.00
35,892.00
37,218,00
5,000.00
5,000.00
33,490.00
1,563,141.00
3,020.00
0.00
300.00
146,108.00
198,573.00
87,872.00
7,804.00
50,613.00
59,095.00
290,000.00
237,498,00
3,000,00
3,074,438.00

0.00
0.00
0,00
0.00
0.00
0.00
1,585.00
1,777.00
0.00
0.00
15,196.00
37,549.00
38,523.00
54,168.00
(2,000.00)
6,078.00
7,341.00
3,018,00
6,056.00
7,569.00
10,375_00
10,000.00
1,100.00
765,00
35,892..00
37,218.00
0.00
0.00
25,570.00
(170,888.00)
0.00
(115,000,00)
0.00
146,108.00
19S,573.00
54,135.00
0.00
50,613.00
59,095.00
0.00
32,768.00
0.00


RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF $3,000,000 TO BE TRANSFERRED INTO THE PROJECT COLLECTOR AND ARTERIAL STREETS REHABILITATION ACCOUNT (100819-CON-CONSTRUCTION) FROM SURFACE TRANSPORTATION FUND RESERVES IN ORDER TO FULLY FUND THIS PROJECT

WHEREAS, The City of Modesto’s 634 mile street system is comprised of 1400 lane miles. These miles consist of 300.75 Arterial Miles, 222.69 Collector Miles, and 784.38 of Residential Miles, and

WHEREAS, the miles of streets have varied needs, rehabilitation and repair efforts of the street system is critical and necessary, and

WHEREAS, the most cost-effective method of maintaining streets is to provide preservation maintenance early in the process of deterioration, and

WHEREAS, the following scenario has been recommended by the Finance Committee on February 24, 2014; Streets proposed would include Orangeburg, College, Tully and Standiford as recommended by Transportation Engineering, and

WHEREAS, these streets are candidates for surface treatment and also provide for bike lanes and connectivity to existing bicycle facilities. With the exception of Sisk road, there is an inability to install bike lanes due to inadequate width.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes an amendment to the Fiscal Year 2013-2014 Capital Improvement Program budget in the amount of $3,000,000 to be transferred into the Project Collector and Arterial Streets Rehabilitation account (100819-CON-Construction) from Surface Transportation Fund Reserves in order to fully fund this project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING AND INSTALLATION OF STORAGE AREA NETWORK SYSTEMS FOR THE INFORMATION TECHNOLOGY DIVISION, TO SOLID NETWORKS INC., MODESTO, CA, FOR AN ESTIMATED TOTAL COST OF $336,054 INCLUDING FIVE (5) YEARS OF MAINTENANCE AND AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT

WHEREAS, the City of Modesto Information Technology Department maintains Storage Area Network systems (SANS) both at the Tenth Street datacenter and at the Modesto Police Department datacenter, and

WHEREAS, the current SAN systems provide data storage for the City’s mission critical data and systems. This includes all department documents, videos, images, electronic scanned documents, applications, databases and virtual infrastructure, and

WHEREAS, both SAN systems are at the end of their lifecycle and can no longer be supported by the manufacturer, and

WHEREAS, the City’s storage demands continue to increase as technology advances. Enterprise SANS units will provide the ability to meet existing storage data needs, improve disaster recovery through data replication and will be scalable to meet future data storage demands, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue Request for Proposals (RFP) for Storage Area Network Systems (SANS) with the Finance Department coming back to Council for award authorization, and

WHEREAS, the Purchasing Division issued RFP No. 1314-10 for Storage Area Network Systems (SANS) to fifty two (52) prospective proposers and posted the RFB on the City’s website. Two of which are local vendors, and
WHEREAS, proposals were formally opened in the City Clerk’s office. Seven (7) companies chose to respond. One of which is a local vendor, and

WHEREAS, an evaluation committee comprised of Information Technology Division staff evaluated the proposals based on the selection criteria listed in the RFP. The Purchasing Division facilitated the evaluation process. Based on being ranked highest in total evaluation criteria, the committee recommended award of proposal and contract for Storage Area Network Systems (SANS) to Solid Networks Inc., Modesto, CA, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2013-14, in account # 5230-07510-57005, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of contract for Storage Area Network Systems (SANS) to Solid Networks Inc., Modesto, CA conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for furnishing and installation of Storage Area Network Systems (SANS) to Solid Networks, Inc., Modesto, CA, for an estimated total cost of $336,054.

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized to execute the contract for an estimated total cost of $336,054.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE NORTHPOINTE BASIN IMPROVEMENTS PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH BRENEMAN, INC. OF WALNUT CREEK, CALIFORNIA IN THE AMOUNT OF $105,380.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the NorthPointe Basin Improvements project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the NorthPointe Basin Improvements project were opened at 11:00 a.m. on March 11, 2014, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of $105,380.00 received from Breneman, Inc. of Walnut Creek, California be accepted as the lowest responsible and responsive bid and the contract be awarded to Breneman, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the NorthPointe Basin Improvements project, accepts the bid of Breneman, Inc. of Walnut Creek, California in the amount of $105,380.00, and awards Breneman, Inc. the contract for the NorthPointe Basin Improvements project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-128

RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY FOR THE OPERATION AND MAINTENANCE OF THE COMPLETED SEWER SYSTEM FOR THE PARKLAWN NEIGHBORHOOD, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT, AND APPROVING A BLANKET WILL-SERVE LETTER FOR EACH OF THE 326 LOTS IN THE PARKLAWN NEIGHBORHOOD

WHEREAS, Stanislaus County has received a State Revolving Fund grant to install a sewer system in the Parklawn Neighborhood, and

WHEREAS, the primary purpose of the Parklawn Neighborhood Sewer Improvement project is to provide a sewer system to the neighborhood that allows property owners to abandon their existing failing septic tanks and connect to the City of Modesto’s sewer system, and

WHEREAS, the City has submitted an application to LAFCO seeking approval for the extension of the City’s sewer service boundary to include the Parklawn Neighborhood, and is expecting review and approval in May 2014, and

WHEREAS, the purpose of the Agreement is to memorialize the agreed upon responsibilities as follows:

- City and County will jointly inspect the project, and the County will reimburse the City for its costs, and
- County will design and construct the project at no cost to City
- After construction complete, County will transfer ownership of project improvements to City
- County will pre-pay connection fees for 326 lots for the Parklawn Community up to $1.596 million (which includes sewer subtrunk fee, Wastewater Capacity Charge (WWCC), and Outside Service fee)
  - Commercial lots within Parklawn will be credited residential WWCC, and may need to pay additional WWCC depending on type of business
- City certifies that sewer service rates are at least 2% of Parklawn community median household income
WHEREAS, additionally staff requested approval for a blanket Will-serve Letter to expedite signing up for sewer service for the 326 lots in the Parklawn community, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Stanislaus County for the operation and maintenance of the completed sewer system for the Parklawn Neighborhood.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

BE IT FURTHER RESOLVED that a blanket Will-serve letter for the 326 lots is hereby approved to expedite the signing up for sewer service in the Parklawn Neighborhood.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-129

A RESOLUTION RESCINDING RESOLUTION 2013-131 ESTABLISHING FEES FOR THE PROVISION OF SEWER SERVICE FOR FISCAL YEARS 2015 THROUGH 2018, AND REVISI NG THE ANNUAL RATE REVIEW TO A BIENNIAL RATE REVIEW IN CONJUNCTION WITH THE WASTEWATER MASTER PLAN UPDATE

WHEREAS, Section 11-6.09 of the Modesto Municipal Code authorizes the Council to establish sewer service charges from time to time by resolution, and

WHEREAS, the Council has previously established sewer service charges, and

WHEREAS, Proposition 218 was passed in November of 1996 and became effective with respect to sewer rates on July 1, 1997, and

WHEREAS, on July 24, 2007, the Council held a public hearing pursuant to Proposition 218 with respect to adjustment of sewer rates, and

WHEREAS, notices of a sewer rate adjustment and public hearing were mailed on June 8, 2007 to sewer customers, and

WHEREAS, insufficient protests were made to defeat imposition of the sewer rate adjustments resulting in increases in some cases, and

WHEREAS, City Council adopted Resolution 2007-463 which established maximum wastewater rates beginning August 1, 2007, and updated each July 1st through the year 2011, and

WHEREAS, the Final Master Environmental Impact Report for the WWMP was completed (State Clearing House No. 2006052076) and adopted by the City Council on March 13, 2007 by Resolution No. 2007-178, and

WHEREAS, City Council rescinded all previous sewer fee resolutions on May 25,
2010 by Resolution No. 2010-222 and adopted a new five-year rate plan for Fiscal Years 2011-2015, and

WHEREAS, on April 3, 2012, the City Council, by Resolution No. 2012-135, rescinded all previous sewer fee resolutions and adopted a new five-year rate plan for Fiscal Years 2013 – 2017, and

WHEREAS, on April 9, 2013, the City Council, by Resolution No. 2013-131, rescinded all previous sewer fee resolutions and adopted a new five-year rate plan for Fiscal Years 2014 – 2018, and

WHEREAS, the report titled, “2014 Evaluation of Wastewater Rates,” analysis shows that the projected costs and revenues are tracking reasonably close to what was projected in the 2013 report, and

WHEREAS, this report also shows that it would be possible to implement alternative rate plans primarily due to the following factors:

- Relatively stable customer characteristics and discharges
- Operating costs - maintain inflation assumptions from 2013 Report
- Capital program - adjusted cash flow to reflect the reprioritization of projects from 2013 Report
- Debt financing - State Revolving Fund (SRF) financing
- Healthy fund balance – sufficient wastewater reserves were a result of realized construction cost savings, project deferrals, successful acquisition of a construction grant, and favorable SRF loan terms

WHEREAS, Staff has reviewed the Capital Improvement Program (CIP) and operations budgets of the Wastewater Enterprise Fund for both the current and upcoming fiscal years with the goal of minimizing any rate increase proposals for FY 2015 and beyond, and

WHEREAS, in order to maintain an adequate debt coverage ratio, operating
reserves, and to continue funding the planned CIPs and operational increases over the next four years, a series of rate increases will be required, and

WHEREAS, these series of rate increases do not exceed the maximum wastewater rates allowed by City Council Resolution 2007-463, and

WHEREAS, on March 24, 2014, the Finance Committee recommended that City Council adopt a series of wastewater rate increases, shown as Scenario 4 in the “2014 Evaluation of Wastewater Rates” report.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DEFINITIONS. Unless the context requires a different meaning, for the purposes of this resolution the definitions set forth in Section 5-6.103 of Chapter 6 of Title 5 of the Modesto Municipal Code entitled "DEFINITIONS" shall apply.

1. Director: The City officer(s) or designee(s) in charge of utilities.

2. Monthly account charge: A monthly fee charged to every sewer account to pay the actual fixed sewer system costs not allocable to sewer flow and strength components.

3. Person. Any individual, partnership, corporation or other legal entity whatsoever applying for or receiving City sewer service.

SECTION 2. SEWER SERVICE CHARGES FOR RESIDENTIAL SERVICE.

Each person receiving residential sewer service shall pay a sewer service charge to the City in accordance with the following rates:

(a) The maximum monthly sewer service charges for dwelling units, mobile homes and mobile home spaces in mobile home parks shall be as follows:

<table>
<thead>
<tr>
<th>Maximum Residential Rates</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-Jul-14</td>
<td>1-Jul-15</td>
<td>1-Jul-16</td>
<td>1-Jul-17</td>
<td></td>
</tr>
<tr>
<td>Monthly Account Charge ($/Account)</td>
<td>$4.22</td>
<td>$4.34</td>
<td>$4.51</td>
<td>$4.73</td>
</tr>
</tbody>
</table>
plus Dwelling Unit Charge ($/Dwelling Unit)

<table>
<thead>
<tr>
<th>Dwelling Unit Type</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Residential, Mobile Home on a lot</td>
<td>$26.78</td>
<td>$27.58</td>
<td>$28.68</td>
<td>$30.11</td>
</tr>
<tr>
<td>Multiple Family (2-4 Dwelling Units), one additional Dwelling Unit or Mobile Home on a lot</td>
<td>$22.98</td>
<td>$23.67</td>
<td>$24.62</td>
<td>$25.85</td>
</tr>
<tr>
<td>Apartments (5 or more Dwelling Units), Mobile Home Space in a Mobile Home Park</td>
<td>$17.44</td>
<td>$17.96</td>
<td>$18.68</td>
<td>$19.61</td>
</tr>
</tbody>
</table>

SECTION 3. SEWER SERVICE CHARGES FOR COMMERCIAL SERVICE.

Each person receiving commercial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:

(a) Commercial users shall be grouped according to Biochemical Oxygen Demand (hereinafter referred to as BOD) and Total Suspended Solids (hereinafter referred to as TSS) strength characteristics and shall pay sewer service charges based on the quantity of water used, and the waste strength characteristics measured in milligrams per liter (hereinafter referred to as mg/l). The Director shall determine the waste strength characteristics of commercial users and assign them to one of the following commercial users groups:

<table>
<thead>
<tr>
<th>Maximum Commercial Rates</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Account Charge ($/Account)</td>
<td>$4.22</td>
<td>$4.34</td>
<td>$4.51</td>
<td>$4.73</td>
</tr>
<tr>
<td>plus Quantity Charge ($/100 cubic feet)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Group 1-BOD + TSS is 400 mg/l or less</td>
<td>$2.27</td>
<td>$2.35</td>
<td>$2.45</td>
<td>$2.58</td>
</tr>
<tr>
<td>Group 2-BOD + TSS is 401 mg/l to 900 mg/l</td>
<td>$2.79</td>
<td>$2.89</td>
<td>$3.03</td>
<td>$3.20</td>
</tr>
<tr>
<td>Group 3-BOD + TSS is 901 mg/l to 1,400 mg/l</td>
<td>$3.33</td>
<td>$3.45</td>
<td>$3.61</td>
<td>$3.82</td>
</tr>
<tr>
<td>Group 4-BOD + TSS is 1,401 mg/l or more</td>
<td>$3.95</td>
<td>$4.11</td>
<td>$4.32</td>
<td>$4.58</td>
</tr>
</tbody>
</table>

(b) Commercial users shall have all water used on the premises metered in order to determine the users' sewer service charges.

1. Commercial users on a public water system other than the City’s shall obtain a metered water service from the water purveyor and shall pay the sewer service charge which would be made were such water from the City's water system.

2. Commercial users receiving any water from a private source shall allow the City to furnish, install and maintain a water meter with the user paying for the cost of the meter and installation. The user shall pay the sewer service charge which would be made were such water from the City's water system. Authorization shall be granted to City from user to install, read and maintain said meter by user executing an agreement on a form furnished by the Director.
(c) In the case of existing meters which are under the ownership of users, the City will assume responsibility for maintenance of such meters upon:

1. Receipt of transfer of title from the owner in a form satisfactory to the Director, and

2. Authorization being granted to City for reading and maintaining the meter as set forth in paragraph (b) above.

(d) Churches, assembly halls and similar facilities shall be considered Group 1.

(e) Schools Districts will have their wastewater flow computed by either of the following methods at their discretion:

1. School Districts may elect to be billed on water consumption as a Group 1 Commercial discharger.
   a. A one-time inspection by the City's Water Division staff to confirm there is no indoor water use on the outdoor use meter will be done at no charge to the District.
   b. An annual audit and site inspection will be conducted by the City and paid for by the District.

   1. Inspection fee will be based on time and materials.

2. School Districts that have not separated all of their outdoor water systems may elect to continue to be billed based on estimates of the average volume per pupil/staff times the average daily attendance (ADA) of pupils plus staff.
   a. School District will be required to enter into an agreement with the City consenting to be billed on an ADA basis.
   b. The Director is authorized to enter into these agreements with the School Districts on behalf of the City.
   c. Should the School District fail or refuse to enter into the above noted agreement, District will be billed based on water consumption until an agreement is executed.

3. For School Districts planning to separate their outdoor water systems in the future, the City will provide the option to be billed on water consumption on an annual basis.

SECTION 4. SEWER SERVICE CHARGES FOR INDUSTRIAL SERVICE.

Each person receiving industrial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:
(a) The monthly sewer service charges for industrial users shall be at the following rate of per million gallons of total flow.

<table>
<thead>
<tr>
<th>Maximum Industrial (Major and Minor) Rates</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Account Charge ($/Account)</td>
<td>$4.22</td>
<td>$4.34</td>
<td>$4.51</td>
<td>$4.73</td>
</tr>
<tr>
<td>plus Quantity Charges (these three components are additive)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flow Charge ($/Million gallons)</td>
<td>$2,472</td>
<td>$2,534</td>
<td>$2,623</td>
<td>$2,741</td>
</tr>
<tr>
<td>BOD Charge ($/1,000 lbs)</td>
<td>$122</td>
<td>$129</td>
<td>$138</td>
<td>$149</td>
</tr>
<tr>
<td>TSS Charge ($/1,000 lbs)</td>
<td>$214</td>
<td>$224</td>
<td>$237</td>
<td>$253</td>
</tr>
</tbody>
</table>

(1) If the Industry has an effluent meter for industrial flow measurement and a sanitary sewage meter, the total flow shall be the sum of the metered flows.

Sanitary Sewage Flow: If Industry has an unmetered connection for disposal of sanitary sewage, the estimated volume may be established by the Director. The estimated volume shall be based on the number and type of plumbing fixture units contributing to the system along with any other flow information available which indicates the total volume of sanitary sewage.

(2) In the absence of an effluent meter, an influent meter shall be used, and total flow shall be based upon the influent meter reading.

(3) The BOD and TSS charges for industrial and sanitary discharges shall be based on the measured or estimated BOD and TSS for each type of flow.

SECTION 5. FLOW ESTIMATES. The Director will estimate flow where he/she determines metered flow measurements are unreliable.

SECTION 6. SEWER SERVICE CHARGES FOR DUMPING OF SEPTIC WASTE AT THE SEWAGE TREATMENT PLANT.

<table>
<thead>
<tr>
<th>Charge</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flow charge per 1,000 gallons</td>
<td>$64</td>
<td>$67</td>
<td>$71</td>
<td>$76</td>
</tr>
</tbody>
</table>
SECTION 7. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE. The cost of service set forth above shall be re-examined not less than every four years by professionals competent in the field. Such professionals shall provide a report to the City updating both the fixed and volume based costs as appropriate and as recommended to the Council by the Director and Director of Finance. Beginning on July 1, 2018 and annually thereafter, the Director of Finance with the concurrence of the Director, shall have the authority to adjust the above rates by an amount not to exceed the not-seasonally-adjusted annual percentage increase in the April Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers for the San Francisco CMSA that is currently prepared by the Department of Finance.

SECTION 8. SULFIDE CORROSION CHARGES. Any wastewater discharge which exceeds 0.5 parts per million of sulfides shall pay a sulfide corrosion charge, an impact fee, determined on a case-by-case basis as follows:

(a) The projected accelerated corrosion of collection system pipes and pump stations will be calculated based on the EPA Pomeroy Model for Sulfide Corrosion (EPA Design Manual, EPA/625/1-85-018, Section 2.5.2.1 - Corrosion Predictive Model).

(b) The sulfide corrosion charge will then be calculated based on the actual pipes and pump stations, up to the Water Quality Control Plant Headworks, impacted by the discharge, and on the current estimates of replacement costs and the time value of money.

(c) Discharges of sulfide above 0.5 ppm shall also not have a pH lower than 7.

(d) The discharger may request that the sulfide charge be recalculated each year, if the amount of sulfide discharged is documented as having changed significantly from the previous year. The discharger may elect to receive the billing for this service charge on an annual or monthly basis. No prepayment discount will apply.
This service charge is an impact fee based on sulfide crown corrosion of collection system pipes and pumping facilities. It is not intended to compensate the City for increased corrosion or odor generation in the Water Quality Control Plant. It is not intended to liquidate the responsibility of a party whose wastewater discharge escapes from the collection system causing soil or groundwater contamination. Discharge of concentrated sulfides under the provisions of this section constitutes acceptance of these terms.

SECTION 9. SEWAGE TREATMENT FOR OUTSIDE PUBLIC AGENCIES.

Pursuant to agreements approved from time to time by the City Council and the City Attorney (as to form), other public agencies will own and operate, and the City of Modesto will accept and treat sewage collected from, sewer systems external to the City and City’s Sewer District No. 1.

SECTION 10. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after July 1, 2014.

SECTION 11. RESCINDING PRIOR RESOLUTIONS. All previous sewer fees resolutions are hereby rescinded effective July 1, 2014.

SECTION 12. BIENNIAL REVIEW OF ADOPTED RATE INCREASES. The City Council, shall conduct a biennial review of each adopted sewer rate increase prior to its implementation in conjunction with completion of the Wastewater Master Plan Update. Said review shall be completed by the City Council at least sixty days in advance of the new sewer rate becoming effective. The rates shown in this resolution shall be implemented on the dates shown unless City Council takes action otherwise.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-130

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SUTTER TREATMENT PLANT IMPROVEMENTS PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH R.E. SMITH CONTRACTOR, INC., OF NEWCASTLE, CALIFORNIA IN THE AMOUNT OF $1,977,000.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Sutter Treatment Plant Improvements project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Sutter Treatment Plant Improvements project were opened at 11:00 a.m. on March 18, 2014, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of $1,977,000.00 received from R.E. Smith Contractor, Inc., of Newcastle, California be accepted as the lowest responsible and responsive bid and the contract be awarded to R.E. Smith Contractor, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Sutter Treatment Plant Improvements project, accepts the bid of R.E. Smith Contractor, Inc., of Newcastle, California in the amount of $1,977,000.00, and awards R.E. Smith Contractor, Inc. the contract for the Sutter Treatment Plant Improvements.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 8th day of April, 2014, by Councilmember Gunderson,
who moved its adoption, which motion being duly seconded by Councilmember Lopez,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: (SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

STEFANIE LOPEZ, City Clerk
RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF $172,595 TO BE TRANSFERRED INTO THE PROJECT FROM WASTEWATER FUND RESERVES IN ORDER TO FULLY FUND CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION, AND ENGINEERING SUPPORT DURING CONSTRUCTION FOR THE SUTTER TREATMENT PLANT IMPROVEMENTS PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $172,595, in order to fund construction, contingency, construction administration and engineering support during construction for the Sutter Treatment Plant Improvements project, and

WHEREAS, the Fiscal Year 2013-2014 Capital Improvement Program Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2013-2014 Capital Improvement Program Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
Exhibit A

Due to the increase of estimated construction administration and engineering/design/administration costs for CIP Account #100738 "Sutter Treatment Plant Improvements", the total project costs need to be increased by $172,595. This would be done by adjusting Construction by ($23,000), Contingency by ($41,840), Construction Administration by $37,661, and Engineering/Design/Administration by $199,774.

To fund the above account, $172,595 will be transferred from Wastewater Fund Reserves into CIP Project 100738 for the Sutter Treatment Plant Improvements project.
RESOLUTION APPROVING THE 2014 IMPROVEMENT FINANCING AGREEMENT WITH MODESTO IRRIGATION DISTRICT IN THE AMOUNT OF $2.71 MILLION FOR THE TERMINAL RESERVOIR BYPASS PIPELINE PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto and Modesto Irrigation District (MID) have been working together for several years on the Modesto Regional Water Treatment Plant (MRWTP) projects, which supplies treatment surface water to the City, and

WHEREAS, the Amended and Restated Treatment and Delivery Agreement (ARTDA) dated October 11, 2005, is the document that governs the relationship between the City and MID with respect to the treatment and delivery of water by MID to the City, and

WHEREAS, currently MID treats surface water from the Modesto Reservoir through the MRWTP and then pumps the treated water to two large tanks in east Modesto (the Terminal Reservoir), and from there the treated water is pumped into the City’s water distribution system, and

WHEREAS, the Terminal Reservoir Bypass Pipeline Project (Bypass Project) will take advantage of the MRWTP system’s pressure to circumvent the Terminal Reservoir and directly deliver treated surface water into the City’s distribution, and

WHEREAS, circumventing the Terminal Reservoir will result in direct energy cost savings to the City by not having to double pump the water, and

WHEREAS, this project is eligible for a one-time energy rebate from MID’s MPower Custom Rebate Program because it will reduce the energy demand at the Terminal Reservoir, and
WHEREAS, the preliminary rebate estimate is over $200,000, and

WHEREAS, based on estimates, the Bypass Project will pay for itself within approximately ten years, and

WHEREAS, the MID Water Policy Committee, which includes members from the Modesto City Council and MID Board members, approved the Project and project costs at its March 3, 2014 meeting, and City staff concurs with this recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the 2014 Improvement Financing Agreement with Modesto Irrigation District in the amount of $2.71 million for the Terminal Reservoir Bypass Pipeline Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDEGREN, Interim City Attorney

STEPHANIE LOPEZ, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-133

RESOLUTION AUTHORIZING THE APPROPRIATION OF $500,000 FROM GENERAL FUND RESERVES TO ESTABLISH FUNDING FOR A COMPREHENSIVE UPDATE TO THE MODESTO URBAN AREA GENERAL PLAN

WHEREAS, on January 28, 2014, the City Council confirmed the draft land use diagram for the General Plan Amendment to serve as the basis for the project to be analyzed by the required General Plan Master Environmental Impact Report (MEIR), and

WHEREAS, at this meeting, the City Council also discussed whether or not to undertake a comprehensive update to the Modesto Urban Area General Plan at this time, and

WHEREAS, on March 4, 2014, it was directed that the matter return to the City Council for further discussion and direction regarding commencing a comprehensive update to the Modesto Urban Area General Plan, and

WHEREAS, a comprehensive update to the Modesto Urban Area General Plan is an expensive, time consuming project, and

WHEREAS, funding in the amount of $500,000 would be required from General Fund reserves to fund initial procedures to develop a comprehensive update to the Modesto Urban Area General Plan, and

WHEREAS, additional funding will be needed to continue work on a comprehensive update to the General Plan in FY 2014/15.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appropriation of $500,000 from General Fund Reserves to establish funding for a comprehensive update to the Modesto Urban Area General Plan.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM LINDGREN, Interim City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2014-134

RESOLUTION AMENDING THE FISCAL YEAR 2013-2014 MULTI-YEAR BUDGET TO APPROPRIATE FUNDING IN THE AMOUNT OF $500,000 FROM GENERAL FUND RESERVES TO ESTABLISH THE EXPENSE AND REVENUE BUDGET FOR THE COMPREHENSIVE UPDATE TO THE MODESTO URBAN AREA GENERAL PLAN

WHEREAS, on January 28, 2014, the City Council confirmed the draft land use diagram for the General Plan Amendment to serve as the basis for the project to be analyzed by the required General Plan Master Environmental Impact Report (MEIR), and

WHEREAS, at this meeting, the City Council also discussed whether or not to undertake a comprehensive update to the Modesto Urban Area General Plan at this time, and

WHEREAS, on March 4, 2014, it was directed that the matter return to the City Council for further discussion and direction regarding commencing a comprehensive update to the Modesto Urban Area General Plan, and

WHEREAS, a comprehensive update to the Modesto Urban Area General Plan is an expensive, time consuming project, and

WHEREAS, Council is being asked to consider funding in the amount of $500,000 from General Fund reserves to fund initial procedures to develop a comprehensive update to the Modesto Urban Area General Plan, and

WHEREAS, additional funding will be needed to continue work on a comprehensive update to the General Plan in FY 2014/15, and

WHEREAS, upon City Council approval of the $500,000 of funding from General Fund reserves, the Fiscal Year 2013-2014 Multi-Year Budget will need to be amended to establish the expense and revenue budget for this project.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2013-2014 Multi-Year Budget to appropriate funding in the amount of $500,000 from General Fund reserves to establish the expense and revenue budget for the comprehensive update to the Modesto Urban Area General Plan, as listed in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
EXHIBIT A

Revenue:
Transfer In from General Fund Reserves $500,000

Expenses:
MY Project 100XXX – General Plan Update
Professional Services $500,000
RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDMENT OF SECTION 21-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE 1.81 ACRES FROM PLANNED DEVELOPMENT ZONE, P-D(497) TO LOW DENSITY RESIDENTIAL ZONE, R-1, PROPERTY LOCATED ON THE SOUTH SIDE OF HINTZE AVENUE EAST OF MCHENRY AVENUE (CARY POPE)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Cary Pope on behalf of Hahnco Holdings, Inc., has proposed an amendment of Section 21-3-9 of the Zoning Map of the City of Modesto to rezone from Planned Development Zone, P-D(497) to Low Density Residential Zone, R-1, property located on the south side of Hintze Avenue east of McHenry Avenue, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2014-04 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on March 19, 2014, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and
WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on April 8, 2014, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezone, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.

2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

3. No new or additional mitigation measures or alternatives are required.

4. The subsequent project is within the scope of the project covered by the Master EIR.

5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

6. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2014-04
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2014-04

For the proposed:

Hintze Avenue Subdivision

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

February 6, 2014

Updated: September 2013
(Intentional Blank Page)
City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Hintze Avenue Subdivision is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Hintze Avenue Subdivision

B. Address or Location: South side of Hintze Avenue, East of McHenry Avenue located at 106 Hintze Avenue

C. Applicant: Cary Pope/HAHNCO Holdings, Inc. 1120 Scenic Drive, Modesto, CA 95350

D. City Contact Person: Rita Doscher

Project Manager: Rita Doscher
Department: Community and Economic Development
Phone Number: (209) 577-5267
E-mail address: rdoscher@modestogov.com

E. Current General Plan Designation(s): MU, Mixed Use

F. Current Zoning Classification(s): Planned Development Zone, P-D497
G. Surrounding Land Uses:
   North: Medium-High Density Residential
   South: Single-Family Residential
   East: Single-Family Residential
   West: General Commercial

H. Project Description, including the project type listed in Section II.C

The project includes the development of an 8-lot single-family residential subdivision on a partially vacant 1.86-acre parcel located on the south side of Hintze Avenue, east of McHenry Avenue at 106 Hintze Avenue. There are no structures on site. The entitlement includes the rezoning of the parcel from Planned Development Zone, P-D(497) to R-1, Low Density Residential Zone. Internal streets and utilities will be constructed to serve the proposed subdivision. In addition, Hintze Avenue and Street “A” will be improved to meet City standards as required by the City Engineer.

I. Other Public Agencies Whose Approval is Required:
   None
PROPOSED REZONING P-D(497) TO R-1 & TSM HINTZE AVENUE SUBDIVISION

AREA MAP OF PROPOSED REZONING P-D(497) TO R-1 & HINTZE AVENUE TENTATIVE SUBDIVISION MAP
TSM-14-001
106 HINTZE AVENUE
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

   A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

   B. No new or additional mitigation measures or alternatives are required.

   C. The subsequent project is within the scope of the project covered by the Master EIR.

   D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   E. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

2. Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

   D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

3. Focused EIR Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.
B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

Associate Planner  
Title  
February 6, 2014  
Date
4. **Within the Scope Analysis of this Document:**

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2. City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3. Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>4. No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>5. The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>6. Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>
5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any “no” response must be explained.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.</td>
<td>☐</td>
</tr>
<tr>
<td>(2) This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:</td>
<td>☑</td>
</tr>
<tr>
<td>(a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.</td>
<td>☑</td>
</tr>
<tr>
<td>(b) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.</td>
<td>☑</td>
</tr>
<tr>
<td>(c) Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1) The General Plan Master EIR was certified on October 14, 2008, so more than five years has passed since the MEIR was certified. However, the analysis contained in the MEIR is still adequate for subsequent projects, as documented in the discussion below.

(2) The project is consistent with the analysis contained in the MEIR. This is documented in the discussion of the individual issue areas of this initial study.

(2)(a) There have been no substantive changes to the General Plan since the MEIR was certified that would create additional significant environmental effects that were not analyzed by the MEIR.

(2)(b) There has been no new information that would affect the adequacy of the analysis contained in the MEIR.

(2)(c) All policies contained in the MEIR that require site-specific mitigation or avoidance of impacts remain in effect and will be applied to the project as appropriate.
IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.
1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto’s significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG’s Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures regarding traffic from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. **Project-Specific Effects**

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

<table>
<thead>
<tr>
<th>1. TRAFFIC AND CIRCULATION</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

Discussion:

(1) The project site was used as ancillary parking for the previous use Sundial Restaurant and Lounge and later the Sundial Senior Care Facility. The proposed change to allow an 8 lot subdivision will not result in an increase traffic compared to what was originally projected for the site.

(2) The proposed project would not exceed a level of service standard established by the county congestion management agency (StanCOG).

(3) There are no significant changes in the level of service or the volume-capacity ratio as a result of the project and therefore there are no significant cumulative (long term) traffic impacts.

(4) Police and Fire Staff have reviewed this proposal and Fire has requested a 10’ fire access dedication along the west property line to afford a fire access road to adjacent western parcel (APN: 112-014-001).

(5) The proposed single-family units will provide parking in accordance with the Municipal Code.

(6) The proposed project has been reviewed by Traffic, Planning and Transit staff and would not conflict with any adopted plans for alternative transportation.

(7) The proposed project would not result in a significant increase in automobile vehicle miles traveled (per capita) in excess of what was considered in the Urban Area General Plan.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NOx) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).
Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NOₓ, PM₁₀, and PM₂.₅.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

MEIR AQ-20
To be consistent with the SJVAPCD’s Air Quality Guidelines for General Plans, the City of Modesto should determine air quality impacts using analysis methods and significance thresholds recommended by the SJVAPCD. (General Plan Policy VII-H.2[n])

MEIR AQ-26
Review of new development shall be coordinated with SJVAPCD’s staff to ensure all projects subject to the SJVAPCD rule 9510 (Indirect Source Review) comply fully with the rule. This rule fulfills the SJVAPCD’s emission reduction commitments in the PM₁₀ and Ozone Attainment Plans through design features and onsite approval for a development project, or any portion thereof, which upon full buildout will include any of the following:
- 50 residential units
- 2,000 square feet of commercial space
- 25,000 square feet of light industrial space
- 100,000 square feet of heavy industrial space
- 20,000 square feet of medical office space
- 39,000 square feet of general office space
- 9,000 square feet of educational space
- 10,000 square feet of government space
- 20,000 square feet of recreational space
- 9,000 square feet of space not identified above. (General Plan Policy VII-H.2[u])

MEIR AQ-40
The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites.

MEIR AQ-42
All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

MEIR AQ-43
All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
MEIR AQ-44
All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

MEIR AQ-46
When materials are transported off-site, all 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.

MEIR AQ-47
All 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.)

MEIR AQ-48
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.

MEIR AQ-49
Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

MEIR AQ-50
Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

MEIR AQ-51
Limit traffic speeds on unpaved roads to 15 mph; and

MEIR AQ-52
Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

MEIR AQ-53
Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

MEIR AQ-54
Install wind breaks at windward side(s) of construction areas.

MEIR AQ-55
Suspend excavation and grading activity when winds exceed 20 mph. Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent (20%) opacity limitation.

MEIR AQ-56
Limit the area subject to excavation, grading and other construction activity at any one time.
c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>2. DEGRADATION OF AIR QUALITY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NOx, PM10, and PM2.5 by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☞</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NOx, PM10, and PM2.5.</td>
<td>☐</td>
<td>☐</td>
<td>☞</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☞</td>
<td>☑</td>
</tr>
<tr>
<td>4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☞</td>
<td>☑</td>
</tr>
<tr>
<td>5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
<td>☐</td>
<td>☐</td>
<td>☞</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project includes the development of vacant land and future development of an 8-lot subdivision on approximately 1.86 acres of land. Air pollution emissions associated with the proposed project would result from construction activities and increased traffic volumes. The net increase in emissions generated by these activities and other secondary sources would not exceed the thresholds of significance recommended by the San Joaquin Valley Air Pollution Control District or the development assumptions established in the Master EIR.

(2) The project was referred to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) for comments. Best management practices established by the SJVAPCD for CO, ROG, NOx, PM10, and PM2.5 have been incorporated as conditions of approval. The project is required to comply with SJVUAPCD Rule VIII (Fugitive Dust Rules) per MEIR Mitigation Measures MEIR AQ-42 – MEIR AQ-56, which identifies control measures for PM10 emissions.
during the construction phase, as listed above under Existing Mitigation Measures Applicable to this Project.

In addition, the project is subject to SJVAPCD rule 9510 (Indirect Source Review). This rule fulfills the SJVAPCD’s emission reduction commitments in the PM10 and Ozone Attainment Plans through design features or by payment of applicable off-site mitigation fees.

(3) The project is consistent with the City’s policies regarding air quality therefore; project-specific effects will be less than significant.

(4) The project is surrounded on all four sides with land that is developed with residential and commercial uses. The land uses proposed are not in themselves significant contributors to air pollution levels. The primary source of air pollution associated with the development would be traffic related. Since the traffic impacts do not result in a significant impact, there are no traffic-related air quality impacts. The PM10 emissions created through construction activities will be mitigated as called for by the MEIR with the mitigation measure listed above.

(5) Construction activities for the project could potentially include the application of architectural coatings and asphalt paving materials that could generate localized temporary odors. The use of diesel-powered construction equipment could also generate localized temporary odors. Construction activities will be mitigated as called for by the MEIR with the mitigation measures listed above. Further, uses permitted within the proposed commercial development would not create objectionable odors that would affect a substantial number of people.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City’s noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The mitigation measure to be applied to this project includes N-3 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>3. GENERATION OF NOISE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1-4) The proposed residential uses are not expected to generate a significant amount of noise. There will be construction noise associated with the project including heavy equipment. Noise mitigation measure N-3 called for by the General Plan for projects within the baseline developed area has been incorporated and will mitigate construction related noise impacts to a less than significant level.
4. **EFFECTS ON AGRICULTURAL LANDS**

a. **Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

**Effect:** Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

**Cumulative Impacts**

**Effect:** Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. **Master EIR and/or New Mitigation Measures Pertinent to the Project**

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

**Discussion:**

No mitigation measures regarding agricultural lands from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. **Project-Specific Effects**

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
### 4. EFFECTS ON AGRICULTURAL LANDS

<table>
<thead>
<tr>
<th>1) The proposed project is inconsistent with the Urban Area General Plan’s policies relating to agricultural land.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan’s planning area boundary.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The project is consistent with the General Plan land use policies relating to agricultural land. It is an infill project proposed within the urbanized area of the City. The site is currently vacant and no agricultural land will be converted for the development of the proposed projects.

2. The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the 2008 planning area boundaries.

3. The project site is not zoned for agriculture nor is it under Williamson Act contract.

4. The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The surrounding properties are developed with urban uses.

### 5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts have been disclosed in the Master EIR.
**Cumulative Impacts**

**Effect:** Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

**Effect:** Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation measures regarding water supply from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
</tr>
<tr>
<td>2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.</td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td></td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The project is consistent with the water supply policies in the General Plan.

2. The project was referred to Land Development Engineering Staff who determined the proposed development will not exceed estimates or water supplies needed to serve other entitlements and resources.

3. The proposed project is consistent with the ground water demands assumed in the General Plan. The project would not have a significant effect on ground water recharge or depletion of long-term water supplies.

6. **INCREASED DEMAND FOR SANITARY SEWER SERVICES**

   **a. Significant Effects Identified in the Master EIR**

   The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

   **Direct Impacts**

   **Effect:** Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

   Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

   **Cumulative Impacts**

   **Effect:** No additional cumulative impacts were identified in the Master EIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the wastewater policies in the General Plan, including Policy V.D.2a, which requires the City to maintain the standards for effluent and biosolids from its wastewater treatment plants as established by the Central Valley Regional Water Quality Control Board, in compliance with the Federal Clean Water Act and the State Porter-Cologne Act. Wastewater for the project will be treated at the City’s primary and secondary wastewater treatment plants and discharged into the San Joaquin River. The existing wastewater plants have adequate capacity to serve the project.
The project was reviewed by Land Development Engineering Staff who determined there is sufficient capacity in the City's wastewater collection system. The wastewater is ultimately treated at the City's Primary and Secondary treatment plant. According to the Wastewater Master Plan, recent improvements to the Primary and Secondary Plant have resulted in adequate treatment capacity to accommodate the City's anticipated growth through 2030. There is sufficient treatment capacity to serve the project in addition to existing demands.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plant habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures regarding water supply from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2)</td>
<td>Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>3)</td>
<td>The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>4)</td>
<td>The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>5)</td>
<td>Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>6)</td>
<td>The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the General Plan's land use policies. It is a single-family residential project that is consistent in land use and density to what was assumed by the General Plan and the North Beyer Specific Plan.

(2-4) The project site is not within a biologically sensitive site as defined by Figure V-7-1 of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(5-6) The project is not in conflict with any local policies or ordinances protecting biological resources, nor is in conflict with any adopted habitat conservation plan.
8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures regarding water supply from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

<table>
<thead>
<tr>
<th>Impact</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2)</td>
<td>The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3)</td>
<td>The proposed project would modify or demolish a structure more than 50 years in age.</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>4)</td>
<td>The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>5)</td>
<td>Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the archeological and historical resource policies in the General Plan.

(2-3) There are no existing structures on the project site.

(4) The project would not affect a resource that is listed or eligible for listing in the California Register of Historic Resources.

(5) The project does not conflict with local policies affecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.
Cumulative Impacts

**Effect:** The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

**Discussion:**

City Engineering staff has reviewed the project and required conditions of approval to implement General Plan Policies for development including compliance with the Storm Drain Management Plan and the utilization of low impact strategies and meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures.” No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>9. INCREASED DEMAND FOR STORM DRAINAGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff. 

<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Mitigation Incorporated</th>
<th>Impact Level</th>
<th>Impact Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potential Impact</td>
<td>Less Than Significant Impact</td>
<td>Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.

Discussion:

(1) The project is consistent with applicable storm drain policies in the Urban Area General Plan. Construction activities will comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity (MIER Policy SD-9). In addition, the City will ensure that new development complies with the City of Modesto's Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures (MIER Policy SD-11). These policies will be implemented as conditions of project approval.

(2) The City's Land Development Engineering Staff have reviewed the project and determined the project would not create significant flooding or unanticipated sources of runoff. The development is in an area that is served by Rockwells for stormwater. Implementation of City Standards Chapter 5 Section 4.02 for Rockwell design standards in the cul-de-sac will be required. All lots shall be graded from the back to the front to ensure all storm water is disposed to right-of-way. Storm drain improvement plans shall be submitted to the City Engineer for review and approval prior to issuance of an Encroachment permit. The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

(3) The project will utilize low impact strategies and meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures." This requirement will be implemented as a condition of project approval.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.
Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:
No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>10. FLOODING AND WATER QUALITY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☑</td>
<td>☑</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>☐</td>
<td>☑</td>
<td>☑</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☑</td>
<td>☑</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.</td>
<td>☐</td>
<td>☑</td>
<td>☑</td>
<td>☒</td>
</tr>
<tr>
<td>5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.</td>
<td>☐</td>
<td>☑</td>
<td>☑</td>
<td>☒</td>
</tr>
<tr>
<td>Impact Description</td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------------</td>
<td>-------------------------------</td>
<td>--------------------------------------------------</td>
<td>-----------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>6) The proposed project would violate water quality standards or waste discharge requirements.</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The project is consistent with the flooding and water quality policies in the General Plan.
2. The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.
3. The project is not located within a 100-year flood plain and is limited to commercial uses.
4. The project is not located within a 100-year flood plain.
5. The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures (MIEE Policy SD-11). This will be implemented as a condition of project approval.
6. The project will not violate water quality standards or waste discharge requirements.
7. The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.
8. The City’s Land Development Engineering Staff have reviewed the project and determined the project would not create significant flooding or unanticipated sources of runoff. The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>11. INCREASED DEMAND FOR PARKS AND OPEN SPACE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2) The proposed project would eliminate parks or open space.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>
### Impact Analysis

<table>
<thead>
<tr>
<th>Impact Category</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The project is consistent with the parks and open space policies in the General Plan.
2. The project would not eliminate an existing park or designated open space. The project is on a vacant site previously designated as a parking lot.
3. The project would not result in an increase in the use of existing park facilities as it only involves the addition of 8 lots, and deterioration or other physical changes to the facilities are not expected to occur as a result of the project.

### 12. INCREASED DEMAND FOR SCHOOLS

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

**Cumulative Impacts**

**Effect:** Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).
The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>12. INCREASED DEMAND FOR SCHOOLS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the policies relating to schools in the General Plan.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project. The site was previously developed as an ancillary parking lot for the Sundial Restaurant and Lounge and later as additional parking for the current Sundial Senior Care Facility.
13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant Impact</th>
<th>Less Than Significant Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>13. INCREASED DEMAND FOR POLICE SERVICES</td>
<td><img src="image" alt="Table" /></td>
<td><img src="image" alt="Table" /></td>
<td><img src="image" alt="Table" /></td>
<td><img src="image" alt="Table" /></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.</td>
<td><img src="image" alt="Table" /></td>
<td><img src="image" alt="Table" /></td>
<td><img src="image" alt="Table" /></td>
<td><img src="image" alt="Table" /></td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td><img src="image" alt="Table" /></td>
<td><img src="image" alt="Table" /></td>
<td><img src="image" alt="Table" /></td>
<td><img src="image" alt="Table" /></td>
</tr>
</tbody>
</table>
Discussion:

(1) The project is consistent with the policies relating to police services in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
### 14. INCREASED DEMAND FOR FIRE SERVICES

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>2)</td>
<td>The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>3)</td>
<td>The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

**Discussion:**

1. The project is consistent with the fire service policies in the General Plan.
2. The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project site will be serviced by Fire Station No. 5 at 200 W. Briggsmore Avenue, 1.15 miles distant.
3. The project would not significantly impact adjacent fire districts or result in the elimination of fire protection services.

### 15. GENERATION OF SOLID WASTE

#### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>15. GENERATION OF SOLID WASTE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the solid waste policies in the General Plan.

(2) This project was referred to the Solid Waste Division for review, and no indication was given that there would be a problem serving this project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.
Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>16. GENERATION OF HAZARDOUS MATERIALS</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Discussion:

(1) The project is consistent with the hazardous materials policies in the General Plan.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

(4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:
17. GEOLOGY, SOILS, AND MINERAL RESOURCES

<table>
<thead>
<tr>
<th>Potential Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.</td>
<td></td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.</td>
<td></td>
<td></td>
<td>✔</td>
</tr>
</tbody>
</table>

Discussion:
(1) The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.
Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>18. ENERGY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the energy policies in the General Plan.

(2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan.
19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>19. EFFECTS ON VISUAL RESOURCES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>3)</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the policies relating the visual resources in the General Plan.

(2) The project would not impact views from riverside areas and parks.

(3) The project would not impact views of riverside areas from roadways or nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>20. LAND USE AND PLANNING</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

1) The project is designated Mixed Use in the General Plan. The proposed residential subdivision is consistent with the current General Plan Land Use designation. The project is consistent with land use and planning policies in the General Plan.

2) The project would not divide an established community. The area to the north, east and south is developed with residential uses. There is an existing park to east. The proposed subdivision is consistent with the surround uses and would not divide the existing neighborhood.

3) The project does not conflict with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

4) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:
Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>21. CLIMATE CHANGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2) The proposed project would result in average automobile trip lengths or CO₂ emissions higher than those assumed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>
Discussion:

(1) The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City’s contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City’s increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project is required to develop in accordance with climate change polices included in the UAGP and the MEIR.

(2) Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO₂ emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO₂ emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.

(3) A Sustainable Communities Strategy has not yet been implemented by the Air Resources Board. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.
V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

N/A

Degradation of Air Quality:

SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites.

MEIR AQ-42
All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

MEIR AQ-43
All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
MEIR AQ-44
All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

MEIR AQ-46
When materials are transported off-site, all 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.

MEIR AQ-47
All 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.)

MEIR AQ-48
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.

MEIR AQ-49
Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

MEIR AQ-50
Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

MEIR AQ-51
Limit traffic speeds on unpaved roads to 15 mph; and

MEIR AQ-52
Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

MEIR AQ-53
Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

MEIR AQ-54
Install wind breaks at windward side(s) of construction areas.

MEIR AQ-55
Suspend excavation and grading activity when winds exceed 20 mph. Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

MEIR AQ-56
Limit the area subject to excavation, grading and other construction activity at any one time.
**Generation of Noise:**

MEIR N-3
The project shall comply with the City’s noise ordinance. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

**Effects on Agricultural Lands:**

N/A

**Increased Demand for Long-Term Water Supplies:**

N/A

**Increased Demand for Sanitary Sewer Services:**

N/A

**Loss of Sensitive Wildlife and Plant Habitat:**

N/A

**Disturbance of Archaeological/Historic Sites:**

N/A

**Increased Demand for Storm Drainage:**

MEIR SD-9
Construction activities shall comply with the requirements of the City’s Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board’s General Permit for Discharges of Storm Water Associated with Construction Activity.

**Flooding and Water Quality:**

N/A

**Increased Demand for Parks and Open Space:**

N/A

**Increased Demand for Schools:**

N/A

**Increased Demand for Police Services:**

N/A
Increased Demand for Fire Services:
N/A

Generation of Solid Waste:
N/A

Generation of Hazardous Materials:
N/A

Geology, Soils, and Mineral Resources:
N/A

Energy:
N/A

Effects on Visual Resources:
N/A

Land Use and Planning:
N/A

Climate Change:
N/A

WHEREAS, as an entitlement community for Housing and Urban Development (HUD), the City of Modesto is required to develop an Annual Action Plan (AAP) that describes anticipated uses of Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG) and HOME Investment Partnerships Program (HOME) funds, and

WHEREAS, the City receives these grants annually because of its population size, number of households living below the poverty line, and the number of housing units that are considered substandard, and

WHEREAS, submittal of an AAP is required to receive the City’s entitlement grants from HUD, and

WHEREAS, the Citizens’ Housing and Community Development Committee (CH&CDC) recommended support of this item at its March 19, 2014 meeting, and

WHEREAS, preparation of the AAP requires a citizens participation element, including a 30-day public comment period, and

WHEREAS, on March 4, 2014, a public notice was submitted and concluded with a public hearing on April 8, 2014, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and
WHEREAS, the proposed funding allocations for the Draft 2014-2015 Annual Action Plan will be incorporated into the City of Modesto FY 15 Budget being submitted to City Council for consideration.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Fiscal Year 2014-2015 U.S. Department of Housing and Urban Development Annual Action Plan for the use of approximately $1,863,774 in Community Development Block Grant (CDBG) funds, $671,157 in HOME Investment Partnerships Program (HOME) funds, and $124,000 in Emergency Solutions Grant (ESG) funds, a copy of which is on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that City staff is hereby authorized to submit an application to the U.S. Department of Housing and Urban Development pertaining to the Fiscal Year 2014-2015 Annual Action Plan.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required certifications and documents for submittal to the U.S. Department of Housing and Urban Development.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

04/08/2014/PRN/Christainsen/Item 17 3 2014-136
RESOLUTION APPROVING THE ESTIMATED ALLOCATION OF FUNDING IN THE AMOUNT OF $280,147 IN COMMUNITY DEVELOPMENT BLOCK GRANT PUBLIC SERVICE GRANTS, $114,977 EMERGENCY SOLUTIONS GRANTS AND ANY CARRYOVER FUNDS FROM FY 2013-2014; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS

WHEREAS, as an entitlement community for Housing and Urban Development, the City of Modesto is required to develop an Annual Action Plan (AAP) that describes anticipated uses of Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG) and HOME Investment Partnerships Program (HOME) funds, and

WHEREAS, the City is obligated to allocate up to fifteen percent (15%) of the CDBG entitlement funds, plus fifteen percent (15%) of program income received during the prior year, to provide a wide range of public service activities to benefit low and moderate-income residents, and

WHEREAS, beginning in FY 2011-12, the City Council approved a two-year funding cycle for CDBG Public Services and ESG grants, which are competitively awarded through a request for proposals (RFP) process, and

WHEREAS, new federal regulations for the ESG program released in late 2011 changed the program focus from emergency shelter and transitional housing to permanent supportive housing for individuals and families experiencing homelessness, and those at risk of experiencing homelessness, and

WHEREAS, the Council-appointed Citizens’ Housing & Community Development Committee (CH&CDC) reviews these proposals and makes funding recommendations, and
WHEREAS, these allocations are detailed in the City's AAP, and

WHEREAS, preparation of the AAP requires a citizens participation element, including a 30-day public comment period, and

WHEREAS, the 30-day public comment period began on March 4, 2014, and concluded with a public hearing scheduled for the Council meeting of April 8, 2014, and

WHEREAS, the proposed Public Service funding allocations for the 2014-2015 Annual Action Plan year two cycle will be incorporated into the FY 15 Budget being submitted to City Council for consideration.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the estimated allocation of Public Service Grant funding in the amount of $280,147 in Community Development Block Grant (CDBG) Public Services, $114,977 in Emergency Solutions Grant (ESG), and any carryover funds from Fiscal Year 2013-2014.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it approves a continued funding commitment to the Public Service and Emergency Solutions grant recipients through Fiscal Year 2014-2015.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute the agreements.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM LINDGREN, Interim City Attorney