RESOLUTION IN SUPPORT OF THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010

WHEREAS, California voters have repeatedly and overwhelmingly passed separate ballot measures to stop State raids of local government funds, and to dedicate the taxes on gasoline to fund local and state transportation improvement projects; and

WHEREAS, these local government funds are critical to provide the police and fire, emergency response, parks, libraries, and other vital local services that residents rely upon every day, and gas tax funds are vital to maintain and improve local streets and roads, to make road safety improvements, relieve traffic congestion, and provide mass transit; and

WHEREAS, despite the fact that voters have repeatedly passed measures to prevent the State from taking these revenues dedicated to funding local government services and transportation improvement projects, the State Legislature has seized and borrowed billions of dollars in local government and transportation funds in the past few years; and

WHEREAS, this year’s borrowing and raids of local government, redevelopment and transit funds, as well as previous, ongoing raids of local government and transportation funds have lead to severe consequences, such as layoffs of police, fire and paramedic first responders, fire station closures, stalled economic development, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services; and
WHEREAS, State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these locally-dedicated funds; and

WHEREAS, a coalition of local government, transportation and transit advocates recently filed a constitutional amendment with the California Attorney General, called the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010, for potential placement on California’s November 2010 statewide ballot; and

WHEREAS, approval of this ballot initiative would close loopholes and change the constitution to further prevent State politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services, including redevelopment, or dedicated to transportation improvement projects and mass transit.

THEREFORE, BE IT RESOLVED that City of Modesto formally endorses the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, a proposed constitutional amendment.

BE IT FURTHER RESOLVED that we hereby authorize the listing of City of Modesto in support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010 and instruct staff to fax a copy of this resolution to campaign offices at 916.442.3510.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-002

A RESOLUTION REAPPOINTING FRANK BOOTS, BART BARRINGER, TOM SLATER AND DAVID BORING 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 Board of Directors of the Downtown Improvement District have recommended the reappointment of FRANK BOOTS, BART BARRINGER, TOM SLATER and DAVID BORING 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. FRANK BOOTS, BART BARRINGER, TOM SLATER and DAVID BORING are hereby reappointed to the Downtown Improvement District Advisory Board with term expirations of January 1, 2014.

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 12th day of January, 2010, by Councilmember Olsen, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL) 

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

01/12/2010/Clerk/SLopez/Item 3 2 2010-002
A RESOLUTION ACCEPTING A TACO BEL (OCAT) DONATION IN THE AMOUNT OF $4,599 FOR THE PURCHASE OF ONE DIGITAL MOBILE CHILD IDENTIFICATION SYSTEM (FINGERPRINT AND PHOTO IDENTIFICATION UNIT), AND A $1,000 DONATION FROM WAL-MART (THROUGH CRIME STOPPERS) TO BE APPLIED TOWARD THE PURCHASE OF A SECOND ID SYSTEM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY DOCUMENTS

WHEREAS, the Police Department currently does not have a mobile electronic fingerprinting and photo identification system to utilize in the community, and

WHEREAS, the EZ ID Complete System Turn-Key Package to be purchased with the donated funds is a self-contained computerized fingerprint and photo ID unit, and

WHEREAS, the unit includes a laptop computer, printer, camera, software, digital fingerprint scanner and carrying case, and

WHEREAS, the system provides age appropriate software and safety information to identify persons of all ages, and

WHEREAS, this system also has the capability to record a short interview with the person to provide a voice recognition database, and

WHEREAS, the Identification System will be available at school functions, Safety Fairs, County Fairs, Neighborhood Watch meetings and other community events that provide an optimal venue for gathering this type of information in order to better serve our community, and

WHEREAS, the Police Department believes that this Identification System will prove to be a valuable tool to law enforcement agencies and families in that it will allow them, in those situations where every moment counts, to easily access critical data when attempting to locate missing persons, and
WHEREAS, funds are available in the Child Identification System Account 0420-190-2050 for the purchase of one complete unit ($4,599) and $1,000 remaining to be applied toward the purchase of a second unit:

**Appropriate:**

To: MY - 0420-190-2050-5400 $5,599 Computer Equip

**Revenue:**


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a donation from Taco Bell (OCAT) in the amount of $4,599 to purchase one digital mobile Child Identification System (fingerprint and photo identification unit), and a $1,000 donation from Wal-Mart (through Crime Stoppers) to be applied toward the purchase of a second ID System.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any necessary documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

**ATTEST:**

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-004

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 OPERATING BUDGET TO ESTABLISH A NEW MULTI-YEAR OPERATING ACCOUNT 0420-190-2050-5400 TITLED CHILD IDENTIFICATION SYSTEM, AND ESTIMATING REVENUE OF $5,599

WHEREAS, the Police Department currently does not have a mobile electronic fingerprinting and photo identification system to utilize in the community, and

WHEREAS, the EZ ID Complete System Turn-Key Package to be purchased with the donated funds is a self-contained computerized fingerprint and photo ID unit, and

WHEREAS, the unit includes a laptop computer, printer, camera, software, digital fingerprint scanner and carrying case, and

WHEREAS, the system provides age appropriate software and safety information to identify persons of all ages, and

WHEREAS, this system also has the capability to record a short interview with the person to provide a voice recognition database, and

WHEREAS, the Identification System will be available at school functions, Safety Fairs, County Fairs, Neighborhood Watch meetings and other community events that provide an optimal venue for gathering this type of information in order to better serve our community, and

WHEREAS, the Police Department believes that this Identification System will prove to be a valuable tool to law enforcement agencies and families in that it will allow them, in those situations where every moment counts, to easily access critical data when attempting to locate missing persons, and

WHEREAS, there will be no fiscal impact to the City of Modesto, and
WHEREAS, funds are available in the Child Identification System Account 0420-190-2050-5400 for the purchase of one complete unit ($4,599) and $1,000 remaining to be applied toward the purchase of a second unit:

Appropriate:
To: 0420-190-2050-5400 $5,599 Computer Equip

Revenue:
From: 0420-190-2050-3761 $5,599 Misc. Grants/Donations

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Operating Budget to establish a new multi-year operating account 0420-190-2050-5400 titled Child Identification System, and estimating revenue of $5,599.

BE IT FURTHER RESOLVED that the Finance Director, or his 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 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: SUSANNA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING THE SELECTION OF KIMLEY-HORN & ASSOCIATES, INC. TO PROVIDE AIRPORT ENGINEERING SERVICES FOR A PERIOD NOT TO EXCEED FOUR YEARS

WHEREAS, the City has approved numerous Airport Capital Improvement Plan (ACIP) projects planned over approximately the next five years at the Modesto City-County Airport, and

WHEREAS, skilled airport engineering, design, construction and inspection assistance will be required to move forward with those projects, and

WHEREAS, on May 16, 2008, the City solicited professional services for an airport consulting engineer to provide airport engineering, design, construction management and inspection, and

WHEREAS, Kimley-Horn & Associates, Inc. (KHA), proposed to provide said services for the Modesto City-County Airport, and

WHEREAS, KHA was selected by the City as the best qualified applicant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the selection of Kimley-Horn & Associates, Inc. to provide airport engineering services for a period not to exceed four years.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-006

A RESOLUTION APPROVING AN AGREEMENT WITH KIMLEY-HORN & ASSOCIATES, INC. TO PROVIDE DESIGN AND CONSTRUCTION SUPPORT SERVICES FOR THE REHABILITATE NORTHWEST TERMINAL APRON PROJECT FOR THE MODESTO CITY-COUNTY AIRPORT IN AN AMOUNT NOT TO EXCEED $94,566, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City has approved numerous Airport Capital Improvement Plan (ACIP) projects planned over approximately the next five years at the Modesto City-County Airport, and

WHEREAS, skilled airport engineering, design, construction and inspection assistance will be required to move forward with those projects, and

WHEREAS, on May 16, 2008, the City solicited professional services for an airport consulting engineer to provide airport engineering, design, construction management and inspection, and

WHEREAS, Kimley-Horn & Associates, Inc. (KHA), proposed to provide said services for the Modesto City-County Airport, and

WHEREAS, KHA was selected by the City as the best qualified applicant, and

WHEREAS, KHA has proposed an agreement to provide design services and assist with advertising for the project to rehabilitate the Northwest Terminal Apron of the Modesto City-County Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Kimley-Horn & Associates, Inc. to provide design and construction management services for Rehabilitate Northwest Terminal Apron for the Modesto City-County Airport in an amount not to exceed $94,566.
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 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-007

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE RELINE EXISTING WATERLINE UNDER UNION PACIFIC RAILROAD TRACKS ON “I” STREET BETWEEN 8TH AND 9TH STREETS PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH INSITUFORM TECHNOLOGIES, INC. IN THE AMOUNT OF $120,110 FOR THE RELINE EXISTING WATERLINE UNDER UNION PACIFIC RAILROAD TRACKS ON “I” STREET BETWEEN 8TH AND 9TH STREETS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Reline Existing Waterline Under Union Pacific Railroad Tracks on “I” Street Between 8th and 9th Streets project and City staff recommends approval by the City Council, and

WHEREAS, the sole bid received for the Reline Existing Waterline Under Union Pacific Railroad Tracks on “I” Street Between 8th and 9th Streets project was opened at 11:00 a.m. on December 8, 2009, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of $120,110 received from Insituform Technologies, Inc. be accepted as the lowest responsible bid and the contract be awarded to Insituform Technologies, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Reline Existing Waterline Under Union Pacific Railroad Tracks on “I” Street Between 8th and 9th Streets project, accepts the bid of Insituform Technologies, Inc. in the amount of $120,110, and awards Insituform Technologies, Inc. the contract for the Reline Existing Waterline Under Union Pacific Railroad Tracks on “I” Street Between 8th and 9th Streets 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 12th day of January, 2010, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember Marsh,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(seal)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-008

A RESOLUTION APPROVING AN AGREEMENT WITH ERLER & KALINOWSKI, INC. FOR PROFESSIONAL SERVICES TO COMPLETE THE CERES/MODESTO REGIONAL WASTEWATER SYSTEM FEASIBILITY STUDY IN AN AMOUNT NOT TO EXCEED $100,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on August 5, 2009, by Resolution No. 2009-385, the City Council approved a Cost Sharing Agreement with the City of Ceres for the development of a Regional Wastewater System Feasibility Study (RWWSFS), and

WHEREAS, at the same meeting, by Resolution No. 2009-387, Council authorized the issuance of a Request for Proposals (RFP) to secure professional servicers to complete the Regional Wastewater System Feasibility Study, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, City staff issued an RFP in September 2009 to interested consulting firms, and received five proposals, and

WHEREAS, after review by City staff and a City of Ceres representative, it was determined to interview three firms, and

WHEREAS, based on the proposals received and presentations made by the consulting firms at the interviews, staff determined that Erler & Kalinowski, Inc. (EKI) provided the best overall approach for conducting and completing the requested RWWSFS, and

WHEREAS, funds for this agreement are budgeted in CIP Account No. 6210-480-B120 “Ceres/Modesto Regional Wastewater Feasibility Study,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Erler & Kalinowski, Inc. for professional services to complete the Ceres/Modesto Regional Wastewater System Feasibility Study in an amount not to exceed $100,000.

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 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-009

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO RECOGNIZE REVENUE IN THE AMOUNT OF $50,000 FROM THE CITY OF CERES TO COVER CERES’ COST SHARE OF THE CERES/MODESTO REGIONAL WASTEWATER SYSTEM FEASIBILITY STUDY

WHEREAS, certain budgetary transactions are necessary in the amount of $50,000, in order to provide funding necessary for consultant charges for the City of Ceres’ cost share of the Ceres/Modesto Regional Wastewater System Feasibility Study, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended by recognizing revenue in the amount of $50,000 to Revenue Object 3400-02-City of Ceres Regional Wastewater Study and increase offsetting expenditures in the same amount to Object 6080-Consultant Charges in CIP Account 6210-480-B120 “Ceres/Modesto Regional Wastewater Study,”

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Capital Improvement Program budget to recognize revenue in the amount of $50,000 from the City of Ceres to cover Ceres’ cost share of the Ceres/Modesto Regional Wastewater System Feasibility Study as shown in Exhibit A attached hereto.

BE IT FURTHER RESOLVED that the Finance Director, or his 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 12th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
Exhibit A

FUND:
Wastewater Fund-CIP

REVENUES:  Increase/(Decrease)

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EXPENDITURES:  Increase/(Decrease)

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<td>Ceres/Modesto Reg WW Feas Study</td>
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<td>$50,000</td>
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MODESTO CITY COUNCIL  
RESOLUTION NO. 2010-010

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC. FOR THE “FLOYD AVENUE IMPROVEMENT FROM ROSELLE AVENUE TO FINE AVENUE PROJECT” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $2,149,421.57

WHEREAS, a report has been filed by the Director of Public Works that the Floyd Avenue Improvements from Roselle Avenue to Fine Avenue Project has been completed by George Reed, Inc. in accordance with the contract agreement dated May 6, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Floyd Avenue Improvements from Roselle Avenue to Fine Avenue Project” is hereby accepted as complete from said contractor George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $2,149,421.57 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 12th day of January, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-011

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
YOSEMITE BOULEVARD (S.R. 132) WATER LINE INSTALLATION LAS
FLORES AVENUE TO PHOENIX AVENUE PROJECT, ACCEPTING THE BID
AND APPROVING A CONTRACT WITH MOUNTAIN CASCADE, INC. IN THE
AMOUNT OF $1,428,888 FOR THE YOSEMITE BOULEVARD (S.R. 132)
WATER LINE INSTALLATION LAS FLORES AVENUE TO PHOENIX
AVENUE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGEE,
TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Yosemite
Boulevard (S.R. 132) Water Line Installation Las Flores Avenue to Phoenix Avenue
project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Yosemite Boulevard (S.R. 132) Water Line
Installation Las Flores Avenue to Phoenix Avenue project were opened at 11:00 a.m. on
October 20, 2009, and later tabulated by the Director of Utility Planning & Projects for
the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that
the bid of $1,428,888 received from Mountain Cascade, Inc. be accepted as the lowest
responsible bid and the contract be awarded to Mountain Cascade, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the plans and specifications for the Yosemite Boulevard (S.R.
132) Water Line Installation Las Flores Avenue to Phoenix Avenue project, accepts the
bid of Mountain Cascade, Inc. in the amount of $1,428,888, and awards Mountain
Cascade, Inc. the contract for the Yosemite Boulevard (S.R. 132) Water Line Installation
Las Flores Avenue to Phoenix Avenue 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 12th day of January, 2010, by Councilmember Marsh, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-012

A RESOLUTION DESIGNATING COUNCILMEMBER LOPEZ TO SERVE AS VICE MAYOR FOR THE ENSUING YEAR PURSUANT TO SECTION 603 OF THE CHARTER OF THE CITY OF MODESTO

BE IT RESOLVED by the Council of the City of Modesto that Councilmember Lopez is hereby designated to serve as Vice Mayor for the ensuing year pursuant to Section 603 of the Charter of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-013

A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO IRRIGATION DISTRICT FOR CONSTRUCTION OF THE REALIGNMENT OF GRAPHICS DRIVE, WITH A MAXIMUM REIMBURSEMENT AMOUNT NOT TO EXCEED $2,173,426.19, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District ("MID") is in the process of constructing a 49.6 megawatt power plant located in the southeastern corner of Woodland Avenue and Graphics Drive intersection, and

WHEREAS, MID obtained approval from the City of Modesto ("City") of a Vesting Tentative Parcel Map which provides for the realignment of the existing Graphics Drive which is the alignment contemplated in the City’s Draft Kansas Woodland Business Park Specific Plan ("Project"), and

WHEREAS, MID has agreed to advance the funds necessary to proceed with the construction of the realignment of Graphics Drive ("Project"), and

WHEREAS, MID’s share of the cost of the improvements for the Project is 19.47% and the City’s share of the cost of the improvements for the Project is 80.53%, and

WHEREAS, the City is considering forming a community facilities district (CFD) for the purpose of financing some or all of the improvements and paying the cost of certain public services necessary or desirable in connection with the development of the Kansas Woodland Business Park, and
WHEREAS, MID will be reimbursed a share of the cost of the Project by special tax revenue generated by the future CFD along with a small contribution from the sewer fund, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $2,173,426.19, and

WHEREAS, the City Council has considered the proposed Acquisition and Shortfall Agreement ("Agreement") between the City of Modesto and the Modesto Irrigation District,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Acquisition and Shortfall Agreement between City of Modesto and the Modesto Irrigation District for construction of the realignment of Graphic Drive.

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 12th day of January, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A LANDSCAPING MAINTENANCE ASSESSMENT AND AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO IRRIGATION DISTRICT FOR LANDSCAPING MAINTENANCE OF GRAPHICS DRIVE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District ("MID") is in the process of constructing a 49.6 megawatt power plant located in the southeastern corner of Woodland Avenue and Graphics Drive intersection, and

WHEREAS, MID will dedicate to the City certain roadway and landscaping improvements as part of the development of the construction of the realignment of Graphics Drive ("Project"), and

WHEREAS, the City’s Draft Kansas Woodland Business Park Specific Plan envisions that the public infrastructure for the maintenance of landscaping within the Kansas Woodland Business Park will be financed by a combination of fees, project-wide financing program, and developer funding, and

WHEREAS, the City is considering forming a community facilities district (CFD) for the purpose of financing some or all of the improvements and paying the cost of certain public services necessary or desirable in connection with the development of the Kansas Woodland Business Park, and

WHEREAS, the City agrees that it will either establish the CFD, or in the alternative, will require the establishment of a funding mechanism to provide for the maintenance of the landscaping within the Kansas Woodland Business Park, including the Project improvements, and
WHEREAS, the City desires to have the landscaping maintained for a period of time until the City establishes the CFD or other funding mechanism to provide funding for landscape maintenance, and

WHEREAS, MID has agreed to be responsible for 100% of the landscape maintenance expenses associated with the Project until such time as a CFD or other funding mechanism is established to maintain the Project, and

WHEREAS, upon establishment of a CFD or other funding mechanism, MID will be reimbursed 80.53% of the maintenance costs it expended on the Project, and

WHEREAS, MID has agreed to contribute, in perpetuity, 19.47% of the maintenance expenses of the portion of the Project it installed, and

WHEREAS, the City Council has considered the proposed Landscaping Maintenance Assessment and Agreement ("Agreement") between City of Modesto and the Modesto Irrigation District,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Landscaping Maintenance Assessment and Agreement between the City of Modesto and the Modesto Irrigation District for the maintenance of landscaping within the Kansas Woodland Business Park.

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 12th day of January, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-015

RESOLUTION APPROVING THE AIRPORT LAYOUT PLAN (ALP) AND 5-YEAR PROGRAM NARRATIVE SUMMARY PREPARED FOR MODESTO CITY-COUNTY AIRPORT BY COFFMAN ASSOCIATES, INC., AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THESE DOCUMENTS TO THE FEDERAL AVIATION ADMINISTRATION FOR APPROVAL

WHEREAS, on January 6, 2009, by Resolution No. 2009-026, the City Council approved an agreement with Coffman Associates, Inc. (Coffman) for airport planning services to include providing a new ALP and a 5-year Program Narrative Summary, and

WHEREAS, an approved ALP is required for all public airports that receive federal funding, and all proposed airport improvement projects must be shown on an approved ALP for funding consideration, and

WHEREAS, a Program Narrative Summary is a short-term airport development plan, which defines the rationale behind proposed airport improvements in order to facilitate final approval for projects proposed for federal funding, and

WHEREAS, on December 15, 2009, the Airport Advisory Committee unanimously endorsed moving forward for Council consideration to approve the ALP and Program Narrative Summary prepared by Coffman,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Airport Layout Plan and Program Narrative Summary prepared for the Modesto City-County Airport by Coffman Associates, Inc.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to submit these documents to the Federal Aviation Administration for approval.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-016

A RESOLUTION APPROVING A COST SHARING AGREEMENT BETWEEN THE DEL PUERTO WATER DISTRICT AND THE CITY OF MODESTO FOR ASSOCIATED TASK ITEMS OF WORK TO SHARE CERTAIN COSTS FOR THE DEVELOPMENT OF A REGIONAL RECYCLED WATER DELIVERY SYSTEM FEASIBILITY STUDY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the water shortage in California is now at a crisis level due to a three-year drought and pumping reductions from the San Joaquin River Delta, and

WHEREAS, the water crisis is severe in the San Joaquin Valley, particularly south of the San Joaquin River Delta, and

WHEREAS, the water crisis has had a significant negative impact on farming, economic development and the water environment in the San Joaquin Valley, and

WHEREAS, Federal Central Valley Project water contractors have seen their agricultural water deliveries reduced to ten percent (10%) of their contract allotments, and

WHEREAS, the expanded use of recycled water, particularly for the west side of the San Joaquin Valley (south of the Delta), represents a potential solution for part of the California water crisis, and

WHEREAS, representatives from the City of Modesto and the Del Puerto Water District have been meeting to discuss the concept of developing a regional recycled water delivery system, and

WHEREAS, preliminary staff reviews by the representatives of both parties indicate that there are advantages for considering a recycled water delivery system that make it worthy of further analysis, and
WHEREAS, staff recommended securing consultant services to perform a Regional Recycled Water Delivery System Feasibility Study (Study) for further analysis, and

WHEREAS, the estimated cost for this Study is $100,000, and the cost sharing between the Del Puerto Water District and the City of Modesto will be fifty percent (50%), or $25,000 each, with the parties jointly seeking a 50% cost share from the Bureau of Reclamation or other sources, and

WHEREAS, Del Puerto Water District will be the lead agency for issuing the Request for Proposals and managing the consultant services agreement,

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

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 12th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

(ATTEST: STEPHANIE LOPEZ, City Clerk)
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-017

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FUND THE CITY’S SHARE OF A COST SHARING AGREEMENT BETWEEN THE DEL PUERTO WATER DISTRICT AND THE CITY OF MODESTO FOR THE DEVELOPMENT OF A REGIONAL RECYCLED WATER DELIVERY SYSTEM FEASIBILITY STUDY BY TRANSFERRING $25,000 FROM WASTEWATER FUND RESERVES TO CAPITAL IMPROVEMENT PROJECT (6210-430-B119)

WHEREAS, the water shortage in California is now at a crisis level due to a three-year drought and pumping reductions from the San Joaquin River Delta, and

WHEREAS, the water crisis is severe in the San Joaquin Valley, particularly south of the San Joaquin River Delta, and

WHEREAS, the water crisis has had a significant negative impact on farming, economic development, and the water environment in the San Joaquin Valley, and

WHEREAS, Federal Central Valley Project water contractors have seen their agricultural water deliveries reduced to ten percent (10%) of their contract allotments, and

WHEREAS, the expanded use of recycled water, particularly for the west side of the San Joaquin Valley (south of the Delta), represents a potential solution for part of the California water crisis, and

WHEREAS, representatives from the City of Modesto and the Del Puerto Water District have been meeting to discuss the concept of developing a regional recycled water delivery system, and

WHEREAS, preliminary staff reviews by the representatives of both parties indicate that there are advantages for considering a recycled water delivery system that make it worthy of further analysis, and
WHEREAS, staff recommended securing consultant services to perform a Regional Recycled Water Delivery System Feasibility Study (Study) for further analysis, and

WHEREAS, the estimated cost for this Study is $100,000, and the cost sharing between the Del Puerto Water District and the City of Modesto will be fifty percent (50%), or $25,000 each, with the parties jointly seeking a 50% cost share from the Bureau of Reclamation or other sources, and

WHEREAS, under separate Council action, a Cost Sharing Agreement between the Del Puerto Water District and the City of Modesto for this Study was approved, with each party contributing fifty percent (50%), or $25,000 each, and

WHEREAS, staff is requesting a transfer from Wastewater Fund Reserves (6210-800-8000-8003) in the amount of $25,000 into a Capital Improvement Project (6210-430-B119) to pay for the proposed Regional Recycled Water Delivery System Feasibility Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Capital Improvement Program budget in order to fund the City’s share of a Cost Sharing Agreement between the Del Puerto Water District and the City of Modesto for the development of a Regional Recycled Water Delivery System Feasibility Study by transferring $25,000 from Wastewater Fund Reserves to Capital Improvement Project (6210-430-B119).

BE IT FURTHER RESOLVED that the Finance Director, or his 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 12th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
**EXHIBIT A**

**FUND:** WASTEWATER FUND – CIP

**EXPENDITURES:**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Increase/Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wastewater Fund Reserves</td>
<td>6210-800-8000-8003</td>
<td>($25,000)</td>
</tr>
<tr>
<td>Del Puerto Reg WW Feas Study</td>
<td>6210-430-B119-6080</td>
<td>$25,000</td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-018

RESOLUTION ACCEPTING A NEIGHBORHOOD STABILIZATION PROGRAM 2 (NSP2) GRANT AWARD IN THE AMOUNT OF $25 MILLION FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL AGREEMENTS RELATED TO ACCEPTANCE OF THE GRANT AWARD, NSP2 PURCHASE/SALE AGREEMENTS, LOAN DOCUMENTS, AND ALL RELATED DOCUMENTS FOR NSP2 FUNDED TRANSACTIONS, AS APPROVED BY THE SUB-COMMITTEE OF THE CITIZENS’ HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE (CH&CDC), AND BASED ON PREVIOUSLY APPROVED CRITERIA AND GUIDELINES FOR THE NEIGHBORHOOD STABILIZATION PROGRAM

WHEREAS, the NSP2 is a major Recovery Act initiative of the Federal government to address the challenge of foreclosed and abandoned homes in communities throughout the nation, and

WHEREAS, on January 14, 2010, the City of Modesto received an NSP2 grant award notice from the United States Department of Housing and Urban Development (HUD) in the amount of $25 million, and

WHEREAS, these funds are to be used for the purchase and rehabilitation of foreclosed and or abandoned homes within specific census tracts in the City of Modesto to address the challenge these properties pose for communities such as Modesto, and

WHEREAS, the City’s NSP2 application, as approved by HUD, recommended allocations in the following categories of spending:

- Acquisition and Rehabilitation Program ($10.5 million) for developers to acquire and rehabilitate 100 foreclosed or abandoned properties in targeted census tracts.
- Housing Authority and Emancipated Foster and Homeless Youth Program ($6 million) for the Housing Authority to work with the Center for Human Services and
the Emancipated Foster and Homeless Youth Program to purchase/rehabilitate 40
foreclosed and or abandoned residential properties to house foster and homeless youth
between the ages of 18 and 25.

- Stanislaus Community Assistance Project ($6 million) for the development,
  acquisition, and rehabilitation of 35 foreclosed or abandoned properties in specified
census tracts to house special needs populations.

WHEREAS, under the City’s program, qualified organizations are able to request
funding for eligible property acquisition and rehabilitation within the categories listed
above, and

WHEREAS, these requests are reviewed by a sub-committee of the CH&CDC
based on previously approved criteria for the NSP1 and once approved, funding is
allocated for the property purchase. Rehabilitation costs are included in the loan amount
but are paid out on a reimbursement basis, and

WHEREAS, approval of the proposed action will help the City meet its goal of
spending the NSP2 funds by January 14, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby accepts a Neighborhood Stabilization Program 2 grant award from the
United States Department of Housing and Urban Development in the amount of $25
million.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute all agreements related to acceptance of the grant award,
Neighborhood Stabilization Program 2 Purchase/Sale Agreements, Loan Documents, and
all related documents for NSP2 funded transactions, as approved by the sub-committee of
the Citizens’ Housing and Community Development Committee, and based on previously approved criteria and guidelines for the Neighborhood Stabilization Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
WHEREAS, the Neighborhood Stabilization Program 2 (NSP2) is a major
Recovery Act initiative of the Federal government to address the challenge of foreclosed
and abandoned homes in communities throughout the nation, and

WHEREAS, on January 14, 2010, the City of Modesto received an NSP2 grant
award notice from the United States Department of Housing and Urban Development
(HUD) in the amount of $25 million, and

WHEREAS, these funds are to be used for the purchase and rehabilitation of
foreclosed and or abandoned homes within specific census tracts in the City of Modesto
to address the challenge these properties pose for communities such as Modesto, and

WHEREAS, the City’s NSP2 application, as approved by HUD, recommended
allocations in the following categories of spending:

- Acquisition and Rehabilitation Program ($10.5 million) for developers to acquire and
  rehabilitate 100 foreclosed or abandoned properties in targeted census tracts.
- Housing Authority and Emancipated Foster and Homeless Youth Program ($6
  million) for the Housing Authority to work with the Center for Human Services and the
  Emancipated Foster and Homeless Youth Program to purchase/rehabilitate 40 foreclosed
  and or abandoned residential properties to house foster and homeless youth between the
  ages of 18 and 25.
- Stanislaus Community Assistance Project ($6 million) for the development, acquisition, and rehabilitation of 35 foreclosed or abandoned properties in specified census tracts to house special needs populations.

WHEREAS, under the City’s program, qualified organizations are able to request funding for eligible property acquisition and rehabilitation within the categories listed above, and

WHEREAS, these requests are reviewed by a sub-committee of the Citizens’ Housing & Community Development Committee (CH&CDC) based on previously approved criteria for the NSP1 and once approved, funding is allocated for the property purchase. Rehabilitation costs are included in the loan amount but are paid out on a reimbursement basis, and

WHEREAS, approval of the proposed action will help the City meet its goal of spending the NSP2 funds by January 14, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009/2010 budget to create four multi-year organizations in a new fund, to estimate and appropriate $25 million in funds from the American Recovery and Reinvestment Act of 2009.

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 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-020

A RESOLUTION APPOINTING SUSAN AZEVEDO TO THE CITY OF MODesto PUBLIC EVENTS ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards, Commissions and Committees, and

WHEREAS, on June 25, 2002, the Modesto City Council formed the Public Events Advisory Committee, and

WHEREAS, because of the recent election and Committee bylaws, a new appointment to the Public Events Advisory Committee is necessary,

WHEREAS, Councilmember Dave Geer has nominated Susan Azevedo to serve as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. SUSAN AZEVEDO is hereby appointed to the Public Events Advisory Committee.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Public Events Advisory Committee, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPOINTING KEITH BOGGS TO THE CITY OF MODESTO PUBLIC EVENTS ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards, Commissions and Committees, and

WHEREAS, on June 25, 2002, the Modesto City Council formed the Public Events Advisory Committee, and

WHEREAS, because of the recent election and Committee bylaws, a new appointment to the Public Events Advisory Committee is necessary,

WHEREAS, Councilmember Joe Muratore has nominated Keith Boggs to serve as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. KEITH BOGGS is hereby appointed to the Public Events Advisory Committee.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Public Events Advisory Committee, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(EFFECT)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-022

A RESOLUTION APPROVING TASK ORDER NO. 3 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH GOODWIN CONSULTING GROUP, INC. FOR THE ANNUAL ADMINISTRATION OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE TASK ORDER NO. 3

WHEREAS, the City Council is desirous of administering and maintaining its existing Community Facilities Districts (“CFDs”), and

WHEREAS, on February 13, 2007, the City Council, by Resolution No. 2007-105, approved a Master Professional Services Agreement for Consultant Services with Goodwin Consulting Group, Inc. (“Consultant”) for the administration of CFDs, and

WHEREAS, on July 24, 2007, the City Council, by Resolution No. 2007-433, approved Task Order No. 1 for the administration of the City’s then existing CFDs, and

WHEREAS, on May 6, 2008, the City Council, by Resolution No. 2008-253, approved Task Order No. 2 for the annual administration of City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West), and

WHEREAS, Consultant has prepared Task Order No. 3 (“Task Order”) for the administration of the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East), attached hereto as Exhibit “A” and incorporated herein by reference, and

WHEREAS, the annual administration of the City’s CFDs is funded through an annual special maintenance tax as described in the Rate and Method of Apportionment of each CFD,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Task Order No. 3 to the Master Professional Services Agreement for Consultant Services with Goodwin Consulting Group, Inc. for the annual administration of City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Task Order No. 3.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A
GOODWIN CONSULTING GROUP, INC.

TASK ORDER #3
SCOPE OF WORK FOR ANNUAL ADMINISTRATION

COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

This task order sets forth the scope of work and fee schedule for Goodwin Consulting Group, Inc. (GCG) to provide services related to the annual administration of the City of Modesto Community Facilities District (CFD) No. 2009-1 (Kiernan Business Park East). Each fiscal year, GCG will provide the following tasks to ensure submittal of the special tax levy, compliance with continuing disclosure requirements, and monitoring of arbitrage earned on CFD accounts.

A. CFD SPECIAL TAX ADMINISTRATION

1. Database Development

With parcel and building permit data provided by City staff, GCG will construct a database that will be used to calculate the annual special tax levy for the CFD. This task will include the following:

*Map, Parcel and Permit Data:* Coordinate with City staff to obtain information needed for the allocation of special taxes, including assessor parcel numbers (APNs), date of subdivision and building permit issuance, property use, and acreage for each parcel in the CFD in each fiscal year.

*Classification of Property:* Pursuant to the Rate and Method of Apportionment (RMA) of Special Tax for the CFD, categorize each parcel to the appropriate special tax classification.

*Database Management:* Prepare a database for the CFD which will contain all properties, parcel numbers, assigned tax categories, and other relevant information which will allow for the assignment of the special tax pursuant to the RMA.

2. Annual Special Tax Levy Calculation

GCG will calculate the special tax levy for each taxable parcel in the CFD by applying the Rate and Method of Apportionment of Special Tax. GCG will identify all CFD expenses including annual debt service, administrative expenses, and collection costs. Any applicable surplus special taxes, interest earnings, and other credits will be applied to
reduce the annual special tax levy.

3. **Annual CFD Administration Report Preparation**

GCG will annually prepare a special tax administration report for the CFD which contains the results of our parcel research and findings of the financial analysis. An explanation of the methodology employed to calculate the special taxes levied will be incorporated. The report will also include annual reporting items required by Senate Bill 165 (Local Agency Special Tax and Bond Accountability Act). The appendix to this report will identify the special tax levy for each assessor’s parcel for the fiscal year.

4. **Annual Special Tax Enrollment**

GCG will compile a list of parcels in the CFD that will be subject to the special tax levy and format it in compliance with the specific formatting instructions of the Stanislaus County Auditor-Controller’s Office. The formatted tax levy will be submitted to the Auditor-Controller’s Office on or before August 10 (or other specified date) for inclusion on the consolidated property tax bills.

5. **Delinquent Special Tax Reporting**

GCG will monitor the Auditor-Controller’s tax collection summaries and report on delinquent parcels and corresponding delinquent CFD taxes. If requested by the City, GCG will prepare and mail demand letters to property owners with delinquent special taxes. Additionally, GCG will work with the City to ensure the CFD’s compliance with any foreclosure covenants and provisions in the bond documents.

6. **Answer Inquiries from Various Parties**

GCG will respond to property owners, realtors, title companies, appraisers and other parties’ questions regarding the special tax and other CFD related issues. A GCG staff member will be listed as the contact for calls that are received by the County Treasurer/Tax Collector’s Office; most calls will be responded to on the day received.

7. **Mello-Roos Cash Flow Analysis**

If needed, GCG will update the financial cash flow model for the CFD to examine the relationship of special tax revenues and debt service requirements. This cash flow model will incorporate information regarding bonded indebtedness, annexations, prepayments, and current and projected development.

8. **Prepayments**

If a property owner is interested in reducing or ceasing the levy of special taxes on a Parcel, GCG will provide the City with a prepayment estimate based on the formula
provided in the Rate and Method of Apportionment of Special Tax. GCG will ensure that prepayments include all required bond premiums, negative arbitrage estimates, reserve fund credits and administrative charges.

9. **Coordination of Foreclosure Activities**

GCG will assist the City in complying with provisions in the bond indenture or fiscal agent agreement regarding actions to be taken in the event of a foreclosure on a property due to tax delinquency. GCG will coordinate with City staff and legal counsel to identify those parcels for which judicial foreclosure will be initiated.

**B. CONTINUING DISCLOSURE**

GCG will provide information to the Nationally-Recognized Municipal Securities Information Repositories (pursuant to S.E.C. regulations) and the California Debt and Investment Advisory Commission (pursuant to Senate Bill 1464) and prepare special tax disclosure materials to home buyers as specified in Senate Bill 1464. This task shall include the following subtasks:

- Prepare the annual Continuing Disclosure Report and respond to secondary information requirements set forth in SEC Section 15c2-12, as amended.

- Submit the annual Fiscal Report as specified in Government Code Section 53359.5 to California Debt and Investment Advisory Commission by October of each year.

- Prepare special tax disclosure materials on the City's behalf for resale properties as required by Government Code Section 53340.2.

**C. ARBITRAGE REBATE CALCULATION**

GCG will prepare the annual or five-year arbitrage rebate calculations. A report, identifying the rebate liability for the CFD, will be produced. GCG will determine the amount, if any, that must be rebated to the federal government at each five-year interval.
EXHIBIT B

GOODWIN CONSULTING GROUP, INC.

TASK ORDER #3

FEE SCHEDULE FOR ANNUAL ADMINISTRATION

COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

A. Maximum Annual Budget

The budget for annual administration of CFD No. 2009-1 is $15,000 for fiscal year 2010-11, which amount may be adjusted for inflation thereafter.

B. Hourly Fee Schedule

Services provided pursuant to this scope of work will be billed using the following fee schedule:

<table>
<thead>
<tr>
<th>GCG Hourly Service Rates*</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Managing Principal</td>
<td>$250/Hour</td>
</tr>
<tr>
<td>Principal</td>
<td>240/Hour</td>
</tr>
<tr>
<td>Senior Associate</td>
<td>185/Hour</td>
</tr>
<tr>
<td>Associate</td>
<td>160/Hour</td>
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<tr>
<td>Analyst</td>
<td>145/Hour</td>
</tr>
<tr>
<td>Research Assistant</td>
<td>80/Hour</td>
</tr>
</tbody>
</table>

* Effective through fiscal year 2009-10 and may be adjusted for inflation thereafter.

C. General Terms and Conditions

GCG will charge for time and materials, using the hourly rates set forth in above, up to the proposed budget maximums, subject to the limitations below, unless otherwise agreed to by the City. Monthly invoices will be presented to the City to provide details of services rendered and expenses incurred. At the City’s request, services in addition to those identified in the scope of
work may be provided if the total fee to complete the tasks selected is less than the budget. Alternatively, if the selected tasks can be completed for less than the budget, only the hours actually expended will be billed.

In addition to fees for services, GCG will be reimbursed for mileage, photocopying, database services or materials, facsimile and telephone calls, clerical services, and other out-of-pocket expenses in an amount not to exceed $500 per year per CFD.
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-023

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED “ROUNDABOUT IMPROVEMENTS AT TWO LOCATIONS – LA FORCE DRIVE/HILLGLEN AVENUE/KODIAK DRIVE AND HILLGLEN AVENUE/WOOD SORREL DRIVE”, ACCEPTING THE BID, APPROVING A CONTRACT FOR THE PROJECT WITH GEORGE REED, INC. FOR $199,697.70; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, Traffic Engineering staff applied for, and received, 100% Congestion Mitigation Air Quality (CMAQ) funding for the construction of roundabouts,

and

WHEREAS, this project will install roundabouts at the intersections of LaForce Drive/Hillglen Avenue/Kodiak Drive and Hillglen Avenue/Wood Sorrel Drive, and

WHEREAS, bids for this project were opened on November 11, 2009, and

WHEREAS, George Reed, Inc. was determined to be the responsible low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled “Roundabout Improvements at Two Locations – La Force Drive/Hillglen Avenue/Kodiak Drive and Hillglen Avenue/Wood Sorrel Drive”, accepts the bid, and approves a contract with George Reed, Inc. for $199,697.70.

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 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________

SEAL

APPROVED AS TO FORM:

By: ____________________________

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-024

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED “NEW TRAFFIC SIGNAL INSTALLATION - STANDIFORD AVENUE AT HAHN DRIVE AND PRESCOTT ROAD AT CHEYENNE WAY,” ACCEPTING THE BID, APPROVING A CONSTRUCTION CONTRACT WITH WINGARD ENGINEERING, INC. FOR $345,824; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the project titled “New Traffic Signal Installation – Standiford Avenue at Hahn Drive and Prescott Road at Cheyenne Way” will install traffic signals at the intersections of Standiford Avenue/Hahn Road and Prescott Road/Cheyenne Way, and

WHEREAS, bids for this project were opened on November 10, 2009, and

WHEREAS, Wingard Engineering, Inc. was determined to be the responsible low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled “New Traffic Signal Installation - Standiford Avenue at Hahn Drive and Prescott Road at Cheyenne Way”, accepts the bid, and approves a contract with Wingard Engineering, Inc. for $345,824.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is 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 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: Muratore, Olsen

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-025

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET TO RECOGNIZE AND APPROPRIATE NEW CONGESTION MITIGATION AIR QUALITY GRANT REVENUES OF $47,027, AND TO INCREASE THE EXPENDITURE APPROPRIATION OF 1410-160-E332, “NEW TRAFFIC SIGNALS 2008,” TO $497,027

WHEREAS, the estimated capital cost of the project titled “New Traffic Signal Installation – Standiford Avenue at Hahn Drive and Prescott Road at Cheyenne Way,” is $428,821, and

WHEREAS, currently $450,000 is budgeted in Account No. 1410-160-E332 for the construction of the project, and

WHEREAS, amending the Capital Improvement Program (CIP) budget to recognize the increase in Congestion Mitigation Air Quality (CMAQ) funds of $47,027 to Account No. 1410-160-E332 for a total of $497,027 will provide sufficient funds to award the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Capital Improvement Program budget to appropriate new Congestion Mitigation Air Quality grant revenues of $47,027, and to increase the expenditure appropriation of 1410-160-E332, “New Traffic Signals 2008,” to $497,027.

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 26th day of January, 2010, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: Muratore, Olsen

ABSENT: Councilmembers: None

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-026

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF VINYL ESTER FIBERGLASS GRATE PANELS AND "I" BEAMS FOR THE PUBLIC WORKS DEPARTMENT, WASTE WATER COLLECTIONS DIVISION, TO DELTA COMPOSITES, LLC, SPRING, TX FOR AN ESTIMATED TOTAL COST OF $47,897

WHEREAS, on May 5, 2009, the City Council, by Resolution No. 2009-201, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the entire Bio Filter Rehabilitation project, and

WHEREAS, the Purchasing Division issued RFB No. 0910-06 vinyl ester grate panels and "I" beams to nine (9) prospective bidders, none of which were local companies, posted the bid on the City’s website and formally advertised as required by law, and

WHEREAS, RFB’s were formally opened in the City Clerk’s office. Of the nine (9) prospective bidders, two (2) companies chose to respond. Both companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of vinyl ester grate panels and "I" beams for the Public Works Department, Waste Water Collections Division, to Delta Composites, LLC, Spring, TX, for an estimated total of $47,897, 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 and contract for the purchase of vinyl ester grate panels and "I" beams for the Public Works Department, Waste Water Collections...
Division, to Delta Composites, LLC, Spring, TX, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation unit: 6210-480-B186-6040,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of vinyl ester grate panels and “I” beams for the Public Works Department, Waste Water Collections Division, to Delta Composites, LLC, Spring, TX.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $47,897.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE AND REHABILITATION OF THE BIO FILTER COATINGS FOR THE PUBLIC WORKS DEPARTMENT, WASTE WATER COLLECTIONS DIVISION, TO SANCON ENGINEERING, INC., HUNTINGTON BEACH, CA, FOR AN ESTIMATED TOTAL COST OF $132,585; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT

WHEREAS, on May 5, 2009, the City Council, by Resolution No. 2009-201, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the Bio Filter Rehabilitation project, and

WHEREAS, the Purchasing Division issued RFB No. 0809-26 Rehabilitation of Bio Filter Coatings to twenty-eight (28) prospective bidders, none of which were local companies, posted the bid on the City’s website and formally advertised as required by law, and

WHEREAS, RFB’s were formally opened in the City Clerk’s office. Of the twenty-eight (28) prospective bidders, three (3) companies chose to respond. 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 and contract for the purchase and rehabilitation of the Bio Filter coatings for the Public Works Department, Waste Water Collections Division, to Sancon Engineering, Huntington Beach, CA, for an estimated total cost of $132,585, 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 and contract for the purchase and rehabilitation of
the Bio Filter coatings for the Public Works Department, Waste Water Collections
Division, to Sancon Engineering, Inc., Huntington Beach, CA, conforms to the Modesto
Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in
appropriation unit: 6210-480-B186-6040,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the award of bid and contract for the purchase and rehabilitation
of the Bio Filter coatings for the Public Works Department, Waste Water Collections
Division, to Sancon Engineering, Inc., Huntington Beach, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute an agreement for an estimated total cost of $132,585.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember Marsh,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST:    STEPHANIE LOPEZ, City Clerk
(SEAL)

APPROVED AS TO FORM:

By:    SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF TIRE RECAPPING AND RELATED SERVICES FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO BRANNON TIRES, INC., STOCKTON, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT, FOR AN ESTIMATED ANNUAL COST OF $53,680

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-533, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of tire recapping and related services for the Fleet Services Division, and

WHEREAS, the Purchasing Division issued RFB No. 0910-03 Tire Recapping and Related Services to eight (8) prospective bidders. The bid was posted on the City’s website and formally advertised as required by law, and

WHEREAS, RFB’s were formally opened in the City Clerk’s office. Four (4) companies chose to respond, none of which were local vendors as defined in the Modesto Municipal Code. All four (4) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of tire recapping and related services for the Public Works Department, Fleet Services Division, to Brannon Tires, Stockton, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $53,680, 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 and contract for the furnishing of tire recapping and
related services for the Public Works Department, Fleet Services Division, to Brannon Tires, Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in various appropriation units:

7200-480-5812-0365 and 6540-480-5612-0365   Equipment Maintenance and Repair
7200-480-5812-0265 and 6540-480-5612-0265   Vehicle Rep Cont

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of tire recapping and related services for the Public Works Department, Fleet Services Division, to Brannon Tires, Stockton, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $53,680.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST:  

APPROVED AS TO FORM:

By:  
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-029

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF FOUR (4) FRONT LOADERS FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, GREEN WASTE DIVERSION DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO RGW EQUIPMENT SALES, LIVERMORE, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $305,072

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 09/10 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The four (4) front loaders for the Parks, Recreation and Neighborhoods Department, Green Waste Diversion Division, were included in the FY 09/10 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, all four (4) front loaders are replacements for current units and these vehicles are part of the Air Resources Board (ARB) off-road diesel vehicle regulation. As part of the City of Modesto ARB compliant plan these vehicles are targeted to be replaced, and

WHEREAS, the Purchasing Division issued RFB No. 0910-09 Front Loaders to nine (9) prospective bidders, posted the bid on the City’s website and formally advertised as required by law, and

WHEREAS, RFB’s were formally opened in the City Clerk’s office. Of the nine (9) prospective bidders, three (3) companies chose to respond, none of which were local vendors as defined in the Modesto Municipal Code. All companies provided responsive and responsible bids, and
WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of four (4) front loaders for the Parks, Recreation and Neighborhoods Department, Green Waste Diversion Division, through the Public Works Department, Fleet Services Division, to RGW Equipment Sales, Livermore, CA, for an estimated total cost of $305,072, 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 and contract for the purchase of four (4) front loaders for the Parks, Recreation and Neighborhoods Department, Green Waste Diversion Division, through the Public Works Department, Fleet Services Division, to RGW Equipment Sales, Livermore, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in FY 09/10 in appropriation unit: 7210-480-5814-5514,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of four (4) front loaders for the Parks, Recreation and Neighborhoods Department, Green Waste Diversion Division, through the Public Works Department, Fleet Services Division, to RGW Equipment Sales, Livermore, CA,

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 $305,072.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING AMENDMENTS TO THE NEIGHBORHOOD STABILIZATION PROGRAM LOAN TERMS FOR FOR-PROFIT LOANS TO (1) DEFER OF THE REHABILITATION PORTION OF FOR-PROFIT LOANS FOR 15 YEARS TO COINCIDE WITH THE AFFORDABILITY PERIOD; (2) AT THE SOLE DISCRETION OF THE CITY, FORGIVE THE REHABILITATION PORTION OF THE LOAN IF THE AFFORDABILITY CONVENANT IS FULFILLED AT THE END OF THE 15-YEAR TERM AND THE PROPERTY IS SOLD TO A QUALIFYING LOW-INCOME HOUSEHOLD; (3) INCREASE IN LOAN TERMS FROM 30 YEARS TO 40 YEARS TO ALLOW FOR A 35-YEAR AMORTIZATION; AND (4) AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO FULLY EXECUTE ALL NEIGHBORHOOD STABILIZATION PROGRAM AMENDED LOAN AGREEMENTS TO RECONCILE TO ACTUAL PROJECT EXPENDITURES

WHEREAS, the City of Modesto received $8.1 million in Neighborhood Stabilization Program (NSP) funding through U.S. Department of Housing and Urban Development (HUD), Community Development Block Grant Program, under the Housing and Economic Recovery Act of 2008 (HERA), and $4.0 million was allocated for the purchase and rehabilitation of foreclosed and abandoned homes within specific focus areas, and

WHEREAS, on May 12, 2009, the City Council, by Resolution No. 2009-212, approved the Fiscal Year 2009-2010 Annual Action Plan (AAP) which included activities for the allocation of NSP funds, and

WHEREAS, under the City’s program, qualified non-profit and for-profit organizations are able to request funding for eligible property acquisition and rehabilitation, and
WHEREAS, the requests are reviewed by a sub-committee of the Citizens Housing & Community Development Committee (CH&CDC) based on previously approved criteria with funding allocated for the property purchase, and

WHEREAS, rehabilitation costs are included in the loan amount but are paid out on a reimbursement basis once the work has been done and inspections completed, and

WHEREAS, due to the current housing market constraints, staff recommends (1) deferring the rehabilitation portion of the loan for 15 years, (2) separating the acquisition and rehabilitation loans by issuing two promissory notes, and (3) increasing the amortization period of the NSP loans from 30 to 40 years to allow the amortization of the loans over a 35-year period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amendments to the Neighborhood Stabilization Program loan terms for for-profit loans to (1) defer the rehabilitation portion of the for-profit loans for 15 years to coincide with the affordability period; (2) at the sole discretion of the City, forgive the rehabilitation portion of the loan if the affordability covenant is fulfilled at the end of the 15-year term and the property is sold to a qualifying low-income household; and (3) increase the loan terms from 30 years to 40 years to allow for a 35-year amortization.

BE IT FURTHER RESOLVED that it hereby authorizes the City Manager, or his designee, to fully execute all Neighborhood Stabilization Program amended loan agreements to recognize all actual project expenditures.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-031

A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY BEHAVIORAL HEALTH AND RECOVERY SERVICES IN THE AMOUNT OF $27,000 TO PROVIDE PARTY PATROL POLICE OFFICERS TO CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Stanislaus County Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, the Modesto Police Department has developed a first-time offender juvenile alcohol education, prevention and intervention program, and

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to educate minors and parents of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since the Party Patrol was established, and

WHEREAS, the Modesto Police Department will also provide a marketing campaign, including placing ads in newspapers, yearbooks, as well as produce posters to educate youth about the harmful effects of alcohol, and

WHEREAS, the term of this Agreement is January 1, 2010 through December 31, 2010, and
WHEREAS, the City shall be compensated in the amount of $27,000 for the services of Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention programs, and

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Stanislaus County Behavioral Health and Recovery Services in the amount of $27,000 to provide Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County.

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 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2010-032

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 MULTI-YEAR BUDGET ESTIMATING REVENUE OF $27,000 FROM STANISLAUS COUNTY TO PROVIDE PARTY PATROL POLICE OFFICERS TO CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY

WHEREAS, since May 2, 2006, the City of Modesto Police Department has had an annual Party Patrol Agreement with Stanislaus County Behavioral Health and Recovery Services (BHRS) to provide party patrol officers to conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County, and

WHEREAS, the term of the Agreement is January 1, 2010 through December 31, 2010, and

WHEREAS, the Fiscal Year 2009-2010 multi-year budget must be amended to reflect the $27,000 in revenue from Stanislaus County associated with this program as shown in Exhibit A, which is incorporated by reference herein, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009-2010 multi-year budget is hereby amended estimating revenue of $27,000 from Stanislaus County to provide party patrol police officers to conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County.

BE IT FURTHER RESOLVED that the Finance Director, 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 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
## Exhibit A

**Expense:**

| To: 0420-190-2095-0130 | $27,000 | Officers’ Overtime Hours Cost |

**Revenue:**

| To: 0420-190-2095-3730 | $27,000 | School/County Contribution |
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-033

A RESOLUTION ACCEPTING THE WORK BY DELTA OILFIELD SERVICES, INC. FOR THE PROJECT TITLED “3200 NIGHTINGALE DRIVE – BUILDING DEMOLITION” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $15,750.00

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the project titled “3200 Nightingale Drive – Building Demolition” has been completed by Delta Oilfield Services, Inc. in accordance with the contract agreement dated October 27, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “3200 Nightingale Drive – Building Demolition” is hereby accepted as complete from said contractor Delta Oilfield Services, Inc. that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $15,750.00 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 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
(SIGNATURE)

APPROVED AS TO FORM:

By: 
(SIGNATURE)

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-034

A RESOLUTION APPROVING AN AGREEMENT WITH ECOLOGIC FOR FINAL DESIGN SERVICES FOR DRINKING WATER SUPPLY AT THE JENNINGS WASTEWATER TREATMENT PLANT IN AN AMOUNT NOT TO EXCEED $90,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $9,000 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $99,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Secondary Treatment Facility is located at 7007 Jennings Road,

and

WHEREAS, the Secondary Treatment Facility was utilizing four separate water wells for drinking and other potable purposes, and

WHEREAS, on July 17, 2008, the City received a Citation and Notice of Penalty from the State of California, Division of Occupational Safety and Health, for non-potable water being used for drinking, eating, washing dishes and showering at the end of a work shift, and

WHEREAS, each of the four wells had different levels of arsenic, uranium and manganese that exceed maximum contaminate levels (MCLs), and

WHEREAS, on November 5, 2008, by Resolution No. 2008-623, the City Council approved an agreement with EcoLogic for consultant services to test water at all four wells, determine a solution and write a technical report, and

WHEREAS, all four wells tested positive for contamination, and

WHEREAS, none of the exiting four wells was determined worth the expense of rehabilitation, and

WHEREAS, an exploratory test hole was drilled approximately 200 feet deeper than the existing wells, and
WHEREAS, good water in both quality and quantity was found, and
WHEREAS, a final underground well was installed sealing off the upper contaminated water layers, and
WHEREAS, a Technical Report and Drinking Water Source Assessment dated October 19, 2009, was completed and is currently under review by the State Department of Public Health, and
WHEREAS, final design of the above-ground pump station, storage facility, and distribution piping remains to be completed, and
WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, EcoLogic was the most qualified for the initial phase of the design, and
WHEREAS, City staff now feels that EcoLogic remains the most qualified firm to continue the project through final design, and
WHEREAS, City staff recommends approving a new agreement with EcoLogic for final project design as the City does not have the staffing level or subject matter expertise to provide design services for final design of the 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 EcoLogic for final design services for Drinking Water Supply at the Jennings Wastewater Treatment Plant project in an amount not to exceed $90,000 for the identified scope of services, plus $9,000 for additional services (if needed), for a maximum total amount of $99,000.
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 26th day of January, 2010, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-035

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE "UV DISINFECTION EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR-TERTIARY WASTEWATER TREATMENT PROJECT," ACCEPTING THE BID AND APPROVING A $1,701,331 SUPPLIER AGREEMENT WITH TROJAN TECHNOLOGIES FOR THE "UV DISINFECTION EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR-TERTIARY WASTEWATER TREATMENT PROJECT," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUPPLIER AGREEMENT

WHEREAS, plans and specifications have been prepared for the UV Disinfection Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project and City staff recommends approval by the City Council, and

WHEREAS, City staff and the design consultant, Carollo Engineers, reviewed the qualifications submitted on November 10, 2009, and determined Trojan Technologies was qualified to build and supply the UV Disinfection Equipment for the Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the bids received for the UV Disinfection Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project were opened at 11:00 a.m. on November 17, 2009, 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 $1,701,331 received from Trojan Technologies be accepted as the lowest responsible bid and the supplier agreement be awarded to Trojan Technologies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the UV Disinfection Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project, accepts
the bid of Trojan Technologies in the amount of $1,701,331, and approves the supplier agreement with Trojan Technologies for the UV Disinfection Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the supplier agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE SUPPLIER AGREEMENT FOR THE UV DISINFECTION EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT, INCLUDING ASSOCIATED VENDOR ENGINEERING DESIGN SUPPORT, AND ENGINEERING / DESIGN / ADMINISTRATION SUPPORT BY CITY STAFF FOR THE MEMBRANE EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $1,796,398, in order to fully fund the supplier agreement along with associated vendor engineering design support, and engineering/design/administration by City staff for the UV Disinfection Equipment System Procurement for Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Finance Director, or his 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 26th day of January, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

**ATTEST:**

[Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

**APPROVED AS TO FORM:**

By: 

[Signature]

SUSANA ALCALA WOOD, City Attorney
**Exhibit A**

**FUND:**  
Wastewater Fund-CIP

**EXPENDITURES:**  

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Increase/(Decrease)</th>
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<tr>
<td>Wastewater Fund Reserves</td>
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<td>WW Treatment Phase 2 Tertiary</td>
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<td>$1,701,331</td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2010-037

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
"MEMBRANE EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2
BNR/TERTIARY WASTEWATER TREATMENT PROJECT," ACCEPTING
THE BID AND APPROVING A $10,452,745 SUPPLIER AGREEMENT WITH
SIEMENS WATER TECHNOLOGIES CORP. FOR THE "MEMBRANE
EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY
WASTEWATER TREATMENT PROJECT," AND AUTHORIZING THE CITY
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUPPLIER
AGREEMENT

WHEREAS, plans and specifications have been prepared for the Membrane
Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment
Project and City staff recommends approval by the City Council, and

WHEREAS, City staff and the design consultant, Carollo Engineers, reviewed the
qualifications submitted by one bidder on November 3, 2009, and determined Siemens
Water Technologies Corp. was qualified to build and supply the Membrane Bioreactor
(MBR) Equipment for the Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the sole bid received for the Membrane Equipment System
Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project was opened at
11:00 a.m. on November 12, 2009, 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
$10,452,745 received from Siemens Water Technologies Corp. be accepted as the lowest
responsible bid and the supplier agreement be awarded to Siemens Water Technologies
Corp.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the plans and specifications for the Membrane Equipment System.
Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project, accepts the bid of Siemens Water Technologies Corp. in the amount of $10,452,745, and approves the supplier agreement with Siemens Water Technologies Corp. for the Membrane Equipment System Procurement For Phase 2 BNR/Tertiary Wastewater Treatment Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the supplier agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-038

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE SUPPLIER AGREEMENT FOR THE MEMBRANE EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT, INCLUDING ASSOCIATED VENDOR ENGINEERING DESIGN SUPPORT, AND ENGINEERING / DESIGN / ADMINISTRATION SUPPORT BY CITY STAFF FOR THE MEMBRANE EQUIPMENT SYSTEM PROCUREMENT FOR PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $11,000,382, in order to fully fund the supplier agreement along with associated vendor engineering design support, and engineering/design/administration by City staff for the Membrane Equipment System Procurement for Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Finance Director, or his 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 26th day of January, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
**Exhibit A**

**FUND:**
Wastewater Fund-CIP

**EXPENDITURES:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
<th>Increase/(Decrease)</th>
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<tr>
<td>Wastewater Fund Reserves</td>
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<td>($11,000,382)</td>
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<td>WW Treatment Phase 2 Tertiary</td>
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<td>$25,000</td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2010-039

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDED STREET OVERLAY AND ADA CURB RAMP IMPROVEMENTS PROJECT

WHEREAS, a budget adjustment in the amount of $2,889,225 is necessary to fully fund the construction activities for the American Recovery and Reinvestment Act of 2009 funded Street Overlay and ADA Curb Ramp Improvements project along with contingency and construction administration, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget, as shown in Exhibit A.

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 26th day of January, 2010, by Councilmember Marsh,
who moved its adoption, which motion being duly seconded by Councilmember Hawn,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Marsh, Muratore, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: ___

(SEAL)

APPROVED AS TO FORM:

By: __________

SUSANA ALCALA WOOD, City Attorney
### Exhibit A

**FUND:**

ARRA Reimbursable Grant – PW Streets

**REVENUES:**

<table>
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<tr>
<th>Project Description</th>
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**EXPENDITURES:**

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<th>Project Description</th>
<th>Project Code</th>
<th>Increase/(Decrease)</th>
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<tr>
<td>ARRA Street Overlay &amp; ADA Curb Ramp Imprv</td>
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<td>0530-430-H014-6050</td>
<td>$240,769</td>
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<tr>
<td>ARRA Street Overlay &amp; ADA Curb Ramp Imprv</td>
<td>0530-430-H014-6060</td>
<td>$240,769</td>
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</table>
MODesto CITY COUNCil
RESOLUTION NO. 2010-040


WHEREAS, on January 4, 2000, the City Council approved Ordinance No. 3168-C.S., a Development Agreement by and between the City of Modesto and Costa Limited Partners, A California Limited Partnership (“Development Agreement”) which includes provisions regarding the development of the site, processing of future entitlements, payment of fees and taxes, installation of public infrastructure, and implementation of environmental mitigation measures, and

WHEREAS, the subject property formerly owned by Costa Limited Partners, A California Limited Partnership, has changed ownership and is now owned by Pelandale Development LLC, and

WHEREAS, John Johansson on behalf of Pelandale Development LLC is proposing the first amendment to Ordinance No. 3168-C.S, a Development Agreement between the City of Modesto and Costa Limited Partners, A California Limited Partnership, in order to extend the term of the Development Agreement to May 17, 2021, and

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, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2009-27 (“Initial Study”) reviewed the proposed Development Agreement Amendment to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR (“Master EIR”), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on January 6, 2010, the City caused to be published a 20-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 duly noticed public hearing which was held on January 26, 2010, 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 First Amendment to the Development Agreement between the City of Modesto and Pelandale Development LLC, a California limited liability company, 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. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

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 26th day of January, 2010, by Councilmember Hawn, 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: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2009-27
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2009-27

For the proposed:

P-D (540) Planned Development Amendment and Development Agreement Amendment

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

9-16-2009

Updated: October 2008
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 Fire Station No. 2 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: P-D (540) Planned Development Amendment and Development Agreement Amendment

B. Address or Location: Northeast Corner of Pelandale Ave. and Chapman Rd.

C. Applicant: John Johannson, 7807 Creekridge Circle, Minneapolis, MN, 55439

D. City Contact Person: David Wage

Project Manager: David Wage  
Department: Community and Economic Development  
Phone Number: (209) 577-5302  
E-mail address: Dwage@modestogov.com

E. Current General Plan Designation(s): Regional Commercial (RC)

F. Current Zoning Classification(s): Planned Development (540)

G. Surrounding Land Uses:
   North: MID Lateral  
   South: P-D(537), Regional Commercial development  
   East: Existing well drilling company, planned professional office
West: P-D(540), Regional Commercial development

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The project site is approximately 9.65 acres in size, which constitutes the northern half of the property at the northeast corner of Pelandale Ave and Chapman Rd. To the north is MID Lateral No. 6 and to the east is agriculture land. To the west, across Chapman Road, are existing commercial businesses and to the south is P-D(537).

On December 16, 1999, the City Council adopted Resolution No. 99-626, approving a development plan for P-D(540) consisting of a movie theater complex. The Council also approved a Development Agreement, which remains in effect until May 17, 2011. P-D(540) consists of a 17-screen, 80,000-square-foot theater with associated parking and landscaping.

The subject application is for a revised development plan to allow three retail buildings totaling 110,000 sf. In addition, the applicant has applied for a revised development schedule and a ten year extension of the development agreement, which would require building permits to be obtained no later than May 17, 2021.

I. Other Public Agencies Whose Approval is Required:
None.

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 proposed project is of a type described in Chapter II of the Master EIR.

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

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.
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 proposed project is of a type described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the 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 Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

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

Original signed copy on file with CEDD

Project Manager

Associate Planner

November 12, 2009

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.

(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.

(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.

(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).

(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.

(5) The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan.

(6) Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.

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.

(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.

(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:

(a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.

(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.
(c) Policies remain in effect which require site-specific mitigation, and avoidance or other
mitigation of impacts as a prerequisite to future development.

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
dокументs 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:

The project does not require mitigation measures from the MEIR. 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><strong>TRAFFIC AND CIRCULATION</strong></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>[X]</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>[X]</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>[X]</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>[X]</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>[X]</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>[X]</td>
</tr>
<tr>
<td>7) The proposed project would result in an increase in energy consumption associated with the operation on highway project, rail improvements, and aviation facilities (on a per capita basis) in</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>
Less Than Significant Potentially with Less Than Significant Mitigation Significant No Impact
excess of that considered in the Urban Area General Plan.

Discussion:

(1 & 3) The project applicant performed a Traffic Access Analysis (prepared by Dowling and Associates dated October 20, 1999) for the proposed movie theatre. Dowling and Associates also compared the traffic impacts of the development with those analyzed in the MEIR and Focused EIR. According to the analysis the development will result in a lower traffic generation than what was assumed in the MEIR. City Traffic Staff reviewed the traffic study and determined the revised development plan that includes retail uses will not cause changes in traffic resulting in a significant impact. The Mitigation measures appropriate to the project were previously incorporated into the conditions of approval.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards. The previously approved site plan was designed to accommodate commercial uses and emergency access.

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

(5) The project has been evaluated for compliance to the City of Modesto Parking regulations.

(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 is would not result in an increase in energy consumption 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 (PM₁₀) and 2.5 microns or less in diameter (PM₂.₅) (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.

Discussion:

The appropriate mitigation to be applied to this project includes AQ-40 and AQ-42 through AQ-56 from the MEIR. 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-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>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 (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>[X]</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>[X]</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>[X]</td>
</tr>
<tr>
<td>4) The proposed project would expose sensitive</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</td>
</tr>
</tbody>
</table>
Less Than Significant Potentially with Less Than Significant Mitigation Significant No

<table>
<thead>
<tr>
<th>receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.</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>5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality with the incorporation of the mitigation measures listed above.

(2) This project incorporates the best management practices for PM10 reduction established by the SJVUAPD (see mitigation measures above).

(3) Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).

(4) The land uses proposed are not in themselves significant contributors to air pollution levels and therefore the primary source of air pollution associated with the development would be traffic related. Since the traffic impacts are within the scope of the MEIR, so are the 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) The proposed project will not produce objectionable odors.

**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:**

There mitigation 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></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>GENERATION OF NOISE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<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>[X]</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>[X]</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>[X]</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</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</td>
</tr>
</tbody>
</table>
Discussion:

(1) The project will not exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the previously approved conditions of approval for the project (City Council Resolution No. 99-339 and Resolution No. 99-626).

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measure N-3 called for by the General Plan for projects within the baseline developed area, has been incorporated.

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 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>EFFECTS ON AGRICULTURAL LANDS</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. 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 General Plan designates the property as Regional Commercial. The adjacent property to the west is designated for professional office and the properties to the east are designated as Regional Commercial.

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 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>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><strong>INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<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>[X]</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>[X]</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>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</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 water proposed development will not exceed estimates or water supplies for needed to serve other entitlements and resources.
3. The proposed project is consistent with the land uses and water demands assumed in the General Plan. The project would not have a significant effect on groundwater 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>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 water supply policies in the Urban Area General Plan.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</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>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</td>
</tr>
<tr>
<td>3) The proposed project will result in a</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</td>
</tr>
</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Determination by the Wastewater Treatment Provider</th>
<th>Less Than 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 Modesto Urban Area General Plan both in land use and intensity.

(2) The project is consistent with the Regional Commercial General Commercial designation and will generate sewer flows within what was anticipated for the project site.

(3) The project was referred to Land Development Engineering Staff who determined there is adequate capacity to accommodate the proposed development in addition to existing commitments.

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 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:

<table>
<thead>
<tr>
<th>Loss of Sensitive Wildlife and Plant Habitat</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 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>
<td>[x]</td>
</tr>
<tr>
<td>2) 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>
<td>[x]</td>
</tr>
<tr>
<td>3) 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>
<td>[x]</td>
</tr>
<tr>
<td>4) 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>
<td>[x]</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>[x]</td>
</tr>
<tr>
<td>6) 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</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[x]</td>
</tr>
</tbody>
</table>
Less Than Significant
Potentially with Less Than Significant Mitigation
Significant Impact Incorporated Impact

<table>
<thead>
<tr>
<th>Conservation plan.</th>
<th></th>
</tr>
</thead>
</table>

Discussion:

(1) The project is consistent with the General Plan policies related to the loss of sensitive wildlife and plant habitat.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e 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.

(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-7-1a through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly effected 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-8-1(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>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>[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>[ ]</td>
<td>[X]</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>[X]</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>[X]</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>[X]</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:

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-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>Significance Criteria</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>INCREASED DEMAND FOR STORM DRAINAGE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<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>[X]</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>[X]</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>[X]</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the storm drain policies in the Urban Area General Plan.

(2) 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."

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>Loss of Sensitive Wildlife and Plant Habitat</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>
<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>[X]</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>[X]</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>[X]</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>[X]</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>[X]</td>
</tr>
</tbody>
</table>
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.

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.

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.

(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 project will not contribute additional water runoff that would exceed the capacity of the storm drainage system or provide substantial additional sources of polluted runoff.

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>INCREASED DEMAND FOR PARKS AND OPEN SPACE</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>

1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.

2) The proposed project would eliminate parks or open space.

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.

Discussion:

(1) The project is consistent with the parks and open space policies in the General Plan.
(2) The project is on a vacant site designated for Regional Commercial development. The project would not eliminate an existing park or designated open space.

(3) The project is designated for Regional Commercial development and would not cause an increase in the use of existing neighborhood and regional parks.

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>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>[X]</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>[X]</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 or the development agreement time extension.

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></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>INCREASED DEMAND FOR POLICE SERVICES</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<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>[X]</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>[X]</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>INCREASED DEMAND FOR FIRE SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</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>
</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>
</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 projection 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></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>GENERATION OF SOLID WASTE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<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>[X]</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>[X]</td>
</tr>
</tbody>
</table>

Discussion:

City of Modesto
General Plan Master EIR
1. The project is consistent with the solid waste policies in the General Plan.

2. This project was referred to the County and 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>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</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</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>2) The proposed project would emit hazardous emissions or handle</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</td>
</tr>
<tr>
<td>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>[X]</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>[X]</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:

<table>
<thead>
<tr>
<th>Geography, Soils, and Mineral 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 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>[X]</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>[X]</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-1B-2 through V-1B-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-1B.8 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>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>[X]</td>
</tr>
<tr>
<td>2) The proposed project would result in energy</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[X]</td>
</tr>
<tr>
<td>Consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.</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>
</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>GENERATION OF HAZARDOUS MATERIALS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Potentially Significant Impact</strong></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.</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>
</tr>
<tr>
<td>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.</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 Stanislaus River is located over two miles from the subject property. 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>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>[X]</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>[X]</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>[X]</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>[X]</td>
</tr>
</tbody>
</table>

Discussion:
(1) The project is consistent with the Regional Commercial land use designation in the General Plan.

(2) The project would not divide an established community. The area to the north of the commercial site is in production as agricultural land while the area to the south of the site is commercial.
(3) The project is consistent 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:
CLIMATE CHANGE

| 1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan. | [ ] | [ ] | [X] | [ ] |
| 2) The proposed project would result in average automobile trip lengths or CO$_2$ emissions higher than those assumed in the Master EIR. | [ ] | [ ] | [X] | [ ] |
| 3) The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32. | [ ] | [ ] | [X] | [ ] |

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 will develop in accordance with climate change policies included in the UAGP and the MIER.

The General Plan designation for the site is Regional Commercial. The proposed development is consistent with the Commercial designation in terms of land-use and intensity. Therefore the proposed Development Agreement to allow business park development is consistent with the 2008 General Plan.

(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 ARB. 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:

None.

Degradation of Air Quality:

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.

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.

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.

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.

AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

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.

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.)

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.

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.

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):

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

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%).

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

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

AQ-55: Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII’s 20 percent (20%) opacity limitation.
AQ-56: Limit the area subject to excavation, grading and other construction activity at any one time.

**Generation of Noise:**

N-3: 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:**

None.

**Increased Demand for Long-Term Water Supplies:**

None.

**Increased Demand for Sanitary Sewer Services:**

None.

**Loss of Sensitive Wildlife and Plant Habitat:**

None.

**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.

City of Modesto
General Plan Master EIR

Initial Study EA No. 2009-27
11-12-09
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:**

None.

**Flooding and Water Quality:**

None.

**Increased Demand for Parks and Open Space:**

None.

**Increased Demand for Schools:**

None.

**Increased Demand for Police Services:**

None.

**Increased Demand for Fire Services:**

None.

**Generation of Solid Waste:**

None.

**Generation of Hazardous Materials:**

None.

**Geology, Soils, and Mineral Resources:**

None.

**Energy:**

None.

**Effects on Visual Resources:**

None.

**Land Use and Planning:**
None.

**Climate Change:**

None.
A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDING SECTION 7-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO MEDIUM DENSITY RESIDENTIAL ZONE, R-2, PROPERTY LOCATED AT 3401 CARVER ROAD. (TLB INVESTMENTS)

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, Robert Braden Consulting on behalf of TLB Investments has proposed that the zoning designation for the property located on the west side of Carver Road south of Standiford Avenue, be amended to rezone from Low Density Residential Zone, (R-1), to Medium Density Residential Zone, (R-2), and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2009-28 ("Initial Study") reviewed the proposed rezone from Low Density Residential Zone, R-1 to Medium Density Residential Zone, R-2 to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and
concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on January 6, 2010 the City caused to be published a 20-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 duly noticed public hearing which was held on January 26, 2010, 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 rezoning from Low Density Residential Zone, R-1 to Medium Density Residential Zone, R-2, 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. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).
4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

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 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2009-28

For the proposed:

P-RZN-09-001
Rezone R-1 to R-2

3401 Carver Road
APN: 054-051-001

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

November 13, 2009
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 **RZN-08-002, Rezone R-1 to P-O** 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: RZN-09-001, Rezone R-1 to R-2

B. Address or Location: West Side of Carver Road South of Standiford Avenue, Modesto, CA 95350

C. Applicant: TLB Investments

D. City Contact Person: Rita Doscher, Associate Planner

Project Manager: Rita Doscher, Associate Planner
Department: Community and Economic Development Department
Phone Number: 209-577-5267
E-mail address: rdoscher@modestogov.com

E. Current General Plan Designation(s): R, Residential

F. Current Zoning Classification(s): R-1, Low Density Residential

G. Surrounding Land Uses:
   North: P-D(451) Standiford Plaza Commercial and Professional offices
   South: P-D(549) R-2, Medium Density Residential Apartments
   East: R-2, Medium Density Residential and P-D(450) Residential Condominiums
   West: R-1, Single Family Residential homes
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

The applicant proposes to rezone the existing 0.51 acre Low Density Residential (R-1) zoned lot into a Medium Density Residential (R-2) lot. The applicant has indicated that the proposed rezoning of the parcel would bring the parcel into conformance and compatibility with the surrounding uses and zones.

I. Other Public Agencies Whose Approval is Required:

None

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 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 proposed project is of a type described in Chapter II of the Master EIR.

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

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

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 proposed project is of a type described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the 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 Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The proposed project is of a type described in Chapter II of the Master EIR.

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

---

*Original signed copy on file with CEDD*

<table>
<thead>
<tr>
<th>Project Manager</th>
<th>Associate Planner</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title</td>
<td>November 13, 2009</td>
<td></td>
</tr>
</tbody>
</table>

City of Modesto

General Plan Master EIR

Initial Study EA No. 2009-28

November 13, 2009
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)</td>
<td>The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.</td>
<td>X</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>
<td>X</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>
<td>X</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>
<td>X</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>
<td>X</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>
<td>X</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></th>
<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>
<td>X</td>
</tr>
</tbody>
</table>
| (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:
   
   (a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified. | X | 
   
   (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. | X | 
   
   (c) Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. | X |
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 new or additional mitigation measures or alternatives are required.

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>TRAFFIC AND CIRCULATION</th>
<th>No Mitigation Needed</th>
<th>Significant Mitigation Needed</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>
</tr>
<tr>
<td>(2) The proposed project would substantially increase hazards due to a design feature, such as sharp curves, or the development of incompatible uses in close proximity to one another.</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>
</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>
</tr>
</tbody>
</table>
The project would conflict with adopted 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.

The proposed project would result in an increase in energy consumption associated with the operation on highway project, rail improvements, and aviation facilities (on a per capita basis) in excess of that considered in the Urban Area General Plan.

Discussion:

The City has reviewed the project and determined that the project is within the scope of the Master EIR and no further traffic study is required.

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 (PM₁₀) and 2.5 microns or less in diameter (PM₂.₅) (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.
Discussion:

The appropriate mitigation to be applied to this project includes AQ-17 from the MEIR. 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-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>DEGRADATION OF AIR QUALITY</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project exceeds the project-level emissions thresholds established for ( \text{CO}, \text{ROG}, \text{NO}<em>x, \text{PM}</em>{10}, \text{and PM}_{2.5} ) 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>
</tr>
<tr>
<td>(2) The proposed project does not incorporate the best management practices established by the SJVAPCD for ( \text{CO}, \text{ROG}, \text{NO}<em>x, \text{PM}</em>{10}, \text{and PM}_{2.5} ).</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>
</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>
</tr>
<tr>
<td>(5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
<td>☒</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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 appropriate mitigation to be applied to this project includes N-4, N-5, N-6, and N-9 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>GENERATION OF NOISE</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</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>No</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>
</tr>
</tbody>
</table>

City of Modesto  
General Plan Master EIR  
11  
Initial Study EA No. 2009-28  
November 13, 2009
(3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.

(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.

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future use.
agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

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>SIGNIFICANT EFFECTS IDENTIFIED IN THE MASTER EIR</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with the Urban Area General Plan’s policies relating to agricultural land. No Additional Mitigation needed Significant Impact with Mitigation</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>
</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>
</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>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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:
There are no mitigation measures applicable to this project.

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>INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</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>(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>
</tr>
</tbody>
</table>

Discussion:
(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.
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:

There are no mitigation measures applicable to this project.

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:
INCREASED DEMAND FOR SANITARY SEWER SERVICES

(1) The proposed project is inconsistent with the policies in the Modesto Urban Area General Plan.
(2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.
(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.

Discussion:
(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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:
There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat.

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:

<table>
<thead>
<tr>
<th>LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) 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>
</tr>
<tr>
<td>(2) 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>
</tr>
<tr>
<td>(3) 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>
</tr>
<tr>
<td>(4) 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>
</tr>
<tr>
<td>(5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
</tr>
<tr>
<td>(6) 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>
</tr>
</tbody>
</table>

Discussion:
(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a R, Residential area which accommodates the type of rezone proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the surrounding zonings of the site. The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.
(2) The project site is located within the Baseline Developed Area of the City and is therefore completely surrounded by developed urban area. It is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e 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.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

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 AH-9 and AH-10 from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:
### DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

<table>
<thead>
<tr>
<th></th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>☒</td>
<td>☐</td>
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<tr>
<td>2</td>
<td>☒</td>
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<td>4</td>
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<td>☐</td>
</tr>
<tr>
<td>5</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

#### Discussion:

1. The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

2. The proposed project would not modify a historic resource, resulting in a substantial adverse change in its significance or would demolish a listed or eligible historic resource. The parcel has an existing residential dwelling, two garages, storage and outbuildings on site.

3. The proposed project would not modify or demolish a structure more than 50 years in age as the project is for the purpose of rezoning the parcel from R-1 to R-2 Zone.

4. The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.

5. The project site is not in the riparian zone.

### 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:

The appropriate mitigation to be applied to this project includes SD-7 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-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>INCREASED DEMAND FOR STORM DRAINAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan. No Additional Mitigation needed.</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. No Significant Impact with Mitigation.</td>
</tr>
</tbody>
</table>
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:

The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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:

The appropriate mitigation to be applied to this project includes FWQ-14 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-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:
LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

(1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.
(2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.
(3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.
(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.
(5) The proposed project does not comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures.
(6) The proposed project would violate water quality standards or waste discharge requirements.
(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.
(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.

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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:
There are no mitigation measures applied to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

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>INCREASED DEMAND FOR PARKS AND OPEN SPACE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.</td>
</tr>
<tr>
<td>(2) The proposed project would eliminate parks or open space.</td>
</tr>
<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>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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:

There are no mitigation measures applicable to this project.

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>INCREASED DEMAND FOR SCHOOLS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(1)</strong> The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.</td>
</tr>
<tr>
<td><strong>(2)</strong> 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>
</tr>
</tbody>
</table>
Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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:

There are no mitigation measures applicable to this project.

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>INCREASED DEMAND FOR POLICE SERVICES</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>
</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</td>
</tr>
</tbody>
</table>

City of Modesto
General Plan Master EIR
Initial Study EA No. 2009-28
November 13, 2009
or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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 are applicable to this project.

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:
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 are applicable to this project.

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>GENERATION OF SOLID WASTE</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</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>
</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>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The proposed project was referred to the City's Solid Waste Division and the County for review, and there was no indication of a problem in serving the 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 are applicable to this project.

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>GENERATION OF HAZARDOUS MATERIALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.</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>
</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>
</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>
</tr>
</tbody>
</table>

Discussion:
(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

(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.

(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 are applicable to this project.

**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:

<table>
<thead>
<tr>
<th>GEOLOGY, SOILS, AND MINERAL RESOURCES</th>
<th>Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</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>
</tr>
<tr>
<td>(2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off 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>
</tr>
</tbody>
</table>
Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

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 are applicable to this project.

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:
ENERGY

(1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.

(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.

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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 are applicable to this project.

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>EFFECTS ON VISUAL RESOURCES</th>
<th>No Additional Mitigation needed</th>
<th>Significant Impact with Mitigation</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>
</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>
</tr>
<tr>
<td>(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.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

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 are applicable to this project.

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>LAND USE AND PLANNING</th>
<th>No Mitigation Needed</th>
<th>Significant Impact with Mitigation</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>
</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>
</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>
</tr>
<tr>
<td>(4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.

(2) The project is infill development which will not divide an established community.

(3) The proposed project does not represent a conflict with any 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.

(4) The proposed project is not subject to any habitat conservation plan or natural community conservation plan.

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 are applicable to this project.

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>CLIMATE CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Significant Impact with Mitigation</strong></td>
</tr>
<tr>
<td><strong>Additional Mitigation needed</strong></td>
</tr>
<tr>
<td><strong>No</strong></td>
</tr>
</tbody>
</table>

1. The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.

2. The proposed project would result in average automobile trip lengths or CO₂ emissions higher than those assumed in the Master EIR.

3. The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.

**Discussion:**

1. The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential Zone to R-2, Medium Density Residential Zone. Rezoning of the parcel is for the purpose of bringing the property into conformance and compatibility with the surrounding uses and zones.
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:**

None

**Degradation of Air Quality:**

None

**Generation of Noise:**

None

**Effects on Agricultural Lands:**

None
Increased Demand for Long-Term Water Supplies:
None

Increased Demand for Sanitary Sewer Services:
None

Loss of Sensitive Wildlife and Plant Habitat:
None

Disturbance of Archaeological/Historic Sites:
None

Increased Demand for Storm Drainage:
None

Flooding and Water Quality:
None

Increased Demand for Parks and Open Space:
None

Increased Demand for Schools:
None

Increased Demand for Police Services:
None

Increased Demand for Fire Services:
None

Generation of Solid Waste:
None

Generation of Hazardous Materials:
None

Geology, Soils, and Mineral Resources:
None
**Energy:**
None

**Effects on Visual Resources:**
None

**Land Use and Planning:**
None

**Climate Change:**
None
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-042

A RESOLUTION ESTABLISHING CITY OF MODESTO COMMUNITY
FACILITIES NO. 2009-1 (KIERNAN BUSINESS PARK EAST), AUTHORIZING
THE LEVY OF SPECIAL TAXES THEREIN AND ESTABLISHING ANNUAL APPROPRIATIONS LIMIT

WHEREAS, on December 14, 2009, pursuant to a petition filed by Chopra Development Enterprises, Inc., a California Corporation (the “Petitioner”) this City Council, by Resolution No. 2009-575, adopted a resolution (the “Resolution of Intention”) stating its intention to form City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the “Community Facilities District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”), and

WHEREAS, a copy of the Resolution of Intention, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference, and

WHEREAS, on December 14, 2009, the City Council, by Resolution No. 2009-575, adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed $40,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed on Appendix A to the Resolution of Intention, and all appurtenances and appurtenant work associated with the foregoing (collectively the “Facilities”) and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including the cost of engineering, planning and designing the facilities, and including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and
replenishment of bond reserve and special reserve funds (the “Incidental Expenses”); all as more fully described in said resolution, and

WHEREAS, notice was published and mailed as required by law relative to the intention of the City to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed $40,000,000, and

WHEREAS, there has been filed with the City Clerk a report containing a description of the facilities and services necessary to meet the needs of the Community Facilities District and an estimate of the cost of such facilities and services as required by Section 53321.5 of the Government Code (the “Report”), and

WHEREAS, the City Council held a public hearing on Tuesday, January 26, 2010, as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special taxes to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions, and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held, and

WHEREAS, at the public hearing evidence was presented to the City Council on the matters before it, and the proposed special taxes to be levied within the Community Facilities District was not precluded by a majority protest of the type described in Government Code Section 53324, and the City Council is sufficiently advised as to all
matters relating to the formation of the Community Facilities District, the levy of the special taxes and the issuance of bonded indebtedness, and

WHEREAS, there have been fewer than twelve (12) registered voters residing in the proposed boundaries of the Community Facilities District for the statutory period, and the qualified electors in the Community Facilities District are the landowners within the Community Facilities District, and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the establishment of the Community Facilities District and to call an election therein to authorize (i) the levy of special taxes pursuant to the rate and method of apportionment of special tax, as set forth in Attachment A hereto, (ii) the issuance of bonds to pay for the Facilities and the Incidental Expenses, and (iii) the establishment of an appropriations limit for the Community Facilities District,

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

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district designated “City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East)” is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the Community Facilities District were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.
SECTION 3. The boundaries of the Community Facilities District and the proposed future annexation areas to the Community Facilities District are established as shown on the map designated “Boundary Map of Proposed City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East),” which map is on file in the office of the City Clerk and, pursuant to Sections 3111 and 3113 of the Streets and Highways Code, was recorded in the Book of Maps of Assessment and Community Facilities Districts in the Office of the County Recorder of Stanislaus County in Book No. 32, at Page 25, as Instrument No. 2009-0120360-00.

Parcels within the future annexation areas shall be annexed to the Community Facilities District only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings.

SECTION 4. The facilities authorized to be provided for the Community Facilities District are those identified as the “Facilities” in the recitals of this resolution and the services authorized to be paid for by the Community Facilities District are those set forth in Appendix A to the Resolution of Intention (the “Services”).

SECTION 5. It is the intention of the City Council, subject to the approval of the qualified electors of the Community Facilities District, to levy the proposed special taxes at the rates set forth in Attachment A hereto on all non-exempt property within the Community Facilities District sufficient to pay for (i) the Services, (ii) the Facilities, (iii) the principal and interest and other periodic costs on the bonds proposed to be issued to finance the Facilities, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity
facility fees and other expenses of the type permitted by Section 53345.3 of the Act; and
(iv) the other Incidental Expenses, including the costs of forming the Community
Facilities District and administering the levy and collection of the special tax and all other
administrative costs of the special tax levy and bond issues. The City expects to incur,
and in certain cases has already incurred, incidental expenses in connection with the
creation of the Community Facilities District, the issuance of bonds, the levying and
collecting of the annual facilities special taxes, the provision of the Services, the
completion and inspection of the Facilities and the annual administration of the bonds
and the Community Facilities District. The rate and method of apportionment of special
tax is described in detail on Attachment A hereto and incorporated herein by this
reference, and the City Council hereby finds that Attachment A contains sufficient detail
to allow each landowner within the Community Facilities District to estimate the
maximum amount that may be levied against each parcel. As described in greater detail
in the Report, which is incorporated by reference herein, the special taxes are based
generally on area of each parcel of real property within the Community Facilities District
(except to the extent that certain single family detached lots may be taxed at the same rate
regardless of land area) and, accordingly, is hereby determined to be reasonable. The
special tax shall be levied on each assessor’s parcel for a period not to extend beyond
fiscal year 2060-61. The special taxes are apportioned to each parcel on the foregoing
basis pursuant to Section 53325.3 of the Act, and such special taxes are not on or based
upon the ownership of real property. Under no circumstances shall the special taxes
against any parcel used for private residential purposes be increased by more than 10% as
a consequence of delinquency or default by the owner of any other parcel or parcels within the Communities Facilities District.

The City's Administrator, Infrastructure Financing Programs, 1010 Tenth Street, Modesto, California 95353, telephone number (209) 577-5211, will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

SECTION 6. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special taxes specified in Attachment A, the City Council shall, on behalf of the Community Facilities District, increase the levy (to the extent necessary and permitted by law and these proceedings) upon the remaining property within the Community Facilities District which is not exempt in order to yield the required debt service payments on any outstanding bonds of the Community Facilities District or to prevent the Community Facilities District from defaulting on any of its other obligations or liabilities. The amount of the special taxes will be set in accordance with the rate and method of apportionment of special tax attached hereto as Attachment A.

SECTION 7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all non-exempt real property in the Community Facilities District, and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the Community Facilities District ceases.
SECTION 8. It is hereby further determined that there will be no ad
valorem property tax levied on property within the Community Facilities District for the
exclusive purpose of paying the principal of or interest on bonds or other indebtedness
incurred to finance the construction of capital facilities which provide the same services
to the territory of the Community Facilities District as are proposed to be provided by the
Facilities to be financed by the Community Facilities District.

SECTION 9. The City may accept advances of funds or work-in-kind
from any source, including, but not limited to, the Petitioner and other private persons or
private entities, for any authorized purpose, including, but not limited to, paying any cost
incurred by it in creating the Community Facilities District. The City may enter into an
agreement with the person or entity advancing the funds or work-in-kind, to repay all or a
portion of the funds advanced, or to reimburse the person or entity for the value, or cost,
whichever is less, of the work-in-kind, as determined by the City, with or without
interest.

SECTION 10. Written protests against the establishment of the
Community Facilities District have not been filed by one-half or more registered voters
within the boundaries of the Community Facilities District or by the property owners of
one-half (1/2) or more of the area of land within the Community Facilities District. The
City Council hereby finds that the proposed special taxes have not been precluded by a
majority protest pursuant to Section 53324 of the Act.

SECTION 11. The annual appropriations limit (as defined in Section 8(h)
of Article XIII B of the California Constitution) of the Community Facilities District is
hereby established at $40,000,000.
SECTION 12. An election is hereby called for the Community Facilities District on the propositions of levying the special taxes on the property within the Community Facilities District and establishing the appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness, pursuant to Section 53351 of the Act. The language of the proposition to be placed on the ballot is **attached** hereto as Attachment B.

SECTION 13. The date of the election for the Community Facilities District on the proposition of incurring the bonded indebtedness, authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be January 26, 2010. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

The City Council having found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above, pursuant to Section 53326 of the Government Code each landowner who is the owner of record on the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.

SECTION 14. The preparation of the Report is hereby ratified. The Report, as submitted, is hereby approved and is made a part of the record of the public
hearing regarding the formation of the Community Facilities District, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
ATTACHMENT A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2009-1(Kiernan Business Park East) [herein “CFD No. 2009-1” or the “CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2009-1, unless exempted by law or by the provisions of Section H below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2009-1 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable Final Map or other Development Plan.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2009-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

“Annual Facilities Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

“Annual Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year to: (i) pay principal and interest on Bonds; (ii) pay Administrative Expenses that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year; (iii) create or replenish reserve funds; (iv) cure any delinquencies in the payment of principal
or interest on indebtedness of CFD No. 2009-1 which have occurred in the prior Fiscal Year
or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have
already taken place) are expected to occur in the Fiscal Year in which the tax will be
collected; and (v) construct or acquire Authorized Facilities. The amounts referred to in
clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest
earnings on or surplus balances in funds and accounts for the Bonds to the extent that such
earnings or balances are available to apply against debt service pursuant to a Bond indenture,
Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by
CFD No. 2009-1 from the collection of penalties associated with delinquent Annual Facilities
Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as
determined by the Administrator.

“Annual Maintenance Special Tax” means a special tax levied in any Fiscal Year to pay the
Annual Maintenance Special Tax Requirement, as defined below.

“Annual Maintenance Special Tax Requirement” means that amount necessary in any
Fiscal Year to: (i) pay for Authorized Services; (ii) pay Administrative Expenses that have not
been included in the Annual Facilities Special Tax Requirement for the Fiscal Year; (iii) cure
any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal
Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which
have already taken place) are expected to occur in the current Fiscal Year; and (iv) pay debt
service on Bonds to the extent permitted in the Bond documents.

“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map
with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels
by Assessor’s Parcel number.

“Authorized Facilities” means those facilities that are authorized to be funded by CFD No.
2009-1.

“Authorized Services” means those services that are authorized to be funded by CFD No.
2009-1.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series,
issued, insured, or assumed by CFD No. 2009-1 related to Authorized Facilities.

“Business Park Property” means any Parcel of Developed Property for which a building
permit was issued for construction of a building that will be a part of a campus-like
environment for office, light production, or warehouse uses in high quality single- or
multiple-occupant buildings. Business Park Property may include development focused
primarily on research, product development, professional office, or limited manufacturing and
distribution land uses, as determined by the Administrator using reasonable and established
City zoning and other land use standards.
“Capitalized Interest” means funds in any capitalized interest account available to pay debt service on Bonds.

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2009-1 was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2009-1.

“County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:

- for Single Family Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year,
- for Multi-Family Property and Non-Residential Property, all Parcels for which a building permit for construction, reconstruction, or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Multi-Family Property and Non-Residential Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:

- for Single Family Property, all Parcels for which a building permit for construction of a Unit was issued prior to June 30 of the preceding Fiscal Year,
- for Multi-Family Property and Non-Residential Property, all Parcels for which a building permit for construction, reconstruction, or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Multi-Family Property and Non-Residential Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

“Development Plan” means an apartment plan, site plan, or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Multi-Family Property.
“Expected Land Uses” means the Units of Single Family Property, Acres of Multi-Family Property, and Acres of Non-Residential Property expected to be developed within CFD No. 2009-1 at the time of CFD Formation.

“Expected Maximum Annual Facilities Special Tax Revenues” means the amount of annual revenue, conservatively estimated by the Administrator, that would be available from Expected Land Uses if the Maximum Annual Facilities Special Tax was levied. The Expected Maximum Annual Facilities Special Tax Revenues at the time of CFD Formation is shown in Attachment 1.

“Final Map” means a final map, parcel map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Hotel Property” means any Parcel of Developed Property for which a building permit was issued for construction of a non-residential structure that constitutes a place of lodging providing sleeping accommodations and related facilities for travelers, as determined by the Administrator using reasonable and established City zoning and other land use standards.

“Land Use Class” means one of the seven mutually-exclusive land use classes of Developed Property identified in Table 1 in Section C below and defined in this Section A. The City shall, in its sole discretion, determine the appropriate Land Use Class for Parcels on which a structure was built prior to CFD Formation.

“Maximum Annual Facilities Special Tax” means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum Annual Maintenance Special Tax” means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum One-Time Facilities Special Tax” means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum Special Taxes” means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

“Multi-Family Property” means any Parcel of Developed Property for which a building permit was issued for construction of a residential structure consisting of apartment Units, as
determined by the Administrator using reasonable and established City zoning and other land use standards.

"Net Taxable Acreage" or "Net Taxable Acre" means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by a subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"Non-Residential Property" means, collectively, Business Park Property, Office Property, Retail Property, Hotel Property, and Other Property.

"Office Property" means any Parcel of Developed Property for which a building permit was issued for construction of a building that will be divided primarily into individual offices (including cubicles or other modular office space) for use by companies to conduct business, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"One-Time Facilities Special Tax" means a Special Tax levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"One-Time Facilities Special Tax Requirement" means the amount determined by the City that is needed to pay facility costs authorized to be funded by CFD No. 2009-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

"Other Property" means any Parcel of Developed Property for which a building permit was issued for construction of a non-residential structure that is not Business Park Property, Office Property, Retail Property, or Hotel Property.

"Proportionately" means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year, respectively, is equal for all Assessor's Parcels of Developed Property. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax, respectively, is equal for all Assessor's Parcels of Undeveloped Property.
“Public Property” means any property within the boundaries of CFD No. 2009-1 that is owned by the federal government, State of California, County, City, or other public agency.

“Retail Property” means any Parcel of Developed Property for which a building permit was issued for construction of a building that will include primarily commercial establishments which sell general merchandise, hard goods, personal services, and other items directly to consumers, including but not limited to travel agencies, hardware stores, food stores, automotive dealers, service stations, home furnishing stores, restaurants, bars, banks, repair shops, movie theaters, day care centers, and art galleries, as determined by the Administrator using reasonable and established City zoning and other land use standards.

“Single Family Attached Property” means any Parcel of Developed Property for which a building permit was issued (for purposes of levying the Annual Facilities Special Tax) or will be issued (for purposes of levying the Annual Maintenance Special Tax) for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor’s Parcel numbers assigned to them, and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

“Single Family Detached Property” means any Parcel of Developed Property for which a building permit was issued (for purposes of levying the Annual Facilities Special Tax) or will be issued (for purposes of levying the Annual Maintenance Special Tax) for construction of a Unit that does not share a common wall with another Unit.


“Special Taxes” means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

“Square Foot,” “Square Footage,” or “Square Feet” means the floor area square footage reflected on the original construction building permit issued for construction of a building of Non-Residential Property and any Square Footage subsequently added to a building of such Taxable Property after issuance of a building permit for expansion or renovation of such building.

“Subdivision Map” means a Final Map, Development Plan, large lot subdivision map, tentative map, or other map recorded with the County and/or approved by the City that results in the subdivision of a Parcel or a change in the quantity or type of proposed land uses.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2009-1 which are not exempt from the Special Tax pursuant to law or Section H below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2009-1 that: (i) based on a tentative map or other Subdivision Map, were expected to be Taxable Property; and (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year. However, if Parcels designated as Public
Property based on a tentative map or other Subdivision Map are relocated, the new Public Property will again become exempt. If such relocation occurs, the Acreage previously designated as Public Property will become Taxable Property and the Acreage that becomes Public Property will not be taxed. This trading of Acres of Public Property will be permitted to the extent that there is no net loss in Maximum Special Tax revenues.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2009-1 that are not Developed Property.

"Unit" means: (i) for Single Family Property, an individual single-family unit; and (ii) for Multi- Family Property, an individual unit within an apartment structure.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property; (ii) for Developed Property, which Parcels are Single Family Property, Multi-Family Property, and Non-Residential Property; (iii) the Acreage and number of Units for each Parcel of Multi-Family Property; (iv) the Acreage and Square Footage of each Parcel of Non-Residential Property, and (v) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement. In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in CFD No. 2009-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Final Map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map.

C. CALCULATING MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2009-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

1. Maximum Special Taxes

The Maximum Special Taxes set forth in Table 1 below shall be used for purposes of calculating the Maximum Special Taxes for all Parcels of Taxable Property. The Maximum Special Tax for any Parcel of Developed Property shall be the per-Unit, per Square Foot, or per-Net Taxable Acre amount that produces the greatest Special Tax revenue.
<table>
<thead>
<tr>
<th>Land Use Class</th>
<th>Maximum One-Time Facilities Special Tax</th>
<th>Maximum Annual Facilities Special Tax</th>
<th>Maximum Annual Maintenance Special Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Per Unit or Per Square Foot</td>
<td>Per Unit or Per Square Foot</td>
<td>Per Unit or Per Square Foot</td>
</tr>
<tr>
<td></td>
<td>Per Net Taxable Acre</td>
<td>Per Net Taxable Acre</td>
<td>Per Net Taxable Acre</td>
</tr>
<tr>
<td>Single Family Property</td>
<td>$14,634 per Unit</td>
<td>$1,312 per Unit</td>
<td>$297 per Unit</td>
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<tr>
<td></td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Multi-Family Property</td>
<td>$0 per Unit</td>
<td>$586 per Unit</td>
<td>$218 per Unit</td>
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<tr>
<td></td>
<td>$0</td>
<td>$14,206</td>
<td>$5,283</td>
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<tr>
<td>Business Park Property</td>
<td>$14.00 per Square Foot</td>
<td>$0.36 per Square Foot</td>
<td>$0.07 per Square Foot</td>
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<tr>
<td></td>
<td>$243,850</td>
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<td>Office Property</td>
<td>$21.54 per Square Foot</td>
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<td>$0.03 per Square Foot</td>
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<tr>
<td></td>
<td>$833,836</td>
<td>$18,579</td>
<td>$1,209</td>
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<tr>
<td>Retail Property</td>
<td>$22.52 per Square Foot</td>
<td>$0.54 per Square Foot</td>
<td>$0.03 per Square Foot</td>
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<tr>
<td></td>
<td>$873,208</td>
<td>$20,940</td>
<td>$1,209</td>
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<td>Hotel Property</td>
<td>$13.64 per Square Foot</td>
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<td>$18,220</td>
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<tr>
<td>Other Property</td>
<td>$22.52 per Square Foot</td>
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<tr>
<td></td>
<td>$873,208</td>
<td>$20,940</td>
<td>$1,209</td>
</tr>
<tr>
<td>Undeveloped Property</td>
<td>N/A</td>
<td>N/A</td>
<td>$5,283</td>
</tr>
</tbody>
</table>

*All Maximum Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below. N/A means not applicable.*

2. **Multiple Land Use Classes on an Assessor’s Parcel**

In some instances an Assessor’s Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Taxes levied on and Assessor’s Parcel shall be the sum of the Maximum Special Taxes for all Units of Single Family Property and the Maximum Special Taxes calculated for Multi-Family Property and Non-Residential Property (based on the applicable Final Map.)
parcel map, Development Plan, condominium plan, or other recorded County map) located on that Assessor’s Parcel.

D. **ESCALATION OF MAXIMUM SPECIAL TAXES**

1. **One-Time Facilities Special Tax**

   Beginning in January 2010 and each January thereafter, the Maximum One-Time Facilities Special Taxes shown in Table 1 shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. **Annual Facilities Special Tax**

   Beginning with Fiscal Year 2010-11, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Taxes shown in Table 1 shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

3. **Annual Maintenance Special Tax**

   Beginning in January 2010 and each January thereafter, the Maximum Annual Maintenance Special Taxes shown in Table 1 shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. **BACK-UP FORMULA**

Each time a new or revised Subdivision Map (“Land Use/Entitlement Change”) is proposed any time after the City has issued Bonds, the Administrator shall recalculate the Expected Maximum Annual Facilities Special Tax Revenues based on the proposed Land Use/Entitlement Change. If the proposed Land Use/Entitlement Change will reduce debt service coverage on outstanding Bonds below the amount committed to in the Bond documents, then, before approval of the Land Use/Entitlement Change, the landowner requesting the Land Use/Entitlement Change shall prepay to the City an amount that corresponds to the lost Maximum Annual Facilities Special Tax revenue, as determined by applying the steps set forth in Section I below to prepay the Annual Facilities Special Tax. Any such prepayment shall be used by the City to call Bonds.
F. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax
   The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2009-1 and shall be collected as set forth in Section G below.

2. Annual Facilities Special Tax
   Commencing with Fiscal Year 2010-11 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property in CFD No. 2009-1 as follows:

   **Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Developed Property is equal to the Annual Facilities Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts;

   **Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

   **Step 3:** If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

3. Annual Maintenance Special Tax
   Commencing with Fiscal Year 2010-11 and for each following Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

   **Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;
Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

G. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2009-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2009-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that prepayments are permitted as set forth in Section I below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all Administrative Expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2060-2061. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services of the CFD and all Administrative Expenses have been reimbursed. Under no circumstances may the Annual Facilities Special Tax on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Annual Facilities Special Tax levied on another Parcel or Parcels in the CFD.

H. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein. Special Taxes shall not be levied on Parcels that are owned by a public utility for an unmanned facility or on Parcels that are subject to an easement that precludes any other use on the Parcels.
I. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section I:

“Outstanding Bonds” means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

“Previously Issued Bonds” means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

“Public Facilities Requirements” means either $6,500,000 in 2009 dollars, which shall increase on January 1, 2010, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund Authorized Facilities. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2009-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

“Remaining Facilities Costs” means the Public Facilities Requirements (as defined above), minus costs of Authorized Facilities funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor’s Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows (capitalized terms as defined below):
Bond Redemption Amount
plus Remaining Facilities Amount
plus Redemption Premium
plus Defeasance Requirement
plus Administrative Fees and Expenses
less Reserve Fund Credit
equals Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

Step 1. Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor’s Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.

Step 2. Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD in the Fiscal Year in which the prepayment would be received by the City.

Step 3. Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").

Step 4. Compute the current Remaining Facilities Costs (if any).

Step 5. Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the "Remaining Facilities Amount").

Step 6. Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").

Step 7. Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.

Step 8. Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after
which the prepayment has been received until the redemption date for the Outstanding Bonds.

Step 9: Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "Defeasance Requirement").

Step 10. Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").

Step 11. If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit").

Step 12. The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "Prepayment Amount").

J. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

K. ENFORCEMENT

All delinquent Annual Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes, billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
## Expected Land Uses and Expected Maximum Annual Facilities Special Tax Revenues

<table>
<thead>
<tr>
<th>Land Use Class</th>
<th>Expected Number of Units/Acres</th>
<th>Maximum Annual Facilities Special Tax per Unit/Acre FY 2009-10 [1]</th>
<th>Expected Maximum Annual Facilities Special Tax Revenues FY 2009-10 [1]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Property</td>
<td>262 Units</td>
<td>$1,312 per Unit</td>
<td>$343,740</td>
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<td>Multi-Family Property</td>
<td>3.3 Acres</td>
<td>$14,206 per Acre</td>
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<td>Business Park Property [2]</td>
<td>0.0 Acres</td>
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<tr>
<td>Office Property</td>
<td>2.3 Acres</td>
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<tr>
<td>Retail Property</td>
<td>9.3 Acres</td>
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<tr>
<td>Hotel Property</td>
<td>4.4 Acres</td>
<td>$18,220 per Acre</td>
<td>$79,900</td>
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**Expected Maximum Annual Facilities Special Tax Revenues at CFD Formation $708,120**

(Fiscal Year 2009-10 $)

[1] On July 1, 2010, and each July 1 thereafter, the Maximum Annual Facilities Special Tax and Expected Maximum Annual Facilities Special Tax Revenues shall be increased by two percent (2%) of the amount in effect in the previous Fiscal Year. Revenues may not be exact due to rounding.

[2] All Business Park Property is expected to annex to CFD No. 2009-1 after CFD Formation. At such time as annexations occur, the Administrator shall update this Attachment 1 to reflect the expected Acreage and Expected Maximum Annual Facilities Tax Revenues associated with the annexed property.
ATTACHMENT B

BALLOT PROPOSITION

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)
ATTACHMENT B

BALLOT PROPOSITION

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

SPECIAL ELECTION

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the “Community Facilities District”) incur an indebtedness and issue bonds in the maximum aggregate principal amount of $40,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system, transportation, landscaping and lighting system improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the “Resolution of Formation”), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied for the purposes, among others, of paying (i) the principal of and interest on such bonds, (ii) certain administrative expenses and (iii) the cost of maintaining parkways, landscaped medians, bike paths, well sites, storm drainage pumps and basins, and related facilities, and shall the annual appropriations limit of Community Facilities District No. 2009-1 (Kiernan Business Park East) be established in the amount of $40,000,000?

YES______

NO______
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-043

A RESOLUTION CALLING A SPECIAL ELECTION FOR THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

WHEREAS, on this date, this City Council adopted a resolution entitled “A Resolution Establishing City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East), Authorizing the Levy of Special Taxes Therein and Establishing an Annual Appropriations Limit” (the “Resolution of Formation”), which established the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the “Community Facilities District”), authorized the levy of special taxes therein, and established an annual appropriations limit, and

WHEREAS, on this date, the City Council, acting as the legislative body of the Community Facilities District, also adopted a resolution entitled “A Resolution Determining it Necessary to Incur Bonded Indebtedness Within the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East),” which declared the necessity to incur bonded indebtedness in the maximum amount of $40,000,000, and

WHEREAS, pursuant to the provisions of said resolutions, propositions to authorize the levy of special taxes within the Community Facilities District, to establish an appropriations limit of the Community Facilities District and to authorize the incurring of bonded indebtedness are to be submitted to the qualified electors of the Community Facilities District as required by the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities
District No. 2009-1 (Kiernan Business Park East), hereby finds and determines as follows:

SECTION 1. Pursuant to the Act the propositions to authorize the levy of special taxes within the Community Facilities District, establish an appropriations limit of the Community Facilities District and authorize the incurring of a bonded indebtedness shall be combined into one ballot proposition and submitted to the qualified electors of the Community Facilities District as provided herein.

SECTION 2. The City Council has heretofore found that fewer than twelve persons have been registered to vote within the territory of the Community Facilities District for the ninety days preceding the close of the public hearing heretofore held by the City Council for the purposes of these proceedings. Accordingly, the vote shall be by the land owners of the Community Facilities District, and each owner of record at the close of such public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District.

SECTION 3. The date of the election shall be January 26, 2010, and the City Clerk shall conduct the election. The election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable. The voted ballots shall be returned to the City Clerk not later than 5:30 p.m. on January 26, 2010; provided that if all of the qualified electors have voted prior to such time, the election may be closed by the City Clerk.
SECTION 4. The form of the ballot for the election is **attached** hereto as Exhibit A and by this reference incorporated herein. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective elector based upon the number of acres of land owned by such elector as set forth above. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the postage prepaid and shall contain (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the elector is the owner of record, or the authorized representative thereof, and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the elector, (d) the date of signing and place of execution of the declaration described above and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board. Analysis and arguments with respect to the ballot proposition are hereby waived.

SECTION 5. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk to and including 5:30 p.m. on January 26, 2010, whether said ballots shall be personally delivered or received by mail.

SECTION 6. There is on file with the City Clerk a written instrument executed by each qualified elector of the Community Facilities District requesting a shortening of the time for the special election in order to expedite the process of formation of the Community Facilities District and waiving any requirement for analysis and arguments in connection therewith.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 26th day of January, 2010, by Councilmember Marsh,
who moved its adoption, which motion being duly seconded by Councilmember Geer,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

OFFICIAL BALLOT

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

January 26, 2010

SPECIAL ELECTION

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Modesto no later than 5:30 p.m. on January 26, 2010, either by mail or in person. The City Clerk’s offices are located at 1010 Tenth Street, Modesto, California 95353.

INSTRUCTIONS TO VOTERS:

To vote on the measure, make a “+”, “x” or other distinguishing mark on the line after the word “Yes” or on the line after the word “No.” If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the “Community Facilities District”) incur an indebtedness and issue bonds in the maximum aggregate principal amount of $40,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system, transportation, landscaping and lighting system improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the “Resolution of Formation”), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied for the purposes, among others, of paying (i) the principal of and interest on such bonds, (ii) certain administrative expenses and (iii) the cost of maintaining parkways, landscaped medians, bike paths, well sites, storm drainage pumps and basins, and related facilities, and shall the annual appropriations limit of Community Facilities District No. 2009-1 (Kiernan Business Park East) be established in the amount of $40,000,000?

YES______  
NO______
MODESTO CITY COUNCIL  
RESOLUTION NO. 2010-044  

A RESOLUTION DECLARING THE RESULTS OF THE JANUARY 26, 2010, SPECIAL ELECTION AND APPROVING CERTAIN RELATED ACTIONS PERTAINING TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)  

WHEREAS, this City Council, acting as the legislative body of the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the “Community Facilities District”), called and duly held an election of the Community Facilities District pursuant to resolutions adopted by the City Council on January 26, 2010, for the purpose of presenting to the qualified electors within the Community Facilities District a proposition (the “Proposition”) for (a) the authorization of bonds in a principal amount not to exceed $40,000,000, (b) the levy of special taxes in accordance with the rate and method of apportionment of special tax set forth in the resolution forming the Community Facilities District and (c) the establishment of an appropriations limit for the Community Facilities District, and  

WHEREAS, there has been presented to the City Council a Certificate of the City Clerk as to the Results of the Canvass of the Election Returns, a copy of which is attached hereto as Attachment “A”,  

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East), hereby finds and determines as follows:  

SECTION 1. The above recitals are true and correct.  

SECTION 2. Two-thirds or more of the votes cast by the qualified electors of the Community Facilities District at the special election held on January 26,
2010, on the Proposition were cast in favor of the Proposition, and the Proposition carried. The City Council, acting as the legislative body of the Community Facilities District, is hereby authorized to issue, from time to time as it determines appropriate, bonds for the benefit of the Community Facilities District for the purposes set forth in the Proposition and to take the necessary steps to levy the special taxes authorized by the Proposition.

SECTION 3. The City Clerk is hereby authorized and directed to execute and cause to be recorded in the office of the County Recorder of Stanislaus County a notice of special tax lien in the form required by law, said recording to occur no later than fifteen days following adoption of this Resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
ATTACHMENT “A”

CERTIFICATE OF CITY CLERK
AS TO RESULTS OF THE CANVAS OF ELECTION RETURNS

STATE OF CALIFORNIA )

) ss.

COUNTY OF STANISLAUS )

As City Clerk of the City of Modesto, I do hereby certify that I have examined the returns of the special election for City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the “Community Facilities District”). With my concurrence, the election was conducted on January 26, 2010. On or prior to said date I had mailed or personally delivered a ballot to the landowner listed on the latest equalized assessment roll prepared by the Stanislaus County Assessor prior to January 26, 2010, or otherwise known by me to own the property within the boundaries of the Community Facilities District. The landowner was given one vote for each acre, or portion thereof, that the landowner owns within the Community Facilities District.

I further certify that the results of said election and the number of votes cast for and against the Proposition are as follows:

YES: __

NO: __

TOTAL NUMBER OF VOTES CAST: ___

Dated this 26th day of January, 2010.

Stephanie Lopez,
City Clerk of the City of Modesto
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-045

A RESOLUTION DETERMINING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST) (THE "COMMUNITY FACILITIES DISTRICT") PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, AS AMENDED (THE "ACT"), AND

WHEREAS, on December 14, 2009, pursuant to a petition filed by Chopra Development Enterprises, Inc., a California Corporation, this City Council adopted Resolution No. 2009-576 (the "Resolution of Intention to Establish") stating its intention to establish the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), and

WHEREAS, a copy of said resolution, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference, and

WHEREAS, on December 14, 2009, the City Council also adopted Resolution No. 2009-577 stating its intention to incur bonded indebtedness in an amount not to exceed $40,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A to the Resolution of Intention to Establish, and all appurtenances and appurtenant work associated therewith (collectively the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including (a) the cost of engineering, planning and designing the Facilities; (b) all costs incurred in connection with financing the Facilities, and (c) all costs associated with the creation of the Community Facilities
District, the issuance of bonds by the Community Facilities District, the establishment and replenishment of bond reserve and special reserve funds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District and administering the Community Facilities District (collectively, the “Incidental Expenses”), all as more fully described in said resolution, and

WHEREAS, notice was published and mailed as required by law relative to the intention of the City Council to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed $40,000,000 within the boundaries of the Community Facilities District, and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special tax to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions, and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held, and

WHEREAS, the City Council desires to make the necessary findings to incur bonded indebtedness within the Community Facilities District, to declare the purpose for such indebtedness, and to authorize the submittal of a combined ballot proposition to the
qualified electors of the Community Facilities District, being the land owners within the
Community Facilities District, all as authorized and required by law,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto, acting as the legislative body of the City of Modesto Community Facilities
District No. 2009-1 (Kiernan Business Park East), hereby finds and determines as
follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. In order to finance the Facilities and Incidental Expenses, it
is necessary to incur bonded indebtedness in a maximum aggregate principal amount not
to exceed $40,000,000 within the Community Facilities District.

SECTION 3. The aforesaid bonded indebtedness is to be incurred for the
purpose of financing the costs of purchasing, constructing, expanding, improving or
rehabilitating the Facilities and financing the Incidental Expenses.

SECTION 4. All of the property within the Community Facilities
District, as established pursuant to the Resolution of Formation, with the exception of
property exempted from the special tax pursuant to the provisions of the rate and method
of apportionment of special tax attached to the Resolution of Formation, shall pay for the
bonded indebtedness pursuant to the levy of the special tax authorized by the Resolution
of Formation.

SECTION 5. The maximum term of the bonds to be issued shall in no
event exceed 40 years; and the bonds shall bear interest at rates (not in excess of the
maximum rate permitted by law) determined at the time of sale thereof.
SECTION 6. An election is hereby called for the Community Facilities District on the proposition of incurring bonded indebtedness pursuant to Section 53351 of the Act and shall be consolidated with the election on the propositions of levying the special taxes on the property within the Community Facilities District and establishing an appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act. The language of the proposition to be placed on the ballot is attached hereto as Attachment A.

SECTION 7. The date of the election for the Community Facilities District on the proposition of incurring the bonded indebtedness, authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be January 26, 2010. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

It is hereby found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above; and, pursuant to Section 53326 of the Government Code, each landowner who is the owner of record on the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney

01/26/2010/C&ED/TRocha/Item 24 1 2010-045
ATTACHMENT A

BALLOT PROPOSITION

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

SPECIAL ELECTION

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the “Community Facilities District”) incur an indebtedness and issue bonds in the maximum aggregate principal amount of $40,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilititating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system, transportation, landscaping and lighting system improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the “Resolution of Formation”), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied for the purposes, among others, of paying (i) the principal of and interest on such bonds, (ii) certain administrative expenses and (iii) the cost of maintaining parkways, landscaped medians, bike paths, well sites, storm drainage pumps and basins, and related facilities, and shall the annual appropriations limit of Community Facilities District No. 2009-1 (Kiernan Business Park East) be established in the amount of $40,000,000?

YES______

NO______
RESOLUTION APPROVING AN APPLICATION FOR $3,174,344 IN PROPOSITION 1B PHASE II FUNDS FROM THE STATE OF CALIFORNIA FOR LOCAL STREET AND ROAD PROJECTS

WHEREAS, Proposition 1B (Prop 1B) provides $19.925 billion in bond funds for a variety of transportation priorities, including $2 billion for cities and counties to fund the maintenance and improvement of local transportation facilities, and

WHEREAS, funds were to be distributed in two phases, and

WHEREAS, in 2008, the City was eligible for and received $3,364,421 for Phase I funding based on population, and

WHEREAS, the City is now eligible to receive $3,174,344 in Phase II funding, and

WHEREAS, each city must submit a list of projects, expected to be funded with Prop 1B funds to the State of California, Department of Finance, before an allocation is made, and

WHEREAS, the street and road paving list submitted to the State of California, Department of Finance, is flexible and substitutions are allowed to respond to local priorities, and

WHEREAS, the list of projects must include the following:

- A description and location of the proposed project
- A proposed schedule for the project’s completion
- The estimated useful life of the Capital Improvement

WHEREAS, for eligibility, all projects included on the project list submitted to the State of California, Department of Finance, must also be included in the City’s budget that has been adopted by the Council at a regular public meeting, and
WHEREAS, the Proposition 1B Implementation Plan has a three-year, use-it-or-lose-it stipulation, which means all Proposition 1B Local Streets and Roads Account funds appropriated in FY 2009-10 must be expended by June 30, 2013, and

WHEREAS, cities can use Proposition 1B funds immediately for improvements to local transportation facilities that will repair and rehabilitate local streets and roads, reduce local traffic congestion, improve traffic flow, or increased traffic safety,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the submittal of an application for $3,174,344 in Proposition 1B Phase II funds from the State of California for the local street and road improvement projects shown on Attachment 1.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of January, 2010 by Councilmember Marsh, who moved its adoption, which motion be duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: 

ABSENT: Councilmembers: 

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
### Proposition 1B - Phase II
Local Streets and Roads Paving Project
Fiscal Years 10-11, 11-12, 12-13

<table>
<thead>
<tr>
<th>Street</th>
<th>From</th>
<th>To</th>
<th>Width</th>
<th>Length</th>
<th>Sq. Ft.</th>
<th>Est. Cost</th>
<th>Ln. Miles</th>
<th>Marking</th>
<th>Loops</th>
<th>Total</th>
<th>Completion Date</th>
<th>Useful Life</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuolumne Blvd.</td>
<td>W/ of Neece Dr.</td>
<td>E/ of Roselawn</td>
<td>68</td>
<td>1,586</td>
<td>107,848</td>
<td>469,139</td>
<td>1.50</td>
<td>4,800</td>
<td>5,850</td>
<td>479,789</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Major Project</td>
</tr>
<tr>
<td>Kansas Ave.</td>
<td>W/ of Carpenter Rd</td>
<td>Rosemore Ave.</td>
<td>30</td>
<td>2,750</td>
<td>82,500</td>
<td>358,875</td>
<td>1.04</td>
<td>2,400</td>
<td>4,550</td>
<td>365,825</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Maintenance</td>
</tr>
<tr>
<td>Needham Ave.</td>
<td>E/ of College Ave.</td>
<td>W/ of L Street</td>
<td>61</td>
<td>2,324</td>
<td>141,764</td>
<td>616,673</td>
<td>1.32</td>
<td>7,200</td>
<td>18,200</td>
<td>642,073</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Major Project</td>
</tr>
<tr>
<td>B Street</td>
<td>E/ of 9th Street</td>
<td>W/ of 12th Street</td>
<td>42</td>
<td>1,092</td>
<td>45,864</td>
<td>199,508</td>
<td>1.03</td>
<td>4,800</td>
<td>4,550</td>
<td>208,858</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Maintenance</td>
</tr>
<tr>
<td>Kingswood Dr.</td>
<td>N/ of Sylvan Ave.</td>
<td>W/ of Forrest Glen Dr.</td>
<td>37</td>
<td>627</td>
<td>23,199</td>
<td>71,917</td>
<td>0.36</td>
<td>0</td>
<td>0</td>
<td>71,917</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Maintenance</td>
</tr>
<tr>
<td>Forest Glen Dr.</td>
<td>N/ of Sylvan Ave.</td>
<td>S/ of Sylvan Meadows</td>
<td>37</td>
<td>1,228</td>
<td>45,436</td>
<td>140,852</td>
<td>0.70</td>
<td>0</td>
<td>0</td>
<td>140,852</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Maintenance</td>
</tr>
<tr>
<td>San Juan</td>
<td>N/ of Yosemite</td>
<td>S/ of Miller Ave.</td>
<td>37</td>
<td>550</td>
<td>20,350</td>
<td>63,085</td>
<td>0.21</td>
<td>0</td>
<td>3,250</td>
<td>66,335</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Maintenance</td>
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<tr>
<td>Penny Ln.</td>
<td>Pirinen</td>
<td>170' to the West</td>
<td>34</td>
<td>170</td>
<td>5,760</td>
<td>17,918</td>
<td>0.06</td>
<td>0</td>
<td>0</td>
<td>17,918</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Maintenance</td>
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<tr>
<td>Oakdale Rd.</td>
<td>N/ of Scenic Dr</td>
<td>S/ of Wylie Dr.</td>
<td>67</td>
<td>1,776</td>
<td>118,692</td>
<td>517,815</td>
<td>2.02</td>
<td>7,200</td>
<td>28,600</td>
<td>553,415</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Major Project</td>
</tr>
<tr>
<td>Semple St.</td>
<td>N/ of Jones St.</td>
<td>S/ of Morris Ave.</td>
<td>27</td>
<td>1,590</td>
<td>42,930</td>
<td>133,083</td>
<td>0.60</td>
<td>0</td>
<td>0</td>
<td>133,083</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Maintenance</td>
</tr>
<tr>
<td>East Rumble Rd</td>
<td>E/ of Coffee Rd.</td>
<td>W/ of Keller st.</td>
<td>37</td>
<td>1,642</td>
<td>60,754</td>
<td>188,337</td>
<td>0.62</td>
<td>2,400</td>
<td>3,900</td>
<td>194,637</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Maintenance</td>
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<td>Whitmore Ave.</td>
<td>W/ of Tucson</td>
<td>To end of city limit</td>
<td>14</td>
<td>3,750</td>
<td>52,500</td>
<td>228,375</td>
<td>1.42</td>
<td>4,800</td>
<td>0</td>
<td>233,175</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Maintenance</td>
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<tr>
<td>G Street</td>
<td>E/ of 9th Street</td>
<td>W/ of Burney</td>
<td>47</td>
<td>3,424</td>
<td>160,928</td>
<td>700,037</td>
<td>1.95</td>
<td>12,000</td>
<td>23,400</td>
<td>735,437</td>
<td>6/30/2013</td>
<td>15 Yrs</td>
<td>Major Project</td>
</tr>
</tbody>
</table>

**Total Phase 2**

|                        |                   |                     | 1,043,445 | 4,122,675 | 15.38 | 50,400 | 106,600 | 4,279,675 |
MODESTO CITY COUNCIL
RESOLUTION NO. 2010-047

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET, ACCOUNT NO. 0700-160-E004 TO INCLUDE $3.17 MILLION IN PROPOSITION 1B PHASE II FUNDING FOR LOCAL STREETS AND ROADS PAVING PROJECTS

WHEREAS, Proposition 1B (Prop 1B) provides $19.925 billion in bond funds for a variety of transportation priorities, including $2 billion for cities and counties to fund the maintenance and improvement of local transportation facilities, and

WHEREAS, funds were to be distributed in two phases, and

WHEREAS, in 2008, the City was eligible for and received $3,364,421 for Phase I funding based on population, and

WHEREAS, the City is now eligible to receive $3,174,344 in Phase II funding, and

WHEREAS, each city must submit a list of projects, expected to be funded with Prop 1B funds to the State of California, Department of Finance, before an allocation is made, and

WHEREAS, if the City does not receive this Prop 1B additional funding, the FY 09-10 CIP Budget will be reduced by $3,174,344, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended to reflect the additional $3.17 million in funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 Capital Improvement Program budget, Account No. 0700-160-E004, to include $3.17 million in Proposition 1B Phase II funding for local street and road paving projects.
BE IT FURTHER RESOLVED that the Finance Director, or his designee, is 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 26th day of January, 2010, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney