A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH HARRIS & ASSOCIATES FOR A REVISED SCOPE OF WORK RELATED TO ON-CALL PROJECT MANAGEMENT SUPPORT SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS AND KAISER ADMINISTRATION SERVICES IN THE NOT-TO-EXCEED AMOUNT OF $249,600, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT. THIS AMENDMENT BRINGS THE AGREEMENT TOTAL TO $294,600.

WHEREAS, various Capital Improvement Projects (CIP) in the City’s Capital Improvement Program and Kaiser Administration services require project management, and

WHEREAS, Harris & Associates is well qualified to perform On-Call Project Management Support Services and has performed such services for various public agencies several times in the past, and

WHEREAS, the Public Works Department has insufficient staffing at this time to perform such services, and

WHEREAS, on June 19, 2007, the City Manager approved an Agreement in the amount of $45,000 with Harris & Associates to provide On-Call Project Management Support Services for the City of Modesto’s various CIP Projects and Kaiser Administration Services, and

WHEREAS, in August of 2007, Harris & Associates submitted a revised fee and scope for On-Call Project Management Support Services for $249,600, and

WHEREAS, current staffing will not provide for timely in-house project management, and
WHEREAS, the consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order, and

WHEREAS, the consultant will perform no services until CIS management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to the consultant prior to commencement of services, and

WHEREAS, to fund consultant work for specific task orders, funds will be budgeted and encumbered against each project specific CIP account, or multi-year operating organization, as the project is assigned, and

WHEREAS, consultant invoices are to be paid from each project specific CIP, or multi-year operating organization on a task order basis received and verified by CIS staff, and

WHEREAS, an Amendment to the current Consultant Agreement with Harris & Associates for a revised scope of work related to On-Call Project Management Services in the not-to-exceed amount of $249,600 for various Capital Improvement Projects and Kaiser Administration services is necessary in order to complete the following projects: 1) Pelandale 6-Lanes-Dale Rd to McHenry Ave, 2) Pelandale at Sisk & SR 99 Improvements, 3) Dale Rd/Kiernan Intersection Improvements, and 4) Kaiser Administration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Harris & Associates for a revised scope of work related to On-Call Project Management Services for various Capital Improvement Projects and Kaiser Administration services, in the not-to-exceed amount of $249,600.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers:  Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  None

ATTEST:  Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-526

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF A “SOLE BRAND” DONALDSON DIESEL PARTICULATE MATTER FILTERS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, FOR AN ESTIMATED ANNUAL COST OF $171,000.

WHEREAS, in 2000 the California Air Resources Board (CARB) approved the Diesel Risk Reduction Plan (Plan), which focused on reducing diesel particulate matter emission, and

WHEREAS, this Plan targets 1960 to 2006 model year on-road diesel powered vehicles, and

WHEREAS, beginning with 2007, the implementation of this Plan will affect only municipalities and utilities, and

WHEREAS, in 2007, 20% of the 71 affected vehicles in the City of Modesto’s fleet must be compliant with these regulations, with the percentage increasing to 60% compliance in 2009 and entire compliance by 2010, and

WHEREAS, Council authorization of this purchase allows compliance with the CARB regulations, and

WHEREAS, the installation of diesel particulate filters will contribute toward improved air quality in the Greater Modesto region, and

WHEREAS, the per-unit cost of these filters is relatively high as are maintenance and replacement parts, and

WHEREAS, using the sole brand Donaldson filters will allow the City to economize by maintaining fewer expensive parts and supplies on hand, by having filters...
cleaned locally instead of shipping units long distance to be cleaned, and by training staff to install and maintain a single technology across the fleet, and

WHEREAS, funds are budgeted in Fleet Services – Particulate Matter Filters (7210-480-5812-0365) in the amount of $171,000 to fund the purchase of these diesel particulate matter filters,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to solicit formal request for bids for the purchase of a “sole brand” Donaldson Diesel Particulate Matter Filters for the Public Works Department, Fleet Services Division, for an estimated annual cost of 171,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-527

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PHASE 1.2, ACCEPTING THE BID AND APPROVING A $2,554,818.76 CONTRACT WITH TEICHERT CONSTRUCTION FOR THE PROJECT TITLED, “TUOLUMNE RIVER REGIONAL PARK GATEWAY PHASE 1.2,” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the “Tuolumne River Regional Park Gateway Phase 1.2” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Tuolumne River Regional Park Gateway Phase 1.2” were opened at 11:00 a.m. on August 7, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $2,554,818.76, received from Teichert Construction, be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Teichert Construction in the amount $2,554,818.76, and hereby awards Teichert Construction the contract titled “Tuolumne River Regional Park Gateway Phase 1.2.”

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 4th day of September 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-528

A RESOLUTION MAKING THE MANDATORY LEGAL FINDINGS PURSUANT TO HEALTH & SAFETY CODE SECTION 33445 AND AUTHORIZING THE MODESTO REDEVELOPMENT AGENCY EXECUTIVE DIRECTOR TO NEGOTIATE REIMBURSEMENT AGREEMENTS WITH THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS TO DISTRIBUTE AGENCY TAX INCREMENT FUNDS IN THE AMOUNT OF $952,427.54 FROM CAPITAL IMPROVEMENT PROJECT ACCOUNT NO. Q260 AND ACCOUNT NO. K732 TO REIMBURSE SAID AGENCIES FOR THE COST OF VARIOUS PUBLIC IMPROVEMENTS ON STREETS ADJACENT TO THE GALLO CENTER FOR THE ARTS AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE SAID REIMBURSEMENT AGREEMENTS

WHEREAS, the Redevelopment Agency of the City of Modesto (the “Agency”) is carrying out the Redevelopment Plan (the “Redevelopment Plan”) for the Modesto Redevelopment Project, and

WHEREAS, pursuant to the requirements of the Community Redevelopment Law, (Health and Safety Code section 33000 et seq.) (the “Redevelopment Law”) the Agency annually receives tax increment revenue for the purpose of eliminating blighted conditions within the Agency Project Area, and

WHEREAS, on March 25, 2003, the City Council of the City of Modesto (the “Council”) reviewed four alternative designs for street and streetscape public improvements (the “Public Improvements”) in conjunction with the construction of the proposed Gallo Center for the Arts (the “Center”) which Center is a $63 million project being constructed on the block between 10th and 11th streets and H and I Streets in downtown Modesto, and

WHEREAS, the Council approved funding for said Public Improvements which are generally shown on attached Option 1A, which is made a part hereof by this reference, at a total estimated cost of $1,030,000 including the utility, streetscape and street improvements along I Street and 11th Street and extending the street improvements (curb, sidewalk, lights and trees) around all four sides of the block, and

WHEREAS, the Council recommended that an optional source of funding for said Public Improvements might be provided from the Agency’s tax increment funding and, as such, agreed to loan the Agency a total amount of $602,000 (the “Loan Funds”) for a portion of the proposed Public Improvement construction, pending future approval by the Agency by separate action, and

WHEREAS, on March 25, 2003, the Agency approved Resolution No. 6-2003 accepting said Loan Funds from the Council for said Public Improvements with the following conditions:
Before approving the use of said Loan Funds or other tax increment funds for said Public Improvements:

1. The Agency is required to complete negotiations with County of Stanislaus (the “County”) and the City of Modesto (the “City”) to produce agreements setting forth the financial requirements for the use of said Loan Funds.

2. The Agency and the Council both must make the following mandatory legal findings pursuant to the Redevelopment Law (Health & Safety Code §33445(a)):
   A. The proposed Public Improvements are a benefit to the Redevelopment Project Area or to the neighborhood surrounding the Gallo Center for the Arts.
   B. No other reasonable means of financing said Public Improvements is available to the community.
   C. The reimbursement of funds for the cost of said Public Improvements will assist in the elimination of one or more blighting conditions inside the Agency Project Area and is consistent with the Implementation Plan adopted on December 14, 2005, and

WHEREAS, the Center construction has continued towards completion, including the funding of construction of said Public Improvements by both the City and the County, with the goal of opening on September 27, 2007, which construction funding was provided as follows:

   A. City of Modesto - $212,000 (Est)
   B. County of Stanislaus - $740,427.54

, and

WHEREAS, Agency tax increment financing can only be utilized for said Public Improvements if the said legal findings are made by both the Agency and the Council, and

WHEREAS, at their meetings on August 1, 2007 and August 8, 2007, the Citizens Redevelopment Advisory Commission considered the request for tax increment funding to reimburse the City and the County for construction costs in the total amount of $952,427.54 for said Public Improvements as set forth in the attached “Streetscape Costs”, which is made a part hereof by this reference, and recommended the approval of said tax increment funding, and

WHEREAS, the Commission recommended that the Agency and the Council make the following legal findings pursuant to the Redevelopment Law, Health and Safety Code Section 33445:

1. The said Public Improvements are a benefit to the Redevelopment Project Area and to the neighborhood surrounding the Gallo Center for the Arts.
2. No other reasonable means of financing said Streetscape Costs are available to the community.

3. The funding of said Streetscape Costs will assist in the elimination of one or more blighting conditions inside the Redevelopment Project Area and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to Health and Safety Code Section 33490.

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

Section 1. The Council has reviewed the financial documentation for the Center and has determined that the following legal findings shall be made:

1. The said Public Improvements are a benefit to the Redevelopment Project Area and to the neighborhood surrounding the Gallo Center for the Arts.

2. No other reasonable means of financing said Streetscape Costs are available to the community.

3. The funding of said Streetscape Costs will assist in the elimination of one or more blighting conditions inside the Redevelopment Project Area and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to Health and Safety Code Section 33490.

Section 2. The Council authorizes the Agency’s Executive Director to negotiate reimbursement agreements with the City of Modesto and the County of Stanislaus for the distribution of Agency tax increment funds from Capital Improvement Project Account No. Q260 and Account No. K732 to reimburse the City and the County for said Streetscape Costs (the “Agency Assistance”) as follows:

A. City of Modesto - $212,000 (Est)

B. County of Stanislaus - $740,427.54

Section 3. The Agency Assistance as defined in this resolution is necessary to effectuate the purposes of the Redevelopment Plan.

Section 4. The City Manager/Executive Director, or his/her designee, is hereby authorized to take such further actions and execute such documents as are necessary to carry out the conditions of this Resolution on behalf of the Council and the Agency. The City Manager/Executive Director, or his/her designee, is further authorized to cooperate with the City and the County in implementing the terms and conditions between the Agency and City and the County as provided in this Resolution.
The foregoing resolution was introduced at a special meeting of the Modesto City Council held on the 4th day of September, 2007, 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: Council Members: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Council Members: None

ABSENT: Council Members: None

ATTEST: ____________________________

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By ____________________________

SUSANA ALCALA WOOD, City Attorney
Option 1A Upgrades Sidewalks, Streets, Utilities and Streetscape Around the Site.
City of Modesto Redevelopment Agency - Streetscape Project

Estimated Cost Calculations

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Original Estimate</th>
<th>ENR 15.9% Inflator</th>
<th>4-year Inflation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remove and Replace Curb and Gutter</td>
<td>$21,000.00</td>
<td>$3,339.00</td>
<td>$24,339.00</td>
</tr>
<tr>
<td>Sidewalk - Lithocrete</td>
<td>$58,240.00</td>
<td>$9,260.16</td>
<td>$67,500.16</td>
</tr>
<tr>
<td>Driveway Approaches</td>
<td>$4,200.00</td>
<td>$667.80</td>
<td>$4,867.80</td>
</tr>
<tr>
<td>I Street Pavers Plus Concrete Border</td>
<td>$25,200.00</td>
<td>$4,006.80</td>
<td>$29,206.80</td>
</tr>
<tr>
<td>I Street Bollards</td>
<td>$9,000.00</td>
<td>$1,431.00</td>
<td>$10,431.00</td>
</tr>
<tr>
<td>Drain Inlets</td>
<td>$6,000.00</td>
<td>$954.00</td>
<td>$6,954.00</td>
</tr>
<tr>
<td>Traffic Control</td>
<td>$15,000.00</td>
<td>n/a</td>
<td>$15,000.00</td>
</tr>
<tr>
<td></td>
<td>$138,640.00</td>
<td>$19,658.76</td>
<td>$158,298.76</td>
</tr>
</tbody>
</table>

**NOTE:** For those items that were not supported by detailed billings from the project's contractors, the estimated cost for each task was used, based on the 2003 estimate of cost that was provided by the City of Modesto. To reflect the passage of time and the inflation that has occurred in the construction material market, the change in the Engineering News Record San Francisco CCI index was measured from February 2003 to June 11, 2007. This change resulted in a 15.9% increase in costs during this period. As shown in the table above, the increase has been applied to those estimates that have been selected for use in determining the amount of the funding request for the Gallo Arts Center.
### Gallo Center for the Arts Streetscape Project

**Costs Paid By Stanislaus County**

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remove and Replace Curb and Gutter</td>
<td>$24,339.00</td>
<td>City Estimate</td>
</tr>
<tr>
<td>Sidewalk - Lithocrete</td>
<td>67,500.00</td>
<td>City Estimate</td>
</tr>
<tr>
<td>Sidewalks - Exposed Aggregate/3 ft. Broom and ADA Ramps</td>
<td>83,762.00</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>Driveway Approaches</td>
<td>4,868.00</td>
<td>City Estimate</td>
</tr>
<tr>
<td>I Street Pavers Plus Concrete Border</td>
<td>29,207.00</td>
<td>City Estimate</td>
</tr>
<tr>
<td>I Street Bollards</td>
<td>10,431.00</td>
<td>City Estimate</td>
</tr>
<tr>
<td>Drain Inlets</td>
<td>6,954.00</td>
<td>City Estimate</td>
</tr>
<tr>
<td>Street Lights - entire block</td>
<td>212,796.82</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>Electrical Recepticals</td>
<td>94,889.00</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>Tree Grates</td>
<td>32,853.00</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>Repair I Street Soft Subgrade</td>
<td>24,308.00</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>Traffic Control</td>
<td>15,000.00</td>
<td>City Estimate</td>
</tr>
<tr>
<td><strong>Sub-total:</strong></td>
<td><strong>$606,907.82</strong></td>
<td></td>
</tr>
<tr>
<td>Engineering/Design/Administration @ 12%</td>
<td>72,828.94</td>
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</tr>
<tr>
<td>Construction Administration @ 10%</td>
<td>50,690.78</td>
<td></td>
</tr>
<tr>
<td><strong>Total Costs Paid By Stanislaus County:</strong></td>
<td><strong>$740,427.54</strong></td>
<td></td>
</tr>
</tbody>
</table>

### Costs Paid By City of Modesto

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potted Trees</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>Pavement Project Costs:</td>
<td></td>
</tr>
<tr>
<td>11th Street</td>
<td>$94,000.00</td>
</tr>
<tr>
<td>10th Street</td>
<td>88,000.00</td>
</tr>
<tr>
<td>Related Electrical and Traffic Light Work</td>
<td>18,000.00</td>
</tr>
<tr>
<td><strong>Total Costs to be paid by City:</strong></td>
<td><strong>$212,000.00</strong></td>
</tr>
</tbody>
</table>

**Total Costs Included in Funding Request:** $952,427.54

*For information on City estimates, refer to the attached schedule.*
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-529

A RESOLUTION UPDATING A FINE SCHEDULE FOR VIOLATIONS OF INDUSTRIAL WASTEWATER DISCHARGE PERMITS EFFECTIVE OCTOBER 1, 2007, AND RESCINDING RESOLUTION NO. 94-600.

WHEREAS, on July 24, 2007 Council approved new fees for wastewater rates effective August 1, 2007, and

WHEREAS, these rates apply the same unit costs for Flow, Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) to all customers and customer classes, and are consistent with Proposition 218 and the State Water Resources Control Board (SWRCB) cost of service requirements, and

WHEREAS, Section 5-6.703 of the Modesto Municipal Code relating to Sewage Collection and Disposal allows the Public Works Director to determine the existence of a violation and may levy a fine for violations of wastewater discharge permits, and

WHEREAS, the ability to fine for violations is a federal and state requirement for industrial pretreatment programs, thus is a mandatory part of the City’s program governing sewer use, and

WHEREAS, fines for violations of wastewater permit limits for flow, BOD and TSS must have a nexus relationship to sewer rates, and

WHEREAS, per the Modesto Municipal Code, fines shall be in accordance with a scheduled approved by the Council from time to time by resolution, and are in addition to the wastewater service charges (rates) and are applied to violations of the wastewater permit allocations, and
WHEREAS, the current fine schedule has not been updated since 1994, and

WHEREAS, the administrative fine of $1,100.00 will remain unchanged, and the processing fines will change as follows:

<table>
<thead>
<tr>
<th>Fine per</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>million gallons of Flow in excess of permit allocation</td>
<td>$712</td>
<td>$1,475.66</td>
</tr>
<tr>
<td>1,000 pounds of BOD in excess of permit allocation</td>
<td>$84</td>
<td>$72.98</td>
</tr>
<tr>
<td>1,000 pounds of TSS in excess of permit allocation</td>
<td>$78</td>
<td>$127.82</td>
</tr>
</tbody>
</table>

and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that wastewater permit violation fines are hereby established as follows:

1. Administrative fine in the amount of $1,100.00 for each violation and per day of each violation.
2. Processing fine in the amount of:
   - $1,475.66 per million gallons of flow in excess of permit allocation.
   - $72.98 per 1,000 pounds of Biochemical Oxygen Demand (BOD) in excess of permit allocation.
   - $127.82 per 1,000 pounds of Total Suspended Solids (TSS) in excess of permit allocation.

BE IT FURTHER RESOLVED that the fines established by this Resolution are in addition to the sewer service charges for processing the wastewater flow which is excess of the permit and that the fine schedule will increase with each succeeding approved wastewater rates increase.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-530

A RESOLUTION APPROVING THE FILING OF AN APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX APPROXIMATELY 3.2 ACRES OF PROPERTY LOCATED NORTH OF KANSAS AVENUE AND EAST OF LONE PALM AVENUE TO THE CITY OF MODESTO AND SEWER DISTRICT NO. 1 AND TO DETACH SAID PROPERTY FROM THE WOODLAND FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED)

WHEREAS, 4701 Stoddard, LLC, (applicant) represents Greg and Christine Kyler, Jose Zamora, and Jack McCoy, the owners of approximately 3.2 acres of real property, located north of Kansas Avenue and east of Lone Palm Avenue ("Property"), and

WHEREAS, the City has received a written request from the applicant to initiate annexation of the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition, and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits “A” and “B”, attached hereto and by this reference incorporated herein, and

WHEREAS, the subject territory proposed to be annexed is within Stanislaus County, contiguous to the existing City limits and within the current Sphere of Influence

9/4/07/C&EDD/CvanEmpe/item28 1 2007-530
of the City of Modesto, as adopted by Stanislaus Local Agency Formation Commission, Resolution No. 2004-26, on September 22, 2004, and

WHEREAS, before an annexation application may be heard by LAFCO, there must be an agreement with the County providing for the sharing of property taxes following an annexation, and

WHEREAS, the proposed annexation area is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996, and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, pursuant to Government Code Section 51200, et seq, and

WHEREAS, it is desired to provide that the proposed reorganization be subject to the following terms and conditions:

(a) The annexation of said property, as set forth on Exhibits “A” and “B” attached hereto, to the City of Modesto.
(b) The annexation of said property, as set forth on Exhibits “A” and “B” attached hereto, to the Modesto Sewer District No. 1.
(c) The detachment of said property from the Woodland Fire Protection District, and

WHEREAS, the reasons for this proposed reorganization to the City of Modesto are as follows:

(a) Staff has received a written request signed by the property owners to annex their properties to the City of Modesto.
(b) The proposed annexation is within the existing Sphere of Influence and is consistent with the Urban Area General Plan and can be most efficiently served by City services.
(c) The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services, and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in Exhibit “C”, attached hereto and by this reference incorporated herein, and
WHEREAS, an Initial Study (Environmental Assessment No. EA/C&ED 2006-68) 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

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the proposed application for annexation on April 16, 2007, at 7:00 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California and recommended adoption of a Resolution of Application to annex the property, and

WHEREAS, on September 4, 2007, at 5:30 p.m., in the Tenth Street Place Chambers at 1010 Tenth Street, Modesto, California, the City Council held a duly noticed public hearing to consider the proposed Resolution of Application for annexation of the Property.

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

1. That the proposed annexation and this Resolution of Application are consistent with the Modesto Urban Area General Plan, because they are consistent with General Plan Urban Growth Policy II.C.1.b., which states, "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services," and because the development resulting from the proposed annexation is consistent with the General Plan.

2. The type of project under consideration is described in Chapter II of the MEIR and is within the scope of the MEIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Baseline Development Area.

3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or have otherwise been made conditions of approval of the project.
4. That the proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

5. That no new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2006-68, provides the substantial evidence to support findings 2-5 above.

7. The Property proposed to be annexed to the City of Modesto is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits “A” and “B,” attached hereto and by this reference incorporated herein.

8. The Property is located within Stanislaus County, and is within the City’s existing Sphere of Influence, is contiguous to the existing City limits and can be most efficiently served with City services.

9. The proposed annexation will result in planned, orderly, and efficient development of the area, and the most efficient provision of services.

10. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

11. The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.

12. The proposed annexation is within the scope of the Urban Area General Plan MEIR (SCH No. 1999082041) and has been adequately analyzed in the MEIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts this Resolution of Application to annex the Property to the City of Modesto and Modesto Sewer District No. 1 and to detach the Property from the Industrial Fire Protection District.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that:

1. All owners of land within the affected Property have given their written consent to the reorganization and therefore, pursuant to California Government Code Section 56663 (c)(1), the City Council consent to waiver of conducting authority proceedings.
2. Pursuant to Government Code Section 56653, the City Council shall submit the plan for providing services as set forth in Exhibit "C," attached hereto and by this reference incorporated herein.

The foregoing resolution was introduced at the regular meeting of the City Council held on the 4th day of September, 2007, by Councilmember O'Bryant, who moved its adoption, which motion was seconded by Councilmember Olsen, and carried by the following vote:

**AYES:** Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST:  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  
SUSANNA ALCALA WOOD, City Attorney
Exhibit "A"

WRITTEN DESCRIPTION
EXHIBIT A
LEGAL DESCRIPTION
FOR
LONE PALM No. 2
ANNEXATION
FOR A.P.N. 029-12-12, 19, 20, 21 & 22

ALL that portion of the northwest quarter of Section 30, Township 3 South, Range 9 East Mount Diablo Base and Meridian described as follows:

ALL that portion of Lot 4 of Maze Colony, according to the map thereof filed March 24, 1904 in Volume 1 of Maps at Page 83, Stanislaus County Records, more particularly described as follows:

BEGINNING at the southwest corner of said Lot 4 said point being the intersection of the east-west quarter line of said Section 30 and the center line of Lone Palm Avenue; thence along the following courses:

1.) North 1°00'00" West along the west line of said Lot 4, said line also being the center line of Lone Palm Avenue a distance of 660.15 feet to the south line of the Lone Palm No. 1 Governmental Reorganization as filed on June 29, 1981;

2.) North 89°48'40" East along last said line a distance of 329.99 feet;

3.) South 00°59'00" East a distance of 310.09 feet;

4.) South 89°48'50" West a distance of 112.00 feet;

5.) South 00°59'00" East a distance of 20.00 feet;

6.) North 89°48'50" East a distance of 63.10 feet;

7.) South 01°00'00" East a distance of 280.08 feet to a point on a line lying 50.00 feet north of and parallel with south line of the northwest quarter of said Section 30;

8.) North 89°49'00" East along last said line a distance of 378.81 feet to a point on the east line of said Lot 4 and the west line of the Kansas Avenue Addition filed as instrument No. 78-4617, Stanislaus County Records;

9.) South 0°59'00" East along last said line a distance of 50.00 feet to the southeast corner of said northwest quarter of Section 30;

10.) South 89°49'00" West along the south line of said northwest quarter a distance of 659.80 feet more or less to the POINT OF BEGINNING.

Contains: 218,342 sq.ft. 5.01 acres, more or less
This real property description was prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

George Harcrow L.S. 6494
License Expires 6/30/07

Date 3/20/06
Exhibit "B"

ANNEXATION PROPOSAL MAP
LONE PALM No. 2
ANNEXATION
178,885 S.F
4.11 acres

APN 029-012-012

APN 029-012-014

1. N 01-00-00 W 660.15
3. S 00-59-00 E 310.09
4. S 89-48-50 W 112.00
5. S 00-59-00 E 20.00
6. S 89-48-50 W 77.90
7. S 01-00-00 E 194.00
8. N 89-48-50 E 15.00
9. S 01-00-00 E 96.08
10. N 89-49-00 E 126.00
11. N 01-00-00 W 10.00
12. N 89-49-00 E 378.81
13. S 00-59-00 E 50.00
14. S 89-49-00 W 659.80

BASIS OF BEARING:
NORTH 100'00" WEST FOR THE CENTERLINE OF LONE PALM AVE.
AS PER 23-P.M.-80
STANISLAUS COUNTY RECORDS

PROPOSED ANNEXATION BOUNDARY:
PREVIOUS ANNEXATION BOUNDARY:

ANNEXATION MAP
Exhibit "C"

PLAN FOR SERVICE
Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Kansas-Lone Palm Reorganization.

A. The project site is part of the Baseline Developed Area, as described in the Modesto Urban Area General Plan, adopted August 15, 1999, and amended March 4, 2003. As part of the approval, community facilities and services were analyzed in detail in Initial Study Environmental Checklist (C&ED No. 2006-68). These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. The City of Modesto is a full service city that intends to provide the following services.

1. Traffic and Circulation: The bulk of the external roadway network is already constructed. The applicant or developer must construct roadway improvements along the project frontage to City standards.

2. Waste Water Collection: Upon reorganization, the site will annex to Modesto's Sewer District No. 1. Sewer service will be provided to the subject site from an existing eight-inch line in Lone Palm Avenue adjacent to the site. The City does not anticipate a substantial demand for service at this site. Service will be extended upon development of the site at no cost to the City, as existing City fees will cover the cost.

3. Water Delivery: There is an adequate quantity of water to serve the industrial development expected to occur on the property. The site will be served from an existing 10-inch water line in Lone Palm Avenue adjacent to the site.

4. Storm Water Drainage: Storm water drainage for this project must be contained on site. The City of Modesto has received and is in the process of reviewing a Vesting Tentative Subdivision Map for the project, which is being revised, but is expected to include French drains. Prior to approval of the Vesting Tentative Subdivision Map, the City must approve the storm water drainage, ensuring its adequacy. The storm water drainage system will be constructed by the applicant at the applicant's expense.

5. Solid Waste Disposal: Weekly pickup will be extended to the annexation area upon the effective date of annexation.

6. Fire Protection: Upon reorganization, the annexation area will be detached from the Woodland Fire Protection District. The Modesto Fire Department has indicated that it can provide adequate service to the subject site following annexation.

7. Police Protection: The Modesto Police Department has indicated that it is able to provide adequate service to the subject site without additional staffing, as industrial property does not require substantial additional policing.
B. **Level and range of services**
The City of Modesto is a full service provider of municipal services and intends to provide the complete service for those areas identified above.

C. **When can services be provided?**
The above-described services can be provided upon the effective date of annexation.

D. **Improvements required as a condition of reorganization**
No improvements are required as a condition of reorganization. The following improvements will be required as a condition of development:

- Prior to issuance of a building permit, the applicant(s) shall construct roadway improvements to the satisfaction of the City Engineer.
- Prior to approval of the Vesting Tentative Subdivision Map, the City must approve the storm water drainage basin.

E. **How will services be financed?**
Services will be financed through City fees.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-531

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. 1999082041): ANNEXATION TO THE CITY OF MODESTO AND MODESTO SEWER DISTRICT NO. 1 AND DETACHMENT FROM THE WOODLAND FIRE PROTECTION DISTRICT OF APPROXIMATELY 3.2 ACRES OF PROPERTY LOCATED NORTH OF KANSAS AVENUE AND EAST OF LONE PALM AVENUE (OWNER INITIATED – UNINHABITED)

WHEREAS, on August 15, 1995, by Resolution No. 95-409, the City Council of the City of Modesto certified the Master Environmental Impact Report ("EIR") for the Urban Area General Plan (SCH No. 1999082041), and

WHEREAS, on March 4, 2003, by Resolution No. 2003-122, the City Council of the City of Modesto certified the amendments to the Master EIR for the Urban Area General Plan (SCH No. 1999082041), and

WHEREAS, 4701 Stoddard, LLC, has filed an application requesting that the approximately 3.2 acres of property located north of Kansas Avenue and east of Lone Palm Avenue ("Property") be annexed to the City of Modesto, and Modesto Sewer District No. 1, and detached from the Woodland Fire Protection District, and

WHEREAS, the Resolution of Application is hereafter referred to as "the Project", 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 EIR
and whether the subsequent project was described in the Master EIR as being within the scope of the project, and

WHEREAS, the Initial Study EA/C&ED 2006-68 was considered by the City Council at a duly noticed public hearing which was held on September 4, 2007, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Projects, a copy of which it attached hereto as Exhibit “A” and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of Projects under consideration are described in Chapter II of the Master EIR.

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

3. 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. It has been determined that the project was described in the MEIR and is within the scope of the MEIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Baseline Developed Area.

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

5. The Initial Study, Environmental Assessment No. EA/C&ED 2006-68, provides the substantial evidence to support findings 1 through 4, above.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at the regular meeting of the City Council held on the 4th day of September, 2007, by Councilmember O'Bryant, who moved its adoption, which motion was seconded by Councilmember Keating, and carried by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANNA ALCALA WOOD, City Attorney
Exhibit "A"

INITIAL STUDY
EA/C&ED 2006-68
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2006-68

For the proposed
Kansas-Lone Palm Reorganization
(4701 Stoddard LLC, Applicant)

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

March 15, 2007
City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Kansas-Lone Palm Reorganization is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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. (State CEQA Guidelines Section 15384)

City staff consulted with appropriate Responsible Agencies and City Departments regarding potential environmental impacts associated with this project. Any significant comments and conditions are incorporated into this Initial Study. The City's MEIR (SCH# 1999082041) was also consulted which lists both General Plan policies and mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

A. Title: Kansas-Lone Palm Reorganization

B. Address or Location: Northeast of the intersection of Kansas and Lone Palm Avenues in a County "island" within the City of Modesto's Sphere of Influence

C. Applicant: 4701 Stoddard LLC
1020 10th Street, Suite 300
Modesto, CA 95354

D. Application Contact Person: Gregory Kyler and Joe Muratore
City Project Manager: Cindy van Empel, Senior Planner
Department: Community & Economic Development Department
Phone Number: (209) 577-5280
E-mail address: cvanempel@modestogov.com

E. Current General Plan Designation(s): I, Industrial

F. Current Zoning Classification(s): Stanislaus County has zoned the property M, Industrial; the property is prezoned (P)M-1 (Light Industrial)

G. Surrounding Land Uses:
   - West: light industrial, office
   - North: distribution, light industrial, office
   - East: church, retail, office, light industrial, residential (designated for industrial use)
   - South: light industrial, office, retail

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

The applicant seeks to annex three lots comprising 3.19 acres to the City of Modesto to allow more intensive development than would be permitted without public sewer and water connections. This action will also require detachment from the Woodland Fire Protection District and annexation to the City of Modesto Fire Department’s service area and Modesto Municipal Sewer District #1.

A Vesting Tentative Subdivision Map for the site has been filed with the Community and Economic Development Department. Because staff has an application for a Subdivision Map, an evaluation of the proposed Subdivision Map is included in this Finding of Conformance. However, the Subdivision Map cannot be processed until after the project site is annexed and the zoning becomes effective.

The proposed Vesting Tentative Subdivision Map is proposed on the entire 3.19-acre site and will include eight lots ranging in size from 0.24 to 0.49 acres. Four parcels will have street frontage and the remaining four parcels will be accessed from Lone Palm Avenue via a proposed 20-foot access easement. Both Lone Palm Avenue and Kansas Avenue will be improved with curb, gutter, and sidewalk for an additional 30 feet from the roadway centerlines, including 20 feet of traveled roadway, a six-foot sidewalk adjacent to the traveled way, and a four-foot landscape setback behind the sidewalk. Sewer and water are available and service will be taken from the 10-inch water line and 8-inch sewer line in Lone Palm Avenue.

A map of the site area is shown as Exhibit A, the annexation map is Exhibit B, and the proposed Vesting Tentative Subdivision Map is Exhibit C.

I. Other Public Agencies Whose Approval is Required:

   Local Agency Formation Commission
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. The following items are found to be true:

   A. The type of project is 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.

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 items are found to be true:

   A. The type of project is 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. The following items are found to be true:

   A. The type of project is 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.

Project Manager  
City of Modesto Finding of Conformance  
Senior Planner  
Date  
City of Modesto General Plan Master EIR  
C&ED No. 2006-68  
March 15, 2007
4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered 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 this document.

(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 mitigation measures identified in the General Plan Master EIR.

Discussion:

(1) The City of Modesto is the Lead Agency for processing the requested land use entitlements (i.e.: prezoning and annexation).

(2) The subject project proposes improvements to a site located within the Baseline Developed Area. The site is comprised of three lots which are occupied by a total of five dwellings and various accessory buildings.

(3) The Master EIR was last updated in March 2003. Since that update, there have been no changes to Federal, State, Regional and County regulations that have not resulted in less restrictive regulations.

(4) The subject site, 3.19 acres designated in the Urban Area General Plan as I (Industrial) and prezoned (P)M-1 (Light Industrial), is proposed to be annexed to the City of Modesto. After the application proposals were referred to Trustee Agencies, no significant resources are identified in this proposal.

(5) The subject area is located within the Modesto Urban Area General Plan in the Baseline Developed Area, as shown on Figure II-1 on page II-8 in the General Plan. All appropriate mitigation measures as listed in the Master EIR and attached to this document are incorporated into the project.
A Global list of General Plan Policies and Mitigation Measures was reviewed (which is attached to this document) and appropriate Mitigation Measures will be required as part of the project’s approval.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this 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 a Finding of Conformity after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect 2025 build out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-6 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

The Master EIR for the Urban Area General Plan included the subject site. The annexation of property designated for industrial uses is consistent with the Master EIR. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-1.B of the MEIR 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 previously analyzed in the MEIR.

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

Where a project exceeds an additional 100 ADT contribution, as compared to the analysis in the Master EIR, a site access study will be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study will recommend new, project-specific mitigation measures. Where the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering and Transportation staff, a comprehensive traffic study will be required that will include off-site traffic impact analysis.

YES NO

☐ X

☐ X

☐ X

☐ X

(1) The project would contribute more than an additional 100 average daily trips (ADT) to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. City Engineering & Transportation Staff will review the project to determine whether the project contributes more than 100 ADT thresholds. Such Projects are presumed to generate more trips than assumed by the Master EIR.

(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).

(3) Result in inadequate emergency access.

(4) Result in inadequate parking capacity.
Discussion:

(1) The project was referred to the Engineering and Transportation Division of the Public Works Department. Staff did not cite the need for a site access study.

(2) The project was referred to the Engineering and Transportation Department and the Transportation Division commented that City's Standards Specifications require that Lone Palm Avenue be dedicated and improved to full City Street Standards when development is approved for the site. Certain other street improvements will be established during review of the Vesting Tentative Subdivision Map.

(3) The project was referred to the City of Modesto Police and Fire Departments. The City Fire Marshal and the Police Department indicated that those departments are able to provide adequate service to the site. When development is approved, specific conditions will be applied to that future development to ensure compliance with City development standards.

(4) Annexation and prezoning will have no effect on parking in the area. Future development on the site will be required to comply with City standards for parking.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NO\textsubscript{x} levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 in the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

Construction impacts would be less than significant with implementation of Mitigation Measure Air-1 (page V-2-24 in the MEIR). No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air 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 MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

1. The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District’s (SJVUAPCD) adopted CEQA Guidelines.
2. The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.
3. The project does not comply with the air quality policies of the Modesto Urban Area General Plan.
4. The project would expose sensitive receptors to substantial pollutant concentrations.
5. The project would create objectionable odors affecting a substantial number of people.

Discussion:

1-3. Annexation of this property, designated for Industrial use, was anticipated in and is consistent with the Urban Area General Plan Master EIR. Future development of the site will occur following the approval of a Vesting Tentative Subdivision Map, which is addressed under this Finding of Conformance and will require no further environmental review. Development projects must comply with Rules established by the San Joaquin Valley Unified Air Pollution Control District for reducing air quality impacts.

4. The site is designated for Industrial use and adjoins property designated for light industrial uses on all sides. The site is expected to be developed with industrial uses in the future, which may result in substantial air pollution, however, as the area develops, the existing residential properties, which are considered to be legal non-conforming uses, will be redeveloped with light industrial uses. The church east of the site lies in the County, which agency considers churches to be compatible with industrial development because of the short-term duration of occupancy.

5. The site is designated for Industrial use and adjoins industrially-designated property on all sides. The site is expected to be developed with light industrial uses in the future, which could result in objectionable odors. Although there are residences nearby, these are considered to be legal non-conforming uses because the properties are designated for industrial use.
3. **NOISE**

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

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

**Effect:** Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 MEIR).

**Effect:** Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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-3-9 through V-3-15 of the MEIR. All feasible 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 IV, Mitigation Applied to Project.

**Discussion:**

Table V-3-3 indicates the normally acceptable outdoor noise level in an industrial area is 70dB CNEL. The project site is near State Route 99, which has a substantial noise footprint. The project site lies between the 65dB $L_{dn}$ and 60dB $L_{dn}$ contours for State Route 99. $L_{dn}$ is a noise measure that factors in use of a site during non-business (evening and nighttime) hours. Industrial uses are typically compatible with an outdoor noise environment of up to at least 70 dB; because the greatest noise level expected on the site is approximately 65dB $L_{dn}$, no mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate conditions of approval that satisfy City development standards. The existing houses are expected to be removed in the near future.

c. **Project-Specific Effects**

Section V-3.B of the MEIR provides analysis of noise 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 MEIR.

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></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td>The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
Discussion:

(1) The typically acceptable outdoor noise level is at least 70dB CNEL and the site lies between the 65dB and 60dB L_{an} noise contours, thus, no significant impact from noise would be expected on the project site.

(2-3) The subject site is planned for Industrial use and is adjacent to properties planned for and developed with industry. No sensitive receptors are in the vicinity of the site. Future development on site is expected to be consistent with that on surrounding properties and is expected to result in a similar noise environment.

(4) Although the project site lies in an industrial area, exterior noise levels could rise to unpleasant levels if more than one piece of construction equipment is operating simultaneously. In order to reduce the temporary noise impacts associated with construction, equipment should be equipped with mufflers, shrouds, and shields for noise reduction. Construction activity must comply with the City's noise ordinance.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts related to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-4 through V-4-8 in the MEIR.

Discussion:

The subject property is designated for Industrial use and is not in agricultural production. Further, the site is identified by the California Department of Conservation as Important Farmland on Figure V-4-1 in the MEIR. The project site is also shown as lying within the Baseline Developed Area, as shown on page II-8 in the Urban Area General Plan. Policy AL-17 (MEIR, page V-4-7) states that if a subsequent project is within the Baseline Developed Area, the project is considered to have a minimal effect on the conversion of agricultural land and no mitigation is required. Thus, no new or additional mitigation measures or alternatives are required for the project.
c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands 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 MEIR.

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>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries.
(3) The project will conflict with existing zoning for agricultural use, or a Williamson Act contract.
(4) The project will involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use.

Discussion:

(1) The Modesto Urban Area General Plan designates the site as I, Industrial. No change in the Industrial designation is proposed. The site has been prezoned to (P)M-1 and the site would be developed with light industrial uses.

(2) The subject site is within the March, 2003, planning area boundary.

(3) The site is not zoned for agriculture, nor is there a Williamson Act contract on the property.

(4) The site is in the Baseline Developed Area, and, thus, is considered to have a minimal effect on the conversion of agricultural land.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer overdraft. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that any increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.
Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by 2020. Modesto will have a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts on 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 MEIR.

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>Threshold</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan. It is located in an area that is developed with industrial uses. The proposed annexation and Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2) There is an adequate quantity of water to serve the industrial use expected to occur on the property, as demonstrated by a Will Serve letter dated (3 November, 2006) solicited by the applicant and provided by the City of Modesto, the water purveyor for the area.
6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a)(MEIR mitigation SS-1, page V-6-2). Implementing the WMP, requiring the implementation of Best Management Practices for post-construction activities, and Urban Area General Plan policy V-D.2(a), will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under the Wastewater Master Plan MEIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-2 through V-6-7 of the MEIR. All feasible measures appropriate to the project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service 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 MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

(1) The project is inconsistent with the Modesto Urban Area General Plan. YES NO □ X

(2) The 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 subject site is designated as Industrial in the Modesto Urban Area General Plan. It is located in an area that is developed with industrial uses. Annexation and the proposed Vesting Tentative Subdivision Map will result in ultimate development of the site consistent with the City's General Plan.

(2) Annexation and development of the site will be consistent with the existing Industrial designation and prezoning on the site. An eight-inch sewer line lies adjacent to the project site in Lone Palm Avenue, to which future development on the site must connect. Because industrial development typically creates small amounts of wastewater, the City has indicated with a Will Serve letter (dated 3 November, 2006) requested by the applicant that there is a reasonable certainty that adequate sewer service will be available to serve the property, consistent with City policy.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to 2025 will 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 measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-15 through V-7-21 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.
Discussion:

The project site lies outside the Biological Resource Study Area, shown on Figure V-7-1a in the MEIR. Therefore, no mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.
   - YES
   - NO □ X

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 special status species.
   - YES
   - NO □ X

3. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
   - YES
   - NO □ X

Discussion:

1. The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and Vesting Tentative Subdivision Map are consistent with the City’s General Plan.

2. The site lies outside the Biological Resource Study Area and there is no specific information known that would suggest the possible presence of significant plant or animal species on or near the project site.

3. The City has no policies or ordinances to protect biological resources that would apply to the project site, which lies well within the Modesto urbanized area and outside the Biological Resource Study Area.
8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. No impact would be expected to occur, since the buildings to be removed or demolished are not considered to have historical significance.

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 pages V-8-9 through V-8-14 in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

The site proposed for annexation into the City of Modesto is currently occupied by two mobile homes and some accessory structures, but is otherwise vacant. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical 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 MEIR.

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

(1) The project is inconsistent with the Modesto Urban Area General Plan.  

(2) The project would 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.
Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation, prezoning, and Vesting Tentative Subdivision Map applications for this site are consistent with industrial uses anticipated by the Urban Area General Plan.

(2) Although there are buildings on the site that appear to be more than 50 years old, none of the buildings is identified as a local landmark or other historic resource, thus no impacts are expected to occur.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

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 areas and associated urban storm water drainage. 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 measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-3 through V-9-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.
Future development of the site will occur following approval of a Vesting Tentative Subdivision Map and demolition of existing structures. French drains have been proposed and are expected to be adequate to serve the project. The Department of Public Works will require a soils study that includes percolation/infiltration information in order to ensure the drainage system is correctly designed. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. YES NO □ X
2. The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site. □ X
3. Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. □ X

Discussion:

1. The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. Annexation of the property to the City and the proposed Vesting Tentative Subdivision Map are consistent with the City's General Plan.

2-3) The project does not include site development. However, the City has received an application for a Vesting Tentative Subdivision Map and the applicant has indicated that French drains will be used for storm water drainage. The Department of Public Works has indicated that properly designed French drains will be adequate to serve the site. Future development will be required to control storm drainage in accordance with the City's Guidance Manual for New Development Stormwater Quality Control Measures.
10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City’s implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City’s future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-4 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

As shown on Figure V-10-1b in the MEIR, the project site does not lie in an area having a potential for flooding. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-10.B of the MEIR 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 MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.  
2. The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.  
3. The project does not comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures.  
4. The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Discussion:

1. The subject site, designated Industrial in the Modesto Urban Area General Plan, is consistent with the City’s General Plan and is located in an area that is developed with industrial uses.

2. Development on the site will be required to comply with the Clean Water Act and the Porter-Cologne Act. The City will require adherence to any Clean Water Act requirements it deems appropriate.

3. Future development on the site must comply with the City’s Guidance Manual for New Development Storm Water Quality Control Measures. Compliance is ensured through review of building plans and building inspection.

4. The site will be developed to City standards with full street improvements along the project’s Lone Palm and Kansas Avenue frontages. The appropriate design of the French drain system will be verified by City staff when soils tests and percolation/infiltration information becomes available, prior to Final Map.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the proposed project are found on pages V-11-3 through V-11-9 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. All feasible measures appropriate to the project that will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation 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 MEIR.

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>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and proposed Vesting Tentative Subdivision Map are consistent with the City's General Plan. Appropriate Capital Facility Fees, including parks fees, must be paid before any building permits can be issued. Fees applied to new development on the site will be those fees in effect at the time the Vesting Tentative Subdivision Map is approved.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, eight middle schools, and seven high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that increased enrollment would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.
b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, 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 proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-3 through V-12-7 in the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. YES NO □ X

2. The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools. □ X

Discussion:

1. The subject site is designated Industrial in the Modesto Urban Area General Plan, with which the proposal is consistent. The site is located in an area that is developed with industrial uses.

2. Future development on the site will be required to comply with the provisions of SB 50/Proposition 1A and must pay schools fees in effect at the time the Vesting Tentative Subdivision Map is approved.
13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-2 through V-13-4 in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services 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 MEIR.

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>
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<th>YES</th>
<th>NO</th>
</tr>
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<tbody>
<tr>
<td>1.</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
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<tr>
<td>2.</td>
<td>The project would 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.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. Future development on the site is expected to be industrial and, therefore, consistent with the City's General Plan.

(2) The Police Department's ideal ratio of officers to residents is 1.85 per 1,000, although the current ratio is approximately 1.3 per 1,000. The Modesto Police Department has indicated that it has the ability to provide adequate service to the project site.
14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

**Effect:** The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

**Effect:** In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study.

Fire Services mitigation measure(s) pertinent to the proposed project are found on pages V-14-2 through V-14-5 of the MEIR. All feasible measures appropriate to the project that will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services 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 MEIR.

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>Yes</th>
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</tbody>
</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project would 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.
Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and proposed Vesting Tentative Subdivision Map are consistent with the City’s General Plan.

(2) The Woodland Fire Protection District currently provides fire protection to the project site. The site must detach from the Woodland Fire Protection District and attach to the City of Modesto Fire Department service area as part of annexation, which will result in a reduction in revenue to the Woodland Fire Protection District (WFPD). The Local Agency Formation Commission has requested a financial analysis be included as part of the environmental review, however, the project site lies within the City of Modesto’s Sphere of Influence and is anticipated in the City’s General Plan and Master EIR to eventually annex to the City of Modesto and the City’s service areas. Although the Woodland Fire Protection District would lose the revenue produced by these 3.19 acres, the WFPD can replace that revenue by increasing the assessment on the properties in its remaining service area. Additionally, the City of Modesto responds to emergency calls in this County island, providing redundancy and improving overall fire protection service to the island, therefore, no physical environmental impact on fire protection service would result from detachment from the WFPD and attachment to the Modesto Fire Department’s service area. Further, reducing or eliminating the services provided by the WFPD to isolated pockets would be more cost-effective and efficient than providing services to disparate areas. The Modesto Fire Department has indicated that it can provide adequate service to the subject site. Future development on the site will be required to meet all City Fire safety requirements. Financial impacts on the Woodland Fire Protection District are not a CEQA concern.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

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

Solid Waste Mitigation Measure(s) pertinent to the proposed project are found on pages V-15-3 through V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.
Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste 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 MEIR.

Discussion: The project is inconsistent with the Modesto Urban Area General Plan.

YES NO

☐ X

(2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.

Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan. The site is located in an area that is developed with industrial uses. The annexation and prezone and expected future industrial development are consistent with the City's General Plan.

(2) This project was referred to the Solid Waste Division of the City's Department of Public Works, which had no comment regarding this project's impact on solid waste disposal capacity.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under Federal, State, and County policies and regulations and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to this document.
Hazardous Materials Mitigation Measures pertinent to the project being analyzed in this Initial Study are found on pages V-16-5 through V-16-12 in the MEIR. Because the property is planned for industrial uses, it is possible that future property owners or building tenants may have hazardous materials on site. Mitigation measures from the MEIR will be applied to the Vesting Tentative Subdivision Map to ensure compliance will all appropriate regulations. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

Actions to approve the annexation, prezoning, and Vesting Tentative Subdivision Map do not require mitigation measures for hazardous materials, as these approvals do not generate hazardous materials. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts due to 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project does not 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.
3. The project contains a contaminated site not identified as of March 2003.
4. The 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.
5. The 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.

Discussion:

1. The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The project and future light industrial development expected to occur on the site are consistent with the City's General Plan.
(2) Because the property is planned for light industrial uses, it is possible that future property owners or building tenants may have hazardous materials on site other than those normally expected in offices. The Vesting Tentative Subdivision Map will be conditioned to ensure that any hazardous materials used on site are properly identified, handled, and stored.

(3-5) The City's Final Master Environmental Impact Report lists hazardous materials sites and this project is not on or near any of those sites. Additionally, the property lies more than ¼ mile from the nearest school.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-5 through V-17-7 in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures pertinent to the project are found on pages V-17-5 through V-16-12 in the MEIR. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic 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 MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan. □ YES □ NO X

2. The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. □ YES □ NO X

Discussion:

1. The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and Vesting Tentative Subdivision Map are consistent with the City’s General Plan.

2. According to the MEIR’s physical description of the General Plan study area, the site is not located in area subject to landslide, lateral spreading, subsidence, liquefaction or collapse.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kiloWatt hours (kWh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.
c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. ☑️

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan. It is located in an area that is developed with industrial uses. The annexation and Vesting Tentative Subdivision Map are consistent with the City's General Plan.

Parking areas that will eventually be created to serve future development will be required to contain shade trees as required in the Modesto Municipal Code. Enforcement will occur through site plan review when building permits are applied for.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan. ☑️

2. The project includes a substantive amendment to the Modesto Urban Area General Plan. ☑️

3. The project would physically divide an established community. ☑️

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area developed with industrial uses. Annexation is consistent with expansion of the City described in the General Plan. The site has been prezoned to (P)M-1, Light Industrial. Light Industrial uses consistent with the Industrial designation will be developed on the property.
(2) The project involves annexation to the City consistent with expansion of the City anticipated in the General Plan. No amendment to the Modesto Urban Area General Plan is proposed.

(3) The project is an expansion of an existing industrial area; no community will be divided as part of this proposal, although five existing residences and their accessory structures will be constructed. This is consistent with development anticipated in the Urban Area General Plan.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

- The project is inconsistent with the Modesto Urban Area General Plan. [X]
- The project would have a substantial adverse effect on a scenic vista. [X]
- The project would substantially degrade the existing visual character or quality of the project site and its surroundings. [X]
- The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. [X]

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area developed with industrial uses. Annexation would have no effect on aesthetics, however, eventual development on the site would change the character of the site from a low-density residential area to a light industrial or business park development.

(2-4) The project is located within an established industrial area and there are no scenic vistas of or from the area. The expansion of the existing light industrial area is consistent with the type of development in the area.
V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the 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).

**Traffic and Circulation Measures:**

None.

**Air Quality Measures:**

Mitigation Measure Air-1: PM10 Control Measures (page V-2-24 of the MEIR)

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

   a. 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.

   b. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

   c. 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.

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

   e. 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.

   f. 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.)*
g. 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.

h. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

i. Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

**Noise Measures:**
None

**Agricultural Land Measures:**
None

**Water Supply Measures:**
None

**Sanitary Sewer Service Measures:**
None

**Sensitive Wildlife and Plant Habitat Measures:**
None

**Archaeological or Historic Sites Measures:**
None

**Storm Drainage Measures:**

Mitigation Measure SD-4 (page V-9-4 of the MEIR)

Plans and specifications for new stormwater facilities within the City of Modesto are reviewed and approved by the engineering and Transportation Department. Development of stormwater drainage facilities must be in compliance with the requirements for the installation of Best Management Practices (BMPs) as defined in the City's Comprehensive Stormwater Management Program (CSMP), and as outlined in the City of Modesto Design Standards for Dual Use Flood Control/Recreation Facilities, adopted December 12, 2000.
Mitigation Measure SD-5 (page V-9-4 of the MEIR)

Two-thirds of the Baseline Developed Area is served by underground injection of urban runoff, commonly termed "rockwells." New rockwells will be discouraged within the Baseline Developed Area. Instead, new storm drainage in the Baseline Developed Area shall be by means of appositive storm drainage systems unless the proposed service area is so isolated from surface waters that it is infeasible to provide positive drainage.

The new storm drainage facilities shall consider the drainage facility requirements presented in Table 9-1 of the Master EIR. This policy applies to both positive storm drainage systems and to new rockwells (which are generally discouraged) in the Baseline Developed Area. (General Plan Policy V-E.2[a])

Mitigation Measure SD-6 (page V-9-4 of the MEIR)

The Modesto Irrigation District shall be consulted during the preparation of drainage studies required by the Urban Area General Plan. (General Plan Policy V-E.2[b])

Mitigation Measure SD-7 (page V-9-4 of the MEIR)

The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection. (General Plan Policy V-E.2[c])

Mitigation Measure SD-8 (page V-9-4 of the MEIR)

Storm water drainage facilities shall be constructed, operated, maintained, and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of existing facilities, remediation of developed areas with inadequate levels of drainage service, and the timely expansion of the system for future development. (General Plan Policy V-E.2[d])

Flooding and Water Quality Measures:

None

Parks and Open Space Measures:

None

Schools Measures:

None

Police Services:

None
Fire Services:

None

Generation of Solid Waste

None

Generation of Hazardous Materials

Mitigation Measure HM-3 (page V-16-5 of the MEIR)


The Hazardous Materials Release Response Plans and Inventory Act (Section 25500 et seq. of the Health and Safety Code, also known as the Business Plan Act), requires businesses using hazardous materials to prepare a plan that describes their facilities, inventories materials and sets of emergency response plans, and training programs. Hazardous materials are defined as raw or unused materials that are part of a process or manufacturing step, and they are not considered hazardous wastes. Health concerns pertaining to the release of hazardous materials, however, are similar to those relating to hazardous wastes. Often, the facilities subject to this act also generate hazardous wastes. Reports are filed with Stanislaus County. The required plan also informs emergency responders of hazardous materials.

Mitigation Measure HM-10 (page V-16-7 of the MEIR)

The California Environmental Protection Agency is authorized to endow qualifying local agencies with oversight and permitting responsibility for certain state programs. The Unified Program was created by state legislation in 1993 to consolidate, coordinate, and make consistent the administrative requirements, permits, inspections, and enforcement activities for the following environmental and emergency management programs:

a. Hazardous Materials Release Response Plans and Inventories (Business Plans)
b. California Accidental Release Prevention (CalARP) Program
c. UST Program
d. Aboveground Petroleum Storage Act Requirements for Spill Prevention, Control and Countermeasure (SPCC) Plans
e. Hazardous Waste Generator and Onsite Hazardous Waste Treatments (tiered permitting) Programs

Mitigation Measure HM-12 (page V-16-8 of the MEIR)

Stanislaus County is a Certified Unified Program Agency authorized to administer a number of state programs at the local level. It regulates hazardous materials within its incorporated (including Modesto) and unincorporated areas. The County’s role includes the following (Stanislaus County 2002):
1. Implement Risk Management and Prevention laws to minimize chemical releases in the community.
2. Maintain hazardous materials response team to assist police and fire agencies during transportation and industrial accidents involving chemical spills.
3. Prepare and implement county's Area Plan for emergency response to chemical spills in the community.
4. Permit and inspect removal of USTs.
5. Permit and monitor new USTs.
6. Oversee site investigation for soil and groundwater contamination and clean-up.
7. Inspect hazardous waste generators.
8. Review procedures for storage, treatment and disposal of hazardous wastes.
10. Develop and implement the county Household Hazardous Waste collection program.
11. Inspect medical facilities to ensure compliance with state medical waste management laws.
12. Implement hazardous materials disclosure laws (business plans) to ensure access to information about chemicals handled by businesses.

Mitigation Measure HM-13 (page V-16-9 of the MEIR)

The City shall comply with all existing federal and state laws, which regulate the generation, transportation, storage, and disposal of hazardous materials (General Plan Policy V-M.2[a]).

Potential for Landslides and Seismic Activity

Mitigation Measure LSA-9 (page V-17-6 of the MEIR)

The City shall continue to require all new buildings in the City to be built under the seismic requirements of the Uniform Building Code, 1979 (or subsequent) edition. (General Plan Policy VI-B.2[b])

Mitigation Measure LSA-11 (page V-17-7 of the MEIR)

Any construction which occurs as a result of the Urban Area General Plan must conform with the current UBC regulations, which address seismic safety of new structures and slope requirements. As appropriate, the City will require a geotechnical analysis prior to tentative map review in order to ascertain site-specific subsurface information necessary to estimate foundation conditions. These geotechnical studies should reference and make use of the most recent regional geologic maps available from the California Department of Conservation Division of Mines and Geology. (General Plan Policy VI.E.1[a])

Energy

None

Planning and Land Use

None

Aesthetics

None

City of Modesto Finding of Conformance
General Plan Master EIR 37

Initial Study
C&ED No. 2006-68
March 15, 2007
B. **Recommended Conditions of Project Approval**

1. The Vesting Tentative Subdivision Map application cannot proceed to Planning Commission until the annexation process is complete.

2. Prior to approval of the Vesting Tentative Subdivision Map or the issuance of any building permits, storm water control facilities must be constructed that meets City standards and as approved by the Director of Public Works.

3. The property must be annexed to Modesto Municipal Sewer District #1. Sewer service shall be taken from Lone Palm Avenue.

4. Storm water quality and runoff from the site must be mitigated. Development guidelines must be followed.

5. Improvement plans shall be prepared by a California-licensed civil engineer and in accordance with City of Modesto standards.
LONE PALM No. 2
ANNEXATION
178,885 S.F
4.11 acres

POINT OF BEGINNING
SOUTHWEST CORNER LOT 4
MAZE COLONY (1-M-83)

BASIS OF BEARING:
NORTH 100'00" WEST FOR THE CENTERLINE OF LONE PALM AVE.
AS PER 23-P.M.-80,
STANISLAUS COUNTY RECORDS

PROPOSED ANNEXATION BOUNDARY:

PREVIOUS ANNEXATION BOUNDARY:

ANNEXATION MAP
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-532

A RESOLUTION ACCEPTING THE REPORT OF THE PUBLIC WORKS DIRECTOR REGARDING THE DEMOLITION AND ABATEMENT OF THE DANGEROUS BUILDING OWNED BY MR. VERLON STARKEY, AT 1315 D STREET, LOCATED ON PROPERTY COMMONLY KNOWN AS 401 14TH STREET, DECLARING THE DEMOLITION AND ABATEMENT COMPLETE, ACCEPTING THE EXPENSES INCURRED, AUTHORIZING THE ASSESSMENT OF CHARGES IN THE AMOUNT OF $6,542.08, AND ASSESSING THE CHARGE TO MR. STARKEY AS A PERSONAL OBLIGATION.

WHEREAS, the auto shop and attached carport at 1315 D Street, located on property known as 401 14th Street, was determined to be substandard following an inspection on June 19, 2006, and

WHEREAS, this commercial structure had been empty for almost five years, and

WHEREAS, fire damage to the roof caused it to sag, which caused the exterior walls of the building to be pushed out of plumb, and

WHEREAS, the exterior walls also received severe damage as a result of a car accident and the attached carport had been vandalized, making it a “lean-to” for the homeless to sleep under, and

WHEREAS, on July 3, 2006 a Notice and Order was issued declaring the building to be dangerous per Chapter 2, Section 202 and Chapter 3, Section 302 of the City of Modesto Dangerous Buildings Code, and

WHEREAS, in the Notice, Mr. Verlon Starkey, the owner, was required to obtain the appropriate permits for the demolition of the building within 60 days and to physically commence work, with demolition to be completed by August 28, 2006, and
WHEREAS, Mr. Starkey failed to respond the Notice and Order and this matter went before the Board of Building Appeals (Board) on September 21, 2006, where Mr. Starkey and Supervising Building Inspector Bert Lippert both gave testimony, and

WHEREAS, on January 16, 2007, the Board issued a Notice of Decision and Order Declaring Nuisance and directing the owner to abate said nuisance within 30 days, and

WHEREAS, Mr. Starkey failed to comply with the Decision and Order to demolish the property within 30 days and the City proceeded to obtain demolition bids, and

WHEREAS, City entered into a contract for services with the lowest bidder, Accelerated Concrete Cutting, and

WHEREAS, in late March 2007 City requested permission from Mr. Starkey to enter the property for the purpose of demolishing the structure and Mr. Starkey refused to grant access to the property, and

WHEREAS, City took further action and applied for an Inspection Warrant from the Superior Court of California, County of Stanislaus, which was issued on April 2, 2007 giving the City fourteen (14) days to perform the demolition, and

WHEREAS, the demolition was performed by Accelerated Concrete Cutting on April 5, 2007 and the property has now been abated of the nuisance by the demolition of the dangerous building, and

WHEREAS, City has incurred $6,542.08 for the demolition and abatement of the property as follows:

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<th>Service</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Demolition</td>
<td>$3,400.00</td>
</tr>
<tr>
<td>Title Search</td>
<td>$ 75.00</td>
</tr>
<tr>
<td>Inspection Costs</td>
<td>$ 110.80</td>
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<tr>
<td>Board Hearing Costs</td>
<td>$ 1171.78</td>
</tr>
<tr>
<td>Notice &amp; Order Costs</td>
<td>$ 539.68</td>
</tr>
</tbody>
</table>
WHEREAS, all costs and expenses incurred by the City for the inspection, Notice and Order, Board of Building Appeals Hearing, Decision and Order, Inspection Warrant, demolition, and Confirmation of Cost Hearing before the City Council for 1315 D Street, Modesto, California are allowed by Chapter 9 of the Dangerous Buildings Code of the City of Modesto Sections 901, 902, 903, and 904 for reimbursement, and

WHEREAS, these sections require a hearing for the confirmation of costs be presented before the City Council for consideration, and

WHEREAS, a duly noticed public hearing was held by the Council on September 4, 2007 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to be heard relative to the proposal of accepting the report of the Public Works Director regarding the demolition and abatement of the dangerous building owned by Mr. Verlon Starkey, at 1315 D Street, located on property commonly known as 401 14th Street, declaring the demolition and abatement complete, accepting the expenses incurred, authorizing the assessment of charges in the amount of $6,542.08, and assessing the charge to Mr. Starkey as a personal obligation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the report of the Public Works Director regarding the demolition and abatement of the dangerous building owned by Mr. Verlon Starkey, at 1315 D Street, located on property commonly known as 401 14th Street.
BE IT FURTHER RESOLVED by the Council that it hereby declares the
demolition and abatement to be complete.

BE IT FURTHER RESOLVED by the Council that it hereby accepts the expenses
incurred.

BE IT FURTHER RESOLVED by Council that it hereby authorizes the
assessment of charges in the amount of $6,542.08, and assess the charge to Mr. Starkey
as a personal obligation.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 4th day of September, 2007, by Councilmember
O’Bryant, 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: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen,
        Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-533

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE HACIENDA DEL SOL PHASE I SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust, and Centex Homes, a Nevada General Partnership, are the subdivider of the HACIENDA DEL SOL PHASE I SUBDIVISION ("SUBDIVISION"), and

WHEREAS, Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust, and Centex Homes, a Nevada General Partnership, have filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $900,268.00 and $450,134.00, respectively, and

WHEREAS, Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust, and Centex Homes, a Nevada General Partnership, have filed a warranty bond in the amount of $90,026.80 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:
1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $900,268.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $450,134.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $90,026.80 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By __________________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-534

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE PLAZA SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Centex Homes, a Nevada General Partnership, is the subdivider of THE PLAZA SUBDIVISION ("SUBDIVISION"), and

WHEREAS, Centex Homes, a Nevada General Partnership, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $1,372,469.00 and $686,234.50, respectively, and

WHEREAS, Centex Homes, a Nevada General Partnership, has filed a warranty bond in the amount of $137,246.90 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, and authorize the City Clerk to file a Notice of Completion and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $1,372,469.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $686,234.50 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $137,246.90 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: 

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By 

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-535

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 budget have been adjusted as shown on the Budget Request form(s).

BE IT FURTHER RESOLVED that the Finance Director 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 11th day of September, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dunbar, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, O’Bryant

ATTEST: [Signature]
JEAN MORRIS, City Clerk

(APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney)
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-536

A RESOLUTION AUTHORIZING ACCEPTING THE 2007 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) WITH THE U.S. DEPARTMENT OF JUSTICE, IN THE AMOUNT OF $142,462, FOR THE PROCUREMENT AND IMPLEMENTATION OF A REGIONAL CRIMINAL JUSTICE INFORMATION SHARING SYSTEM, IN PARTNERSHIP WITH THE STANISLAUS COUNTY SHERIFF'S OFFICE AND OTHER CRIMINAL JUSTICE AGENCIES IN STANISLAUS COUNTY, AND AUTHORIZING THE POLICE CHIEF TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, ON June 26, 2007 the City Council, by Resolution No. 2007-372, authorized submittal of an application to the U.S. Department of Justice for the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG), and

WHEREAS, on August 21, 2007, the U.S. Department of Justice (DOJ) notified the Modesto Police Department that it was awarded the 2007 Edward Byrne Memorial Justice Assistance Grant, for the procurement and implementation of a Regional Criminal Justice Information Sharing System, in partnership with the Stanislaus County Sheriff's Office and other criminal justice agencies in Stanislaus County, and

WHEREAS, funds provided by the JAG Grant will allow the Modesto Police Department the technology to not only share criminal justice information between agencies in Stanislaus County but it will eventually link to other regional criminal justice information sharing systems creating a Criminal Justice Information Network spanning up and down the west coast and across the country, linking regional, state, and federal agencies, and

WHEREAS, the total grant will be $142,462, and

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

WHEREAS, a separate CIP account will be set up in the Information Technology Fund, within the CAD/RMS/COPLINK “Suite” of accounts as follows:
Appropriate:

To: 7130-070-MXXX-3508 $142,462 2007 Edward Byrne Justice Assistance Grant

Revenue:

To: 7130-070-MXXX-6040 $142,462 Grant Revenue

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes accepting the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG) with the U.S. Department of Justice, in the amount of $142,462, for the procurement and implementation of a Regional Criminal Justice Information Sharing System, in partnership with the Stanislaus County Sheriff’s Office and other criminal justice agencies in Stanislaus County,

BE IT FURTHER RESOLVED that the Police Chief is hereby authorized to execute the necessary documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION AUTHORIZING ACCEPTING THE 2007 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) WITH THE U.S. DEPARTMENT OF JUSTICE, IN THE AMOUNT OF $142,462, FOR THE PROCUREMENT AND IMPLEMENTATION OF A REGIONAL CRIMINAL JUSTICE INFORMATION SHARING SYSTEM, IN PARTNERSHIP WITH THE STANISLAUS COUNTY SHERIFF'S OFFICE AND OTHER CRIMINAL JUSTICE AGENCIES IN STANISLAUS COUNTY, AND AUTHORIZING THE POLICE CHIEF TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, ON June 26, 2007 the City Council, by Resolution No. 2007-372, authorized submittal of an application to the U.S. Department of Justice for the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG), and

WHEREAS, on August 21, 2007, the U.S. Department of Justice (DOJ) notified the Modesto Police Department that it was awarded the 2007 Edward Byrne Memorial Justice Assistance Grant, for the procurement and implementation of a Regional Criminal Justice Information Sharing System, in partnership with the Stanislaus County Sheriff's Office and other criminal justice agencies in Stanislaus County, and

WHEREAS, funds provided by the JAG Grant will allow the Modesto Police Department the technology to not only share criminal justice information between agencies in Stanislaus County but it will eventually link to other regional criminal justice information sharing systems creating a Criminal Justice Information Network spanning up and down the west coast and across the country, linking regional, state, and federal agencies, and

WHEREAS, the total grant will be $142,462, and

WHEREAS, there is no local match required for this grant, and
WHEREAS, a separate CIP account will be set up in the Information Technology Fund, within the CAD/RMS/COPLINK “Suite” of accounts as follows:

Appropriate:
To: 7130-070-MXXX-3508 $142,462 2007 Edward Byrne Justice Assistance Grant

Revenue:
To: 7130-070-MXXX-6040 $142,462 Grant Revenue

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes accepting the 2007 Edward Byrne Memorial Justice Assistance Grant (JAG) with the U.S. Department of Justice, in the amount of $142,462, for the procurement and implementation of a Regional Criminal Justice Information Sharing System, in partnership with the Stanislaus County Sheriff’s Office and other criminal justice agencies in Stanislaus County,

BE IT FURTHER RESOLVED that the Police Chief is hereby authorized to execute the necessary documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-538

A RESOLUTION APPROVING THE PROJECT, INCLUDING PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED “KING KENNEDY MEMORIAL CENTER ROOF REPLACEMENT”, ACCEPTING THE LOW BID AND APPROVING A $47,242.00 CONTRACT WITH SKYLINES ROOFING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled “King Kennedy Memorial Center Roof Replacement” and City staff recommends approval by the City Council, and

WHEREAS, the bids received for “King Kennedy Memorial Center Roof Replacement” were opened at 11:00 a.m. on August 14, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $47,242.00, received from Skylines Roofing be accepted as the lowest responsible bid and the contract be awarded to Skylines Roofing,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the project plans and specifications for the project titled “King Kennedy Memorial Center Roof Replacement,” and accepts the bid of Skylines Roofing in the amount of $47,242.00, and hereby awards Skylines Roofing the contract titled “King Kennedy Memorial Center Roof Replacement.”

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-539

A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT TO EXECUTE AN AGREEMENT WITH ALLANA, BUICK, AND BERS FOR AN AMOUNT NOT TO EXCEED $733,700, TO PREPARE PLANS & SPECIFICATIONS, AND PROVIDE CONSTRUCTION PHASE SERVICES TO CORRECT WATER INTRUSION PROBLEMS AND EXTERIOR SIDING DAMAGE TO THE EXISTING MODESTO REGIONAL WATER TREATMENT PLANT AND TERMINAL RESERVOIR/PUMP STATION BUILDINGS

WHEREAS, the City and the Modesto Irrigation District (MID) have been working together for several years planning the Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project, which will increase its existing annual average production capacity from 30 million gallons per day (mgd) to 60 mgd, and

WHEREAS, this expansion project is now in the early stages of construction and is expected to be completed in late 2009, and

WHEREAS, over the years, MID staff has performed various patchwork repairs on the roofs and sidings of some of the existing buildings at the MRWTP and Terminal Reservoir/Pump Station, and

WHEREAS, in January 2007, MID hired the firm of Allana, Buick, and Bers (ABB), a building waterproofing consulting firm, to conduct waterproofing consultation services related to the water intrusion problem and woodpecker damage to the “Exterior Insulation Finish System” (EIFS) siding, and

WHEREAS, ABB’s evaluation concluded that a significant amount of repair work is needed on all of the existing buildings, and

WHEREAS, in general, and based on extensive field investigations and testing, ABB recommends that a “Full EIFS Repair & Full Roof Replacement” occur, and
WHEREAS, this is the Technical Committee’s preferred option and recommended action because it is a long-term comprehensive fix that will eliminate the problems, and

WHEREAS, the scope of work includes the following major elements: 1) Remove and replace gutters, downspouts, and sheet metal valley assemblies; 2) Detach, remove and reinstall or replace metal roofing to install proper flashing, waterproofing, and underlayments; 3) Remove and replace EIFS bull nose, sealants and damaged areas, 4) Repair sealants at skylights and expansion joints; 5) Reshape raised 90-degree panels to deter mud swallow nesting patterns; 6) Refinish all exterior walls when necessary with a thicker and stronger material to reduce woodpecker intrusion problems and reseal each building’s exterior, and

WHEREAS, as part of the analysis performed by ABB, three other repair alternatives were considered, however, the “Full EIFS Repair & Full Roof Replacement” was recommended as the optimal solution, and

WHEREAS, due to the complexities associated with this type of design work and ABB’s intimate knowledge of the water intrusion problems and EIFS siding damage, the Technical Committee and Policy Committee agreed to sole source this work to ABB, and

WHEREAS, the components of ABB’s work will include: 1) Preparing plans and specifications for the building envelopes of the MRWTP and Terminal Reservoir/Pump Station facilities and providing bidding phase services in an amount not to exceed $167,000; 2) Providing construction administrative and project management services, which includes full-time construction monitoring services (including an allowance of $35,000 for air sampling and hazardous materials abatement, if needed), in an amount not
to exceed $500,000; and 3) Including, due to unknown conditions, a 10% MID-controlled contingency for all services, in an amount not to exceed $66,700, for a total cost of all services not to exceed $733,700, and

WHEREAS, City staff believes that the costs for these services are reasonable and competitive as ABB’s fees, which include full-time inspection, are projected to be between 11% and 13.5% of the cost of construction, ABB’s intimate knowledge of the water intrusion problems and EIFS siding damage, and EIFS design and repair is a specialized service and requires the retention of a firm, such as ABB, with this specialized forensic and design experience, and

WHEREAS, as with many other aspects of this project, MID will initially front the costs for the items described in this report (i.e. design, construction management, construction, etc.), but will be reimbursed by the City pursuant to the terms and conditions of the Amended and Restated Treatment and Delivery Agreement, and

WHEREAS, per the Amended and Restated Treatment and Delivery Agreement approved by the Council of the City of Modesto on October 11, 2005, by Resolution No. 2005-516, MID will initially front the costs for the items described in the agenda report, but they will be reimbursed from the City for such costs once the project’s financing structure is in place,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an Agreement with Allana, Buick, and Bers for an amount not to exceed $733,700, to prepare plans & specifications, and provide Construction Phase Services to correct water intrusion
problems and exterior siding damage to the existing Modesto Regional Water Treatment Plant and Terminal Reservoir/Pump Station buildings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007 by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-540

A RESOLUTION ACCEPTING THE KAISER REMOTE OFF-SITE IMPROVEMENTS PROJECT, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, the City Council, by Ordinance No. 3357-C.S., which became effective on October 8, 2004, approved the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals for the development of Kaiser Modesto Medical Center/Cornerstone Business Park located in the Kiernan Business Park Specific Plan (DEVELOPMENT), and

WHEREAS, as a condition of said Development Agreement, Kaiser Foundation Hospitals (DEVELOPER) was to construct all identified Public Improvements located within the DEVELOPMENT and certain Remote Off-Site Improvements (IMPROVEMENTS) identified within the Development Agreement, and

WHEREAS, the Construction Administration Office, in a memorandum to staff, indicates that said IMPROVEMENTS have been completed to the satisfaction of the Public Works Department, and

WHEREAS, DEVELOPER has provided a warranty for said IMPROVEMENTS, and

WHEREAS, the Construction Administration Office has indicated that it would be in order for the City Council to accept said IMPROVEMENTS as complete, and authorize the City Clerk to record a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Kaiser Remote Off-Site Improvements Project is hereby accepted,
BE IT FURTHER RESOLVED that the City Clerk, or her designee, is hereby authorized to file a Notice of Completion.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

ATTEST: 

JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-541

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH HARRIS & ASSOCIATES FOR ON-CALL CONSTRUCTION MANAGEMENT SERVICES FOR VARIOUS CAPITAL IMPROVEMENT BUILDING PROJECTS AND A MULTI-YEAR OPERATING ORGANIZATION PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $199,160, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City has ongoing construction and future building projects for new construction, renovation, and rehabilitation, and

WHEREAS, the growth in the Capital Improvement Program has hindered construction management and inspection of construction projects as well as encroachment permits and subdivisions, and

WHEREAS, due to two current construction inspector vacancies these services are needed to support various Capital Improvement Projects (CIPs) in the City’s Capital Improvement Program and a Multi-year Operating Organization Project, and

WHEREAS, various Capital Improvement Building Projects and a Multi-year Operating Organization Project have been grouped together to provide economy of scale and obtain a lower cost for services, and

WHEREAS, Harris & Associates is well qualified to perform On-Call Construction Management Support Services and has performed such services for various public agencies several times in the past and has demonstrated satisfactory services to the City on past projects, and

WHEREAS, the Public Works Department has insufficient staffing at this time to perform such services, and

WHEREAS, current staffing will not provide for timely in-house construction management, and
WHEREAS, on August 21, 2007, the City Manager approved a one-month Agreement in the amount of $29,600 with Harris & Associates for On-Call Construction Management Services for the City of Modesto’s various CIP Projects to provide a full-time inspector during the gap period of taking this larger agreement to Council, and

WHEREAS, in August of 2007, Harris & Associates submitted a separate fee and scope for On-Call Construction Management Services in the amount of $199,160 to continue services, and

WHEREAS, the consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order, and

WHEREAS, the consultant will perform no services until Capital Improvement Services (CIS) management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to the consultant prior to commencement of services, and

WHEREAS, to fund consultant work for specific task orders, funds will be budgeted and encumbered against each project specific CIP account, or multi-year operating organization, as the project is assigned, and

WHEREAS, consultant invoices are to be paid from each project specific CIP, or multi-year operating organization on a task order basis received and verified by CIS staff, and

WHEREAS, a Consultant Agreement with Harris & Associates for On-Call Construction Management Services in the not-to-exceed amount of $199,160 for various Capital Improvement Projects and a multi-year operating organization project is necessary in order to complete the following projects: 1) Neighborhood Center Marshall
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Consultant Agreement with Harris & Associates for On-Call Construction Management Services for various Capital Improvement building Projects and a Multi-year Operating Organization Project, in the not-to-exceed amount of $199,160.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST:  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-542

A RESOLUTION DIRECTING THE SINGLE DEPARTMENT STRUCTURE BE RETAINED WITH AN INTERNAL REORGANIZATION ONLY OF THE PUBLIC WORKS DEPARTMENT AS AN INTERMEDIATE STEP TOWARD CREATING TWO DEPARTMENTS, WITH THE CONDITION THAT ANY STEPS TOWARDS CREATING TWO DEPARTMENTS BE RETURNED TO COUNCIL FOR CONSIDERATION.

WHEREAS, the policy issue related to reorganization of the Public Works Department (PW) was first presented to the Finance Committee in February 2007, and

WHEREAS, since that time the reorganization has been discussed with the Finance Committee on March 29, April 23, and May 16, 2007 during the budget hearings, and

WHEREAS, at the final adoption of the 2007-08 budget on May 22, 2007, Council directed staff to implement an initial phase of the Public Works Reorganization (Reorganization) by transferring all land development functions and personnel to the Community and Economic Development Department effective July 1, 2007, and

WHEREAS, the proposal presented to Council on September 11, 2007, was to obtain approval for the Reorganization, to be implemented in Phase II and Phase III as listed below:

Phase II – Preparation and splitting PW into a Municipal Utilities Department (MUD) and a Transportation Department (TD) – begin with budget preparation cycle for FY 2008-09 in January 2008 to develop appropriate budget structures and identify costs in various fund proformas, addition of three new positions (department director, deputy director, and executive secretary), and begin the recruitment of new Department Director
Phase III – Creation of new departments – new departments to be established July 1, 2008, providing new directors opportunity to evaluate organizational structures and make recommendations for additional resources as part of FY 2008-09 supplemental budget cycle

, and

WHEREAS, typically small and medium-size California cities are organized as the current PW, and

WHEREAS, when populations increase beyond 100,000 it becomes difficult to effectively serve the community under this model, and

WHEREAS, larger cities generally divide their public works function between two or more departments to improve service delivery and efficiency, and

WHEREAS, Fresno, Stockton and Sacramento cities are examples of cities with the two or more department structures for public works functions, and

WHEREAS, the formation of MUD moves water, wastewater, and Stormwater utilities into one department and focuses on planning, development, and management of the City’s water resources which enhances the community’s quality of life, preserves water rights, facilitates economic development, and protects the environment, and

WHEREAS, the formation of TD strengthens the management and leadership direction of the City’s transportation-based divisions (Airport, Transit, Traffic Engineer, Fleet Services, Urban Forestry, and Street Maintenance) and provides for more uniform management and compliance with funding and regulatory requirements needed to meet the goal of delivering safe and efficient transportation systems, and
WHEREAS, PW Reorganization is based on process that mirrors the modified Zero-Based Budget process and is consistent with recent organizational studies conducted for the City (Citygate Associates, Management Partners-Organizational Health Assessment), and

WHEREAS, the funding of $246,273 for the additional positions necessary (transportation director, deputy director, and executive secretary) are available through additional funding through various funding sources, including $50,242 from the General Fund, and

WHEREAS, as an alternative measure, staff proposed retaining the single department structure with an internal reorganization as a intermediate step towards creating two departments, and

WHEREAS, under this alternative, the utilities and transportation functions would be clearly separated into two divisions within Public Works and the engineering functions for each would be divided accordingly, and

WHEREAS, this intermediate step would create the necessary budgeting and fund structures for a future splitting of the Public Work Department, and

WHEREAS, an additional deputy director of Public Works would be needed to implement this intermediate step at a cost of $147,716 (salary/benefits), and

WHEREAS, funding for this additional deputy director position is available in the Transit, Fleet, and Airport Funds, and

WHEREAS, the Finance Committee discussed this item at its March 29, April 23, and May 16, 2007 meetings without forwarding a recommendation to Council,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby directs that the single department structure be retained with an internal reorganization only of the Public Works Department as an intermediate step towards creating two departments, with the condition that any steps towards creating two departments be returned to Council for consideration.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007 by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Dunbar, Marsh, Olsen, Mayor Ridenour

NOES: Councilmember: Hawn, Keating

ABSENT: Councilmember: O’Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-543

A RESOLUTION GRANTING THE APPEAL OF THE PROPERTY OWNERS RESIDING ON SCENIC COURT AND MR. & MRS. NAZI AT 905 FONTANA COURT TO A PLANNING COMMISSION DECISION APPROVING A PLOT PLAN AND VESTING TENTATIVE PARCEL MAP TO ALLOW THE CREATION OF FOUR PARCELS, INCLUDING TWO FLAG LOTS, FOR THE PROPERTY LOCATED AT 2929 SCENIC DRIVE

WHEREAS, on November 21, 2006, the secretary to the Planning Commission received an application filed by William Machado Construction, Inc. for a plot plan and vesting tentative parcel map in the R-1, Single-Family Residential Zone, to divide a 1.01 acre parcel located at 2929 Scenic Drive in to four parcels, and

WHEREAS, a public hearing was held by the Planning Commission on July 2, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary were received and considered, and

WHEREAS, the Planning Commission found and determined that the plot plan and vesting tentative parcel map as sought by William A. Machado Construction, Inc., to divide a 1.01 acre parcel into four separate parcels located on the northeast corner of Scenic Drive and Scenic Court was consistent with the General Plan of the City of Modesto, the Subdivision Map Act of the State of California, and the Modesto Municipal Code, and

WHEREAS, an appeal to the Planning Commission’s approval of the application of William Machado, Construction, Inc. for a plot plan and vesting tentative parcel map in the R-1, Single-Family Residential Zone, to divide a 1.01 acre parcel into four parcels located at 2929 Scenic Drive was filed with the Office of the City Clerk by letter dated June 16, 2007, from the Property Owners residing on Scenic Court and Mr. and Mrs. Nazi at 905 Fontana Court, and
WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on September 11, 2007, and

WHEREAS, it takes four votes to either approve or deny a resolution, and

WHEREAS, after said public hearing the Council found and determined that said appeal to the approval of the requested plot plan and vesting tentative parcel map in the R-I, Single-Family Residential Zone, to divide a 1.01 acre parcel into 4 separate parcels, two of which were to be flag lots at 2929 Scenic Drive, should be granted for the following reason:

1. The development would not be compatible with the surrounding neighborhood under Article 5 Section 10-2.501(b), of the Modesto Municipal Code which states that the purpose and intent of the R-I zone are to: Preserve a high degree of compatibility between adjacent R-I uses and between R-I and other types of development.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of the property owners on Scenic Court and Mr. and Mrs. Nazi at 905 Fontana Court to the decision of the Planning Commission approving the application for a plot plan and vesting tentative parcel map in the R-I, Single-Family Residential Zone, to divide a 1.01 acre parcel into four separate parcels at 2929 Scenic Drive, is granted for the reason quoted above, and the decision of the Planning Commission is hereby denied.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Mayor Ridenour

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: O’Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susan Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-544


WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, the City proposes to amend certain portions of the text of its Planning and Zoning Code, 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 2007-15 ("Initial Study") reviewed the proposed Zoning Code Text 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 August 20, 2007,
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 September 11, 2007, 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
Omnibus Zoning Code Text Amendment, 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. 1999082041) 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 have been 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 determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2007-15
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2007-15

For the proposed:
Omnibus Zoning Code Text Amendment 2007-1

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

May, 2007
City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether Omnibus Zoning Code Text Amendment 2006-1 is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Omnibus Zoning Code Text Amendment 2007-1

B. Address or Location: City of Modesto

C. Applicant: City of Modesto

D. City Contact Person: Patrick Kelly

Project Manager: Patrick Kelly
Department: Community & Economic Development Department
Phone Number: (209) 577-5268
E-mail address: p.kelly@modestogov.com

E. Current General Plan Designation(s): N/A

F. Current Zoning Classification(s): N/A

G. Surrounding Land Uses: N/A
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):

This project consists of a set of minor amendments to Title 10 of the Modesto Municipal Code (the Zoning Code), to implement goals of the Housing Element and accomplish the following:

1. Remove "pyramidal" provisions of the R-2 and R-3 zones, providing for minimum as well as maximum densities in these zones and increasing minimum lot size for newly created lots, and making revisions to height and setback provisions.

2. Rename the Specific Plan Overlay (SP-O) zone to the Specific Pan (S-P) zone and add provisions relating to the process for preparation of Specific Plans.

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. The following items are found to be true:

A. The type of project is 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 items are found to be true:

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

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
May, 2007
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. The following items are found to be true:

   A. The type of project is 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.

Patrick Kelly, Project Manager

Principal Planner

May 30, 2007

4. **Within the Scope Analysis of this Document:**

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered 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.

(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).

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(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 mitigation measures identified in the General Plan Master EIR.

Discussion: N/A

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 20 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 discussed.

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 was 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:

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

4. 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.

5. Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.

Discussion:

2. The project is a minor amendment to the Zoning Code. The Zoning Code is implicit in the General Plan and none of the topics of the proposed amendment will alter the Code in such a fashion as to create new environmental issues.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this 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 a notice of conformity after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect year 2025 buildout of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

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

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.
c. Project-Specific Effects

Section V-1.B of the MEIR 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 previously analyzed in the MEIR.

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

YES NO

(1) The project exceeds the Master EIRs traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the Master EIRs program of mitigation measures. □ ☒

(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). □ ☒

(3) Result in inadequate emergency access. □ ☒

(4) Result in inadequate parking capacity. □ ☒

Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on traffic and transportation issues.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.
c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air 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 MEIR.

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

1. The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District’s (SJVUAPCD) adopted CEQA Guidelines.

2. The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.

3. The project does not comply with the air quality policies of the Modesto Urban Area General Plan.

4. The project would expose sensitive receptors to substantial pollutant concentrations.

5. The project would create objectionable odors affecting a substantial number of people.

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on air quality issues.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City’s Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City’s General Plan and noise ordinance standards.

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-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Any new measures are listed in Section V, Mitigation Applied to Project:
Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise 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 MEIR.

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

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<tr>
<td>(1)</td>
<td>The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>YES</td>
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<tr>
<td>(2)</td>
<td>The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.</td>
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<tr>
<td>(3)</td>
<td>The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
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<tr>
<td>(4)</td>
<td>The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.</td>
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Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on noise issues.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the City of Modesto Finding of Conformance General Plan Master EIR
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 appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. **Project-Specific Effects**

Section V-4.B of the MEIR provides analysis of Agricultural Lands 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project will directly result in the development of land outside the March 2003 planning area boundaries.
3. The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.
4. The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.

**Discussion:**

1-4. The project is a minor amendment to the Zoning Code and will have no effect on agricultural land.

**5. WATER SUPPLY**

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

The Master EIR identified the following significant environmental impacts relative to water supply:

**Effect:** Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

**Effect:** Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be
conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

**Effect:** During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-5.B of the MEIR provides analysis of Water Supply 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.  

2. Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.

**Discussion:**

1-2. The project is a minor amendment to the Zoning Code and will have no effect on water supply issues.

**6. SANITARY SEWER SERVICES**

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

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

**Effect:** The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction
activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

**Effect:** The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

**Note on the WMP Master EIR.** The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-4 through V-6-7 of the MEIR. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. **Project-Specific Effects**

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.  

   **YES**  

   **NO**

2. The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.

   **YES**  

   **NO**

**Discussion:**

1-2. The project is a minor amendment to the Zoning Code and will have no effect on wastewater issues.
7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

**Effect:** Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

**Effect:** Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will 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 measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat 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 MEIR.

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></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2</td>
<td>Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3</td>
<td>Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

1-3. The project is a minor amendment to the Zoning Code and will have no effect on wildlife or plant habitat.
8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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-8-13 and V-8-14 of the MEIR. All feasible 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: None 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 provides analysis of Archaeological/Historical 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 MEIR.

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

(1) The project is inconsistent with the Modesto Urban Area General Plan.
(2) The project would 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.

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
May, 2007
Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on cultural resources.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

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 areas and associated urban storm water drainage. 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 measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage 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 MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.
3. Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Discussion:

1-3. The project is a minor amendment to the Zoning Code and will have no effect on storm water runoff.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City’s implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City’s future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-10.B of the MEIR 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 MEIR.

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

(1) The project is inconsistent with the Modesto Urban Area General Plan. YES NO

(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.

(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.

(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on flooding and water quality issues.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code...
Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

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

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 of the MEIR. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation 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 MEIR.

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>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐ ☒</td>
</tr>
</tbody>
</table>

Discussion:
1. The project is a minor amendment to the Zoning Code and will have no effect on parks and open space issues.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.
b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, 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 proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.  
2. The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on schools.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.
Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 of the MEIR. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan.

2. The project would 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.

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on police services issues.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.
b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the MEIR. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. ☒ ☒
2. The project would 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. ☒ ☒

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on fire services issues.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.
**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 of the MEIR. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. **NO**
2. The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity. **NO**

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on solid waste issues.

16. **HAZARDOUS MATERIALS**

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

**Effect:** The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 of the MEIR. All feasible 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials 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 MEIR.

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

(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project does not 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.

(3) The project contains a contaminated site not identified as of March 2003.

(4) The 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.

(5) The 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.

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on hazardous materials issues.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.
Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures applicable 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic 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 MEIR.

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

1. The project is inconsistent with the Modesto Urban Area General Plan. [ ] Yes [X] No
2. The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. [ ] No [X] Yes

Discussion:

1.5. The project is a minor amendment to the Zoning Code and will have no effect on seismic issues.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.
Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy 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 MEIR.

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

(1) The project is inconsistent with the Modesto Urban Area General Plan.  

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on seismic issues.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.
a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan. ☒
2. The project includes a substantive amendment to the Modesto Urban Area General Plan. ☒
3. The project would physically divide an established community. ☒

Discussion:
1-3. The project is a minor amendment to the Zoning Code and will not divide any established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan. ☒
2. The project would have a substantial adverse effect on a scenic vista. ☒
3. The project would substantially degrade the existing visual character or quality of the project site and its surroundings. ☒
4. The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. ☒

Discussion:
1-4. The project is a minor amendment to the Zoning Code and will not affect any aesthetic issues.
V. MITIGATION MEASURES APPLIED TO THE 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 CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the 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 specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study.

A Mitigated Negative Declaration/EIR shall be prepared for the project and the following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:
Traffic and Circulation Measures: N/A

Air Quality Measures: N/A

Noise Measures: N/A

Agricultural Land Measures: N/A

Water Supply Measures: N/A

Sanitary Sewer Service Measures: N/A

Sensitive Wildlife and Plant Habitat Measures: N/A

Archaeological or Historic Sites Measures: N/A

Storm Drainage Measures: N/A

Flooding and Water Quality Measures: N/A

Parks and Open Space Measures: N/A

Schools Measures: N/A

Police Services: N/A

Fire Services: N/A

Generation of Solid Waste N/A

Generation of Hazardous Materials N/A

Potential for Landslides and Seismic Activity N/A

Energy N/A

Planning and Land Use N/A

Aesthetics N/A
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-545

A RESOLUTION APPOINTING A MEMBER OF THE PLANNING COMMISSION TO THE BOARD OF ZONING ADJUSTMENT

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 Planning Commission met on September 17, 2007 and recommended appointment of TED BRANDVOLD as its representative to the Board of Zoning Adjustment, in place of Willie “Mac” Daniel.

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

SECTION 1. TED BRANDVOLD, as representative of the Planning Commission, is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Zoning Adjustment, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-546

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE CANTERBURY ESTATES SUBDIVISION, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Richmond American Homes of California, a Colorado Corporation, is the subdivider of the CANTERBURY ESTATES SUBDIVISION (“SUBDIVISION”), and

WHEREAS, Richmond American Homes of California, a Colorado Corporation, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $1,055,881 and $527,940.50, respectively, and

WHEREAS, Richmond American Homes of California, a Colorado Corporation, has filed a warranty bond in the amount of $105,588.10 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $1,055,881 upon recordation of the Notice of Completion.
3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $527,940.50 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $105,588.10 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

PRESENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-547

A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS FOR THE VILLAGE RANCH UNIT NO. 2 SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS.

WHEREAS, Centex Homes, a Nevada General Partnership, is the subdivider of the VILLAGE RANCH UNIT NO. 2 SUBDIVISION ("SUBDIVISION"), and

WHEREAS, Centex Homes, a Nevada General Partnership, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $735,640.80, and $367,820.40, respectively, and

WHEREAS, Centex Homes, a Nevada General Partnership, has filed a warranty bond in the amount of $73,564.08 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the improvements in the SUBDIVISION as complete, and authorize the City Clerk to file a Notice of Completion and to release the securities upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The public improvements in the SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $735,640.80 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amounts of $367,820.40 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $73,564.08 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By ____________________________
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE PURCHASE OF A PARKING CITATION SYSTEM FOR THE FINANCE DEPARTMENT, CUSTOMER SERVICES DIVISION TO T2 SYSTEMS, INC., INDIANAPOLIS, IN, FOR A TOTAL ESTIMATED COST OF $89,103, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, the Finance Department maintains the Parking Citation Processing division within the City in coordination with the Police Department, and

WHEREAS, the Police Department manages ticket issuance and the Finance Department captures the citation information from the electronic hand-held devices, manages and performs data input, ticket adjudication, fines and revenue collection, and

WHEREAS, the City’s direction for technology is to obtain an Enterprise Resource Planning (ERP) system, replace various software programs where practical, and strive for all systems to have a common platform for information storage, retrieval and management, and

WHEREAS, staff from the Finance Department, Information Technology Department and the Police Department developed requirements that would identify a system to meet the City’s needs as well as provide accurate and accessible information for citizens, and

WHEREAS, a new parking citation system will improve the level of customer service, increase staff efficiency, and utilize new technology, and

WHEREAS, on June 6, 2006, Council approved Resolution No. 2006-333, authorizing the Purchasing Manager to formally issue Request for Proposals (RFP) for the purchase of a parking citation system for the Finance Department, Customer Services Division, and
WHEREAS, on November 1, 2006, the Purchasing Division issued Request for Proposal No. 0607-02 for the purchase of a parking citation system to seven (7) prospective proposers, none of which were local companies, posted the proposal on the City’s website, and formally advertised as required by law, and

WHEREAS, on December 12, 2006, RFP’s were formally opened in the City Clerk’s office. Of the seven (7) prospective proposers, two (2) companies choose to respond, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends award of proposal and contract to T2 Systems, Inc., Indianapolis, IN, for a total estimated cost of $89,103, 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 proposal and contract for the purchase of a parking citation system from T2 Systems, Inc., Indianapolis, IN, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account 0100-120-1234-5401 for the purchase of a parking citation system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the purchase of a parking citation system for the Finance Department, Customer Services Division, to T2 Systems Inc., Indianapolis, IN, for a total estimated annual cost of $89,103.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember O’Bryant, 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: Dunbar, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-549

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF A WALK-IN FREEZER STORAGE UNIT AND WALK-IN COOLER STORAGE UNIT FOR THE POLICE DEPARTMENT, TO DIVERSIFIED CONTRACTING SOLUTIONS, EL DORADO HILLS, CA, FOR AN ESTIMATED TOTAL COST OF $71,464, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, The Modesto Police department uses refrigeration units in the Property and Evidence Facility for the cold storage of biological evidence, and

WHEREAS, currently the department uses one industrial and four household refrigerators, two chests and three up-right freezers to provide cold storage, and

WHEREAS, these units have inefficient storage capabilities, they are costly to operate, and consume more square footage than a walk-in unit, and

WHEREAS, the units are not alarmed and provide no warning if the cooling units malfunction, and

WHEREAS, the refrigeration units that are currently in use are at capacity and no longer an efficient or proper method for storing biological evidence, and

WHEREAS, on April 24, 2007, the City Council approved Resolution No. 2007-235 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of a walk-in freezer/cooler storage container for the Police Department, and

WHEREAS, on May 25, 2007, the Purchasing Division issued Request for Bid No. 0607-56 for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit to eight (8) prospective bidders, seven (7) of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and
WHEREAS, on July 3, 2007, RFB's were formally opened in the City Clerk’s office. Of the eight (8) prospective bidders, two (2) companies chose to respond, and

WHEREAS, based on being deemed the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit for the Police Department, to Diversified Contracting Solutions, El Dorado Hills, CA, for an estimated total cost of $71,464, 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 installation of a walk-in freezer storage unit and walk-in cooler storage unit from Diversified Contracting Solutions, El Dorado Hills, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the account numbers 0400-190-2933-5012 and 0400-190-2923-5016 for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit,

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 installation of a walk-in freezer storage unit and walk-in cooler storage unit for the Police Department, to Diversified Contracting Solutions, El Dorado Hills, CA, for an estimated total cost of $71,464.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryan, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: 

Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF TWO (2) DUMP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO DELTA TRUCK CENTER, MODESTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $223,423.

WHEREAS, on August 2, 2006, the City Council approved Resolution No. 2006-465 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 06/07 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, one (1) dump truck for Streets Maintenance was included in the FY 06/07 new vehicles and heavy equipment list authorized by the City Council, and

WHEREAS, on January 2, 2007, the City Council approved Resolution No. 2007-036 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of one (1) dump truck for the Secondary Treatment Plant, and

WHEREAS, on May 14, 2007, the Purchasing Division issued RFB No. 0607-38 for the purchase of two (2) dump trucks to twenty-two (22) prospective bidders, posted the bid on the City’s web site and formally advertised as required by law, and

WHEREAS, on June 19, 2007, RFB’s were formally opened in the City Clerk’s office. Of the twenty-two (22) prospective bidders, one company chose to respond. The bidder provided a responsive and responsible bid, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of two (2) dump trucks to Delta Truck Center, Modesto, CA, for the total estimated cost of $223,423, 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 two (2) dump trucks for the Public Works Department, Fleet Services Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following accounts for the purchase of two (2) dump trucks for FY 07/08, Account numbers 7210-480-5814-5744 and 7210-480-5814-5744,

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 two (2) dump trucks to Delta Truck Center, Modesto, CA, for a total estimated cost of $223,423.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $223,423.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-551

A RESOLUTION APPROVING A POLICY FOR INVESTMENT OF PUBLIC FUNDS

WHEREAS, pursuant to Section 2-3.401 of the Modesto Municipal Code, it is the function of the City of Modesto ("City") Finance Department to deposit and invest funds in accordance with sound treasury management, and

WHEREAS, the City is also governed by Sections 53600 et seq. of the California Government Code, which requires that local agencies annually adopt an investment policy, and

WHEREAS, the City Council approved a contract on February 3, 2004 with Public Financial Management (PFM), an investment services advisor, to provide investment management, research and supervision of the City’s Managed Funds, and

WHEREAS, a revision has been made to the policy and a copy of the policy is marked Attachment “A”, attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the Policy for Investment of Public Funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Olsen, Mayor Ridenour

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susan Alcala Wood, City Attorney
PURPOSE
The purpose of this document is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment policy and to organize and formalize investment-related activities.

BACKGROUND
Under Section 2-3.401 of the Municipal Code, it is the function of the Finance Department to deposit and invest funds in accordance with sound treasury management. As a charter city, Modesto operates its pooled idle cash investment under the "prudent investor" rule which states that:

“When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with the care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.”

The City is also governed by Sections 53600 et seq. of the California Government Code. This affords the City a broad spectrum of investment opportunities, so long as the investment is deemed prudent and allowable under current legislation of the State of California and the charter of the City of Modesto.

On an annual basis, the Finance Director/Treasurer will render to the City Council the statement of investment policy. The report will be considered, with any changes, by the City Council at a public meeting.

INVESTMENT REPORT
The Finance Director/Treasurer shall provide the City Council with a monthly report of investment transactions. In addition, the Finance Director/Treasurer shall render a quarterly report to the City Council, City Manager and the internal auditor within 30 days following the end of the quarter. The report shall contain the following:

1. The type of investment, issuer, purchase date, date of maturity, credit rating, overall portfolio yield based on cost, total par and dollar amount invested on all securities, investments and monies.
2. The weighted average maturity of the portfolio.

3. A description of any funds, investments or programs that are under management of contracted parties, including lending programs. Funds and investments held by contracted parties shall be reported at market value and the source of valuation shall be reported.

4. The market value as of the date of the report, and the source of the valuation.

5. A statement of compliance with the investment policy or manner in which the portfolio is not in compliance.

6. A statement denoting the City’s ability to meet its expenditure requirements for the next six months or provide an explanation as to why sufficient money shall, or may, not be available.

INVESTMENT CRITERIA
Public funds are invested in the following manner in order of priority:

1. **Safety of Principal**
The duty of the Finance Director/Treasurer is to protect, preserve and maintain cash and investments on behalf of the citizens of the community. To guard against loss of principal, only prudent and safe investments will be considered.

2. **Liquidity**
The receipt of revenues and maturities of investments should be scheduled so that adequate cash will be available to meet disbursements. An adequate portion of the portfolio should be maintained in liquid short-term instruments which can be readily converted to cash if necessary.

3. **Yield**
Yield is the potential dollar earnings, or rate of return, an investment can provide. Yield becomes a consideration only after the basic requirements of safety and liquidity have been met.

SAFEKEEPING AND CUSTODY
All security transactions entered into by the City shall be conducted on a delivery-versus-payment basis. Securities will be held by third party custodian designated by the Finance Director/Treasurer and evidenced by safekeeping receipts.

The only exception to the foregoing are Local Agency Investment Pools, Certificates of Deposit, and money market funds since the purchased securities are not deliverable. In all cases, purchased securities shall be held in the City’s name.
PERFORMANCE STANDARDS
The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs. The City will measure the portfolio’s performance against a market benchmark that is commensurate with the City’s investment risk constraints and the cash flow characteristics of the portfolio.

AUTHORIZED INVESTMENTS
Commencing with Section 53601 of Article 1, Chapter 4 of the Government Code of the State of California, surplus money may be invested in the following:

A. **City of Modesto bonds.** Bonds issued by the City.

B. **U.S. Treasury securities.** United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the principal and interest.

C. **State of California securities.** Registered State of California warrants, treasury notes or bonds, provided that the securities are rated AAA by a nationally recognized statistical rating agency.

D. **California municipal securities.** Bonds, notes, warrants or other evidence of indebtedness of any local agency within California, provided that the securities are rated AAA by a nationally recognized statistical rating agency.

E. **Federal Agency securities.** Obligations issued by a federal agency or United States government-sponsored enterprise.

F. **Bankers’ Acceptances.** Bankers' Acceptances issued by domestic or foreign banks, which are eligible for purchase by the Federal Reserve System, the short-term paper of which is rated in the highest category by a nationally recognized statistical rating agency.

Purchases of Bankers’ Acceptances may not exceed 180 days maturity or 40 percent of the City's surplus money. The maximum amount permitted to be invested in the Banker's Acceptances of any one commercial bank is the greater of 10 percent of the City's surplus funds or $1 million.

G. **Commercial Paper.** Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization. The entity that, issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

(1) The entity meets the following criteria: (a) is organized and operating within the United States as a general corporation. (b) Has total assets in excess of $500 million. (c) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally...
recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria: (a) is organized within the United States as a special purpose corporation, trust, or limited liability company. (b) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond.

Investments in commercial paper are limited to a maximum of 25% of the portfolio. Purchases shall not exceed 10 percent of the outstanding paper of the issuing corporation. The maximum investment maturity is restricted to 270 days.

H. Certificates of Deposit. FDIC insured or fully collateralized time certificates of deposit in financial institutions located in California. Eligible investments are restricted to those issuing institutions that have been in business at least five years. The maximum term for deposits shall be one year. Investments in certificates of deposit are further limited to 20% of surplus funds. All time deposits must be collateralized in accordance with California Government Code section 53561. The City, at its discretion, may waive the collateralization requirements for any portion of the deposit that is covered by federal insurance.

I. Negotiable Certificates of Deposit. Negotiable certificates of deposit issued by a nationally- or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank; provided that the senior debt obligations of the issuing institution are rated “AA” or better by Moody’s or Standard & Poor’s. Investments in negotiable certificates of deposit are limited to 30 percent of the portfolio.

J. Repurchase Agreements. Repurchase Agreements used solely as short-term investments not to exceed 90 days.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities as described in 1 and 2 will be acceptable collateral. All securities underlying Repurchase Agreements must be delivered to the City’s custodian bank versus payment or be handled under a tri-party repurchase agreement. The total of all collateral for each Repurchase Agreement must equal or exceed, on the basis of market value plus accrued interest, 102 percent of the total dollar value of the money invested by the City for the term of the investment. For any Repurchase Agreement with a term of more than one day, the value of the underlying securities must be reviewed on a regular basis. Market value must be calculated each time there is a substitution of collateral.

The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to Repurchase Agreement.

The City may enter into Repurchase Agreements with (1) primary dealers in U.S. Government securities who are eligible to transact business with, and who report to, the Federal Reserve Bank of New York, and (2) California and non-California banking
institutions having assets in excess of $1 billion and in the highest short-term rating category as provided by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

The City will have specific written agreements with each firm with which it enters into Repurchase Agreements.

**K. Reverse Repurchase Agreements.** The City may invest in reverse repurchase agreements only with "primary dealers" with which the City has entered into a master repurchase agreement contract. The City may invest in reverse repurchase agreements with the following conditions: The City may only use reverse repurchase agreements to (1) cover a temporary cash shortage, or (2) augment earnings. Reverse repurchase agreements may not be used to leverage the portfolio.

In addition, if a reverse repurchase agreement is authorized, it may be utilized only if the security to be sold on reverse repurchase agreement has been owned and fully paid for by the City for a minimum of 30 days prior to the sale; the total of all reverse repurchase agreements on investments owned by the City does not exceed 20% of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of the security using a reverse repurchase agreement and the final maturity date of the same security. The proceeds of the reverse repurchase agreement may not be invested in securities whose maturity exceeds the term of the Reverse Repurchase Agreement.

**L. Medium-term corporate notes.** Medium term corporate notes defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the U.S. or any state and operating within the U.S. Medium-term notes shall be rated in a rating category "AA-" or its equivalent or better by a nationally recognized rating service. Purchase of medium-term corporate notes may not exceed 30 percent of the City's investment portfolio.

**M. Money market funds.** Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (money market funds).

**N. State of California Local Agency Investment Fund (LAIF).**

**O. Mortgage and asset-backed securities.** Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable-backed bond that has been issued by a Federal Agency and has a maximum of five years maturity.

**MAXIMUM MATURITY**

Investment maturities shall be based on a review of cash flow forecasts. Maturities will be scheduled so as to permit the City to meet all projected obligations.
Maximum maturity of an authorized investment is limited to five years.

Proceeds of sales or funds set aside for the repayment of any notes (e.g., Tax and Revenue Anticipation Notes) shall not be invested for a term that exceeds the term of the notes.

**INELIGIBLE INVESTMENTS**

Any security type or structure not specifically approved by this policy is hereby specifically prohibited. Security types which are thereby prohibited include, but are not limited to,

- Investment in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages is prohibited.

- Investment in any security that could result in a zero interest accrual if held to maturity is prohibited.

**RESTRICTIONS SET BY THE FINANCE DIRECTOR/TREASURER**

A. Prior approval of the Finance Director/Treasurer is required for the following transactions, unless the City utilizes the services of an investment advisor registered with the Securities and Exchange Commission in a fiduciary relationship as outlined in this policy.

- Sale of securities
- Swaps and trades
- Purchase of collateralized mortgage obligations (CMO)
- Purchase of mortgage-backed obligations
- Purchase of corporate notes
- Purchase transaction in excess of $3 million

B. The following investments are not deemed appropriate for the City and will not be utilized:

- Futures and options
- Small Business Administration notes

**AUTHORIZED INVESTMENT PERSONNEL**

Pursuant to the Government Code, the City Council delegates the authority to invest or to reinvest funds, or to sell or exchange securities so purchased, to the Finance Director/Treasurer for a one-year period. The Finance Director/Treasurer is charged with the responsibility for carrying out the policies of the City Council and shall assume full responsibility for investment transactions until the delegation of authority is revoked or expires.

Idle cash management and investment transactions are the responsibility of the Finance Department, which is under the control of the Finance Director/Treasurer. The Finance
Director/Treasurer may designate an individual(s) ["Designee"] to be responsible for the daily management of the City’s portfolio of treasury investments. The Designee may also be directed to monitor and forecast the City’s cash flows, and prepare periodic investment reports that are submitted to the City Council. The Accounting Division of the Finance Department monitors all treasury transactions and prepares accounting records of all investment transactions as to type of investment, amount, yield, and maturity. No other person has authority to make investment transactions without the written authority of the Finance Director/Treasurer. Pursuant to Government Code chapter 53600, all persons investing monies are trustees and therefore fiduciaries subject to the prudent investor standard. Financial market security transactions will be executed by delivery versus payment and the securities will be held by a third party custodian.

Subject to required procurement procedures, the City may engage the support services of outside professionals in regard to its financial program, so long as it can be demonstrated or anticipated that these services produce a net financial advantage or necessary financial protection of the City’s resources.

**POLICY REVIEW**

The investment policy shall be adopted by resolution of the City Council on, at minimum, an annual basis. This investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity and yield, and its relevance to current law and financial and economic trends. Any amendments to the policy shall be forwarded to City Council for approval.

This policy and the internal controls related to the investment of City funds will be reviewed by the City’s independent external auditors as part of their annual audit of the City’s financial statements.
APPENDIX A - GLOSSARY

Bankers Acceptances (BAs)
Bankers Acceptance is a time bill of exchange drawn on and accepted by a commercial bank to finance the exchange of goods. When a bank “accepts” such a bill, the time draft becomes, in effect, a predated certified check payable to the bearer at some future specified date. Little risk is involved for the investor because the commercial bank assumes primary liability once the draft is accepted.

Certificates of Deposit (CDS)
A certificate of deposit is issued against funds deposited in a commercial bank for a definite period of time and earning a specified rate of return. They are issued in two forms, negotiable and non-negotiable:

A negotiable certificate of deposit may be sold by one holder to another prior to maturity. This is possible because the issuing bank agrees to pay the amount of the deposit, plus earned interest, to the Bearer of the certificate at maturity.

A non-negotiable certificate of deposit is collateralized and is not a money market instrument since it cannot be traded in the secondary market. It is issued on a fixed maturity basis and often pays a higher interest rate than is permissible on other savings or time deposit accounts.

Collateralized Mortgage Obligation (CMO)
A CMO is a pool of mortgages sold as a single investment with interest paid monthly, quarterly, or semi-annually. Mortgage securities pay a higher rate than U.S. Treasury securities due to risk of prepayment and default.

Commercial Paper (CP)
This is a short-term promissory note issued by a corporation to raise working capital. The interest rates tend to be higher than other investments of similar liquidity.

Derivatives
A financial instrument with a value derived from the value of one or more underlying assets or indexes of asset values. The term “derivative products” refers to instruments or features such as collateralized mortgage obligations (CMOs), interest-only (IOs) and principal-only (POs), forwards, futures, currency and interest rate swaps, options, floaters/inverse floaters, and caps/floors/collars.

Federal Agency Securities
Certain agencies created by Congress and sponsored by the federal government issue debt that is considered to be of prime quality and have a very high standing in the bond market. The major federal agencies are described as follows:

Federal National Mortgage Association (FNMA, “Fannie Mae”) provides funds to the mortgage market primarily by purchasing loans from local lenders.
Federal Home Loan Mortgage Corporation (FHLMC, "Freddie Mac") purchases conventional mortgages and sells mortgage-backed securities.

Student Loan Marketing Association (SLMA, "Sallie Mae") facilitates that flow of private capital into various federally-guaranteed student loan programs maintained through banks, S&Ls, educational institutions and other participating lenders.

Federal Farm Credit System (FFCB) sells securities to provide mortgage loans and short-term and intermediate-term credit to farmers, ranchers, and agricultural cooperatives.

Federal Home Loan Bank (FHLB) acts as a credit reserve system for the thrift industry to stabilize the flow of funds to member savings and loan and savings banks.

Futures
Exchange traded contracts specifying a future date of delivery or receipt of a specific product (physical commodity or financial instrument). Futures are used by business as a hedge against unfavorable price changes, and by speculators who hope to profit from such changes.

Local Agency Investment Fund (LAIF)
State of California LAIF is designed to provide a convenient and safe means of investing temporarily idle monies by the State Treasurer. LAJF provides high liquidity and generally pays higher yields than can be realized by individual local agencies (for similar maturities) due to economies of scale.

Medium-Term Notes
Issued by corporations (in the form of secured or unsecured debt) for the purpose of raising working capital and purchasing capital assets.

Options
A right to buy (call) or sell (put) a fixed amount of a given stock at a specified price within a limited period of time. The purchaser hopes that the stock’s price will go up (if he bought a call) or down (if he bought a put) by an amount sufficient to provide a profit when he sells the option. If the price is static or moves in the opposite direction, the price paid for the option is lost entirely.

Repurchase Agreement
As authorized in Government Code Section 5360i(1), these investment vehicles are (generally short-term) agreements between the local agency and seller for the purchase of Government securities to be resold at a specific date and for a specific amount.

Reverse Repurchase Agreement
This transaction is the opposite of a repurchase agreement. The dealer buys securities with a contractual agreement to sell them back at a prearranged date. The local agency pays the dealer’ interest for the use of the funds. The money “borrowed” on a “reverse repo” can be reinvested in higher yielding instruments.
U.S. Treasury Securities
The highest quality, most liquid debt investments available in the fixed income market-place; unconditionally backed by the “full faith and credit” of the U.S. Government. Treasury bills are short-term instruments (maturity of three months to one year); Treasury notes and bonds are currently issued with maturities of two to ten years.
RESOLUTION DECLARING A 1977 VAN PELT FIRE RESCUE VEHICLE SURPLUS, AND AUTHORIZING THE SALE OF THE FIRE RESCUE VEHICLE BY SEALED BID, CONSIGNMENT, PUBLIC AUCTION OR ONLINE AUCTION

WHEREAS, in the early 1990’s a 1977 Van Pelt fire rescue vehicle which had been removed from front line service, was converted to a rescue vehicle for the purpose of carrying specialized rescue equipment, and

WHEREAS, the 1977 Van Pelt rescue vehicle has reached the end of its fire fighting service life with the Modesto Fire Department, and has been replaced with new equipment, and

WHEREAS, the 1977 Van Pelt rescue vehicle will be sold by sealed bid, consignment, public auction or online auction.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the surplus of the 1977 Van Pelt rescue vehicle is hereby approved.

BE IT FURTHER RESOLVED that the sale of the 1977 Van Pelt Rescue Vehicle by sealed bid, consignment, public auction or online auction is also approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney