A RESOLUTION APPROVING AN AGREEMENT WITH STANTEC CONSULTING INC. TO PREPARE A FINAL PROJECT DESIGN FOR SCENIC LIFT STATION PROJECT IN AN AMOUNT NOT TO EXCEED $143,387, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council, on September 3, 2003, by Resolution 2003-521, approved an Agreement for Consultant Services with Stantec Consulting Inc. to complete the design for the rehabilitation of the Scenic Lift Station project, and

WHEREAS, the City Council, on September 26, 2006, by Resolution No. 2006-624, adopted a resolution changing the procedures that Public Works uses for projects with a total Capital Improvement Program budget of more than $1 million, and

WHEREAS, City directed Stantec Consulting Inc. (Stantec) to change the scope of services to develop a Preliminary Design Report when the anticipated budget of the Scenic Lift Station project exceeded $1 million dollars, and

WHEREAS, Stantec has satisfactorily completed preliminary engineering design services for the Scenic Lift Station project, and

WHEREAS, City staff recommends an agreement with the consulting firm of Stantec be approved to perform the final project design services as the City does not have the staffing level to design these projects and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, selecting Stantec to complete the final design will maximize benefits to the City related to utilizing knowledge gained through the preliminary design effort, and
WHEREAS the Public Works Director has recommended a new agreement with Stantec to complete the final design, provide biddable documents, and provide bid period services for the Scenic Lift Station Project in an amount not to exceed $143,387, and

WHEREAS, Stantec will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Stantec Consulting Inc. to prepare a final project design for the Scenic Lift Station project in an amount not to exceed $143,387.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-138

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET BY APPROVING A TRANSFER OF FUNDS IN THE AMOUNT OF $70,000 FROM ACCOUNT 6210-800-8000-8003 “WASTEWATER FUND-RESERVES” TO CIP ACCOUNT 6210-430-B491-6010 “SCENIC SEWER LIFT STATION” IN ORDER TO FULLY FUND THE AGREEMENT WITH STANTEC CONSULTING INC. TO PERFORM THE REQUIRED FINAL DESIGN SERVICES TO COMPLETE THE SCENIC LIFT STATION PROJECT.

WHEREAS, certain budgetary transactions are necessary to fully fund the agreement with Stantec Consulting Inc. (Stantec) in the amount of $143,387 to perform the required final design services to complete the Scenic Lift Station project, and

WHEREAS, to fully fund the agreement to prepare a final project design for the Scenic Lift Station in the not-to exceed amount of $143,387 for the identified scope of services, plus $14,339 for project administration services by City staff, the current Capital Improvement Program (CIP) budget must be amended by transferring $70,000 from Account 6210-800-8000-8003 “Wastewater Fund-Reserves” to CIP Account 6210-430-B491-6010 “Scenic Sewer Lift Station” to perform the required final design services to complete the Scenic Lift Station project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the agreement with Stantec to perform the required final design services to complete the Scenic Lift Station project.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-139

A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE FEDERAL AVIATION ADMINISTRATION TO IMPOSE, COLLECT AND USE A PASSENGER FACILITY CHARGE BY AIR CARRIERS ON PASSENGERS USING THE MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE APPLICATION.

WHEREAS, with the passage of the Aviation Safety and Capacity Act of 1990, Congress adopted a Passenger Facility Charge (PFC) program, and

WHEREAS, upon approval of the application by the Federal Aviation Administration (FAA), the nation’s airports could collect a PFC fee not to exceed $3.00 per passenger enplaned by the airlines serving their communities, and

WHEREAS, PFC fees would be used to provide improvements for capacity, safety, and security of the air transportation system, to promote competition, reduce noise, and expand passenger facilities, and

WHEREAS, airlines are responsible for the collection of PFC fees and the FAA is responsible for the distribution of the funds, and

WHEREAS, once a sponsor’s (City or other airport owner) application is approved, they are authorized to use PFC funds to match Airport Improvement Program (AIP) funds, or for other specific airport uses approved by the FAA, and

WHEREAS, the previous PFC application approved by the City Council, by Resolution No. 93-393A, on July 6, 1993, expired on March 1, 2005, and

WHEREAS, air carriers currently are not authorized to collect PFC fees on behalf of Modesto City-County Airport (MOD) passengers, and
WHEREAS, with FAA approval the air carrier will have the authority to collect PFC fees in the amount of $4.50 for each MOD passenger enplanement effective June 1, 2008, and

WHEREAS, with approval of a new PFC application, Modesto City-County Airport could receive approximately $395,134 per year in funds to be spent on federally-eligible airport improvement projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of an application to the Federal Aviation Administration to impose, collect, and use a Passenger Facility Charge by air carriers on passengers using the Modesto City-County Airport.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

by SUSANÁ ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-140

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED “PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT MEMBRANE EQUIPMENT SYSTEM PROCUREMENT,” ACCEPTING THE BID AND APPROVING A $4,532,484.00 CONTRACT WITH ZENON ENVIRONMENTAL CORPORATION FOR THE “PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT MEMBRANE EQUIPMENT SYSTEM PROCUREMENT,” AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, on February 13, 2007, by Resolution No. 2007-110 the Council approved an Agreement with Carollo Engineers, P.C., to complete the 35% design effort and a Preliminary Design Report for the Phases 1A and 1B Tertiary Wastewater Treatment Project, and

WHEREAS, on June 26, 2007, by Resolution No. 2007-379, the Council accepted the final Preliminary Design Report for the Phases 1A and 1B Tertiary Wastewater Treatment Project, and

WHEREAS, on July 3, 2007, by Resolution No. 2007-408, the Council approved an Agreement with Carollo Engineers, P.C., to prepare a final project design for the Phase 1A Tertiary Wastewater Treatment Project, and

WHEREAS, Carollo Engineers, P.C. has completed 90 percent of the design documents for the Phase 1A Tertiary Wastewater Treatment Project, and

WHEREAS, the City of Modesto provided bid packages to interested Membrane Bioreactor suppliers on October 15, 2007, received bids and qualifications on December 18, 2007, and opened bids from qualified suppliers on January 8, 2008, and

WHEREAS, the Public Works Director has recommended that the bid of $4,532,484.00 received from ZENON Environmental Corporation be accepted as the
lowest responsible bid and the contract be awarded to ZENON Environmental Corporation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "Membrane Equipment System Procurement for the Phase 1A Tertiary Wastewater Treatment Project," accepts the bid of ZENON Environmental Corporation in the amount $4,532,484.00, and hereby awards ZENON Environmental Corporation the contract.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February 2008, 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, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2008-141

A RESOLUTION MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, MAKING FINDINGS CONCERNING ALTERNATIVES, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE TIVOLI SPECIFIC PLAN PROJECT (STATE CLEARINGHOUSE NUMBER 2005072125) (DAVID ROMANO, NEWMAN ~ ROMANO LLC)

WHEREAS, David Romano ("Applicant") of Newman-Romano, LLC, filed applications that include the following: adoption of the Tivoli Specific Plan ("Project"), adoption of a General Plan Amendment, prezone to Specific Plan, annexation to the City of Modesto, a Facilities Master Plan and an Infrastructure Finance Plan, all to allow the development of 454 acres located north of Sylvan Avenue, south of future Claratina Avenue, East of Oakdale Road, west of Roselle Avenue ("the Property"), and

WHEREAS, the City of Modesto ("the City"), on July 21, 2005, published an Initial Study and a Notice of Preparation for the Project, which identified potentially significant environmental impacts attributable to the Project, on which basis the City determined that an Environmental Impact Report ("EIR") was required for the Project, and

WHEREAS, the Notice of Preparation provided notice of the City’s determination, and solicited public input on the proposed scope and content of the EIR for the Project, and

WHEREAS, on August 8, 2005, the City held a public scoping meeting to receive public comments on the scope and content of the EIR, and
WHEREAS, the City published and distributed a Draft EIR for the Tivoli Specific Plan Project (State Clearinghouse Number 2005072125) ("DEIR") for public comment on October 12, 2006, in accordance with Section 21091 of the California Environmental Quality Act ("CEQA"), and

WHEREAS, the DEIR was available for public comment for a period of 45 days as required by Section 21091 of CEQA, the close of the public comment period being November 27, 2006, and

WHEREAS, during the 45-day public comment period the City received thirty-one letters commenting on the DEIR, and

WHEREAS, the City prepared written responses to all written comments received on the DEIR, said responses being contained in a Final EIR for the Tivoli Specific Plan Project (State Clearinghouse Number 2005072125) ("FEIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the FEIR was published and distributed on January 8, 2008, and consists of the Draft EIR, a list of commentors, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, and

WHEREAS, the Project would include approval of the following: adoption of the Tivoli Specific Plan, adoption of a General Plan Amendment, prezoning the project site to Prezoned Specific Plan (P-SP), annexation of the project site to the City of Modesto, adoption of a Facilities Master Plan and an Infrastructure Finance Plan, formation of a
Community Facilities District, approval of a Development Agreement, and subsequent entitlements, and

WHEREAS, a Community Facilities District and subsequent entitlements will be filed at a future date and a Development Agreement may be filed at a future date, and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects, and

WHEREAS, a public hearing on the Project was held by the Planning Commission on January 28, 2008, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing, the Modesto City Planning Commission adopted Resolution No. 2008-03, recommending to the City Council adoption of certain findings and certification of the FEIR, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 26, 2008, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council evidence both oral and documentary was received and considered, and

WHEREAS, the City Council has received and considered the FEIR for the Tivoli Specific Plan Project (SCH No. 2005072125) that analyzed the potential environmental effects of the proposed Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines in respect to the FEIR:
1. That the FEIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FEIR and the Project, prior to acting upon or approving the Project; and that the FEIR represents the independent judgment of the City of Modesto; and

2. That the Findings and Statements set forth in Exhibit “A”, and incorporated herein by reference, be made by the Council as the City’s findings under the California Environmental Quality Act (“CEQA”) (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, §15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of the Council regarding the Project’s environmental impacts, mitigation measures and alternatives to the Project.

3. That pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 et seq., the City Council of the City of Modesto adopts and makes the following statement of overriding considerations regarding the remaining unavoidable impacts of the Project and the anticipated economic, social and other benefits of the Project.

a. Significant Unavoidable Impacts

With respect to the foregoing findings, as set forth in Exhibit A, and in recognition of those facts which are included in the record, the City has determined the following:

• that the Project will cause significant, unavoidable impacts to Agricultural Resources, Transportation and Circulation, Air Quality, Utilities and Service Systems, and Population and Housing; and

• that the Project will contribute to significant, unavoidable cumulative impacts to Agricultural Resources, Air Quality, Noise, and Utilities and Service Systems.

These impacts cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than the changes or alterations already adopted.

b. Overriding Considerations

The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project includes all feasible measures that would eliminate or substantially lessen the significant impacts of the Project on the environment, and that the remaining significant, unavoidable impacts of the Project are acceptable in light of the environmental, economic, social and
other considerations set forth herein because the benefits of the Project outweigh the significant and adverse impacts of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and sets forth an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record.

c. Benefits of Proposed Project

The City Council has considered the FEIR, the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the substantial public benefits set forth below.

The City Council has weighed the benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the FEIR and hereby determines that those benefits outweigh the risks and adverse environmental effects and, therefore, further determines that these risks and adverse environmental effects are acceptable.

i. Land Use Objectives

a. The project would foster distinctive, attractive developments with a strong sense of place.

b. The project would provide development consistent with the Neotraditional Planning Principles provided in Section III-C (3) of the Modesto Urban Area General Plan. The primary concept is to provide a complete and integrated community with housing, work places, commercial and retail services, schools, parks, and civic facilities essential to the daily life of the residents.

c. The project would create a range of housing opportunities and choices with multi-family and/or affordable housing in compliance with the regional housing needs consistent with the Housing Element.

d. The project would enhance the City’s economic base through increased sales tax revenue.

e. The project would provide a regional commercial development to serve the east side of the City in a timely manner. To locate regional commercial development along or near regional transportation corridors.
f. The project would provide commercial and institutional services and employment on the east side of the City to reduce travel time.

ii. Circulation Objectives
   a. The project would provide acceptable levels of traffic service on roadways consistent with the General Plan policies and Level of Service standards.
   b. The project would create neighborhoods that encourage pedestrian and bicycle use and link to the commercial, school, and park sites.

iii. Public Facilities and Services Objectives
   a. The project would ensure public facilities and services are adequately planned and provided with development.
   b. The project would ensure that a financing plan is provided with funding mechanisms for the provision of adequate public facilities and services.

4. The Mitigation and Monitoring and Reporting Program for the Tivoli Specific Plan is attached to this resolution as Exhibit “B” and is incorporated and adopted as part of this resolution herein. The Program identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

5. The City Council hereby finds and recognizes that the FEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft Environmental Impact Report for the Project (“DEIR”) and also incorporates information obtained by the City since the DEIR was issued. Further, the Council recognizes that it has made changes to the Specific Plan itself in its approval of it. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and do not reflect any substantial increase in the severity of any environmental impact; that no feasible mitigation measures considerably different from those previously analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project; and that no feasible alternatives considerably different from those analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, this Council hereby finds and determines that recirculation of the FEIR for further public review and comment is not warranted; and
6. The City Council does hereby designate the Community and Economic Development Director of the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354 as the custodian of documents and record of proceedings on which the decision is based; and

7. The City Council does hereby make the foregoing findings with respect to the significant effects on the environment of such Project, as identified in the FEIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the FEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the DEIR and were not adopted as part of the FEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the FEIR and elsewhere in the record.

BE IT FURTHER RESOLVED by the Council that it hereby certifies the Final Environmental Impact Report for the Tivoli Specific Plan Project (SCH No. 2005072125), on file in the office of the Community and Economic Development Department and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the environmental impact report for the specific plan (File No. P-EIR-04-002). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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:  Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers:  None

ABSENT: Councilmembers:  None

ATTEST:  

(S SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ACA LA WOOD, City Attorney
Exhibit "A"

FINDINGS & STATEMENTS ON THE TIVOLI SPECIFIC PLAN EIR
TIVOLI SPECIFIC PLAN PROJECT
ENVIRONMENTAL IMPACT REPORT (SCH# 2005072125)

FINDINGS AND STATEMENTS REQUIRED UNDER THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT
(Public Resources Code, Section 21000 et seq.)

I. Introduction

On behalf of the City of Modesto (the "City"), and pursuant to the California Environmental Quality Act ("CEQA"), Turnstone Consulting has prepared a Final Environmental Impact Report (the "FEIR") for the Tivoli Specific Plan Project and other related approvals described below (collectively, the "Project"). The City is the lead agency for the FEIR.

To support its certification of the FEIR and approval of the Project, the City Council of the City of Modesto (the "City Council") makes the following findings of fact and statements of overriding considerations (collectively, the "Findings"). These Findings contain the City Council's written analysis and conclusions regarding the Project's environmental effects, mitigation measures, alternatives to the proposed Project, and the overriding considerations which, in the City Council's view, justify the approval of the Project despite its potential environmental effects. These Findings are based upon the entire record of proceedings for the FEIR, as described below.

The Project provides for the mixed-use development by approximately 2017 of a 454-acre area, including 286 acres of residential development for a total of 3,241 residential dwelling units, 14 acres of neighborhood-serving commercial, 6 acres of general commercial, 67 acres of regional-serving commercial, 2 acres of professional office space, a 14-acre elementary school site, approximately 30 acres of parks and open space, 4 acres of public infrastructure, and approximately 31 acres of interior collector roadways. The Project also includes provisions to improve existing traffic and circulation conditions, with construction of new arterial and collector streets for better vehicular circulation and linkages to the existing circulation system and transit services.

The Project site is located in an unincorporated area of Stanislaus County, within the City's Sphere of Influence.

The approvals necessary for implementation of the Tivoli Specific Plan include:

1. Adoption of General Plan amendment to:

   A. Reclassify a portion of the project site from Village Residential (VR) to Regional Commercial (RC);

   B. Allow commercial development for the Village Residential designation in the Tivoli Specific Plan to exceed the recommended 4 percent;
C. Allow for the Tivoli Specific Plan neighborhood center that combines a
eighborhood park and elementary school;

D. Reclassify Claratina Avenue from a four-lane Class B Expressway to
a six-lane Principal Arterial with a Class I bike path from Oakdale Road to Roselle
Avenue;

E. Change Sylvan Avenue from a six-lane Principal Arterial to a four-
lane Minor Arterial with bike lanes from Oakdale Road to Roselle Avenue;

F. Include Class II bike lanes along Oakdale Road from Sylvan Avenue
to Claribel Avenue; and

G. Amend the Roselle/Claribel Comprehensive Planning District to
allow the Tivoli Specific Plan to exceed the minimum recommended density of 5.1 units
per gross acre.

2. Prezoning of the Project site to a Specific Plan Overlay.

3. Annexation of the Project site into the City of Modesto including approval
by the Local Agency Formation Commission.

4. Adoption of a Facilities Master Plan and an Infrastructure Finance Plan for
the Tivoli Specific Plan area.

5. Formation of a Community Facilities District to fund the construction of
“backbone” public infrastructure, maintenance of applicable public facilities, and
applicable public services.

6. Approval of a Development Agreement to guide development within the
Tivoli Specific Plan area.

7. Subsequent entitlements, including abandonment of a portion of Mable
Avenue and approval of Area Plans, Final Development Plans, tentative maps, Conditional
Use Permits, and other City entitlement approvals.

II. General Findings and Overview

A. Record of Proceedings and Custodian of Record

The record of proceedings for the City’s findings and determination is available
for review by responsible agencies and interested members of the public during normal
business hours at 1010 Tenth Street, Suite 4100, Modesto, California. The custodian of
these documents is the City’s Director of Community and Economic Development.
B. Preparation and Consideration of the FEIR and Independent Judgment Findings

The City Council finds, with respect to the City’s preparation, review and consideration of the FEIR, that:

- The City retained the independent firm of Turnstone Consulting ("Turnstone") to prepare the FEIR, and Turnstone prepared the FEIR under the supervision and at the direction of the City of Modesto Community and Economic Development Department.

- The City circulated the DEIR for review by responsible agencies and the public and submitted it to the State Clearinghouse for review and comment by state agencies.

- The FEIR has been completed in compliance with CEQA.

- The Project will have significant, unavoidable impacts as described and discussed in the FEIR.

- The FEIR is adequate under CEQA to address the potential environmental impacts of the Project.

- The FEIR has been presented to the City Council, and the City Council has independently reviewed and considered information contained in the FEIR.

- The FEIR reflects the independent judgment of the City.

By these Findings, the City Council ratifies, adopts and incorporates the analyses, explanations, findings, responses to comments, and conclusions of the FEIR, except as specifically described in these Findings.

C. Findings Regarding Less-Than-Significant Impacts.

By these Findings, the City Council ratifies and adopts the FEIR’s conclusions for the following potential environmental impacts which, based on the analyses in the FEIR, this City Council determines to be less than significant:

1. Land Use

- Impact A.1 – The proposed Tivoli Specific Plan project would introduce a new land use designation and zoning districts in proximity to existing residential, commercial, and agricultural uses, creating the potential for land use compatibility conflicts.

- Impact A.2 – The proposed Tivoli Specific Plan project would introduce new residential, commercial, office, and school uses in
proximity to ongoing agricultural operations, including the keeping of farm animals, creating the potential for land use compatibility conflicts.

2. Agricultural Resources

- Impact B.2 – Development of the proposed project may burden continued agricultural operations surrounding the project site, and within the project site, prior to development under the proposed Specific Plan.

3. Visual Resources

- Impact C.1 – Development of the project would change the existing agricultural visual character of the project site.

- Impact C.2 – Proposed commercial development under the Tivoli Specific Plan would require higher levels of outdoor lighting than surrounding residential development, creating the potential for glare on nearby residential properties.

4. Air Quality

- Impact E.3 – Motor vehicle emissions would locally contribute to elevated concentrations of carbon monoxide.

- Impact E.4 – Emissions during project operation would cause sensitive receptors to be exposed to TAC’s.

- Impact E.5 – Emissions of objectionable odors could occur during project operation.

5. Noise

- Impact F.1 – Increased project-related traffic could cause substantial noise increases for existing sensitive receptors in the project vicinity.

6. Hazards

- Impact G.1 – Demolition of existing buildings could cause release of hazardous materials causing potential hazards to the public and environment.

- Impact G.3 – Transportation of contaminated soil and/or building materials removed from the project site could result in accidental release of hazardous materials.
7. Biological Resources

- Impact H.1 – Implementation of the Tivoli Specific Plan could result in loss of foraging habitat for White-tailed Kites and Northern Harriers.

- Impact H.2 – Implementation of the Tivoli Specific Plan could result in loss of breeding and foraging habitat for Tricolored Blackbirds and Loggerhead Shrikes.

8. Hydrology and Water Quality

- Impact I.5 – Implementation of the proposed project could place housing in a FEMA-designated floodplain.

- Impact I.6 – Implementation of the proposed project could place new development within an area potentially subject to dam failure inundation.

- Impact I.7 – Implementation of the project could result in depletion of groundwater resources.

9. Community Services

- Impact K.1 – Development of the proposed project site would result in an increased demand for Modesto Police Department officer hours due to the potential for increased on-site criminal activity and increased number of traffic accidents near the site.

- Impact K.2 – Development of the proposed project site would result in an increase in emergency response call volumes which require an emergency response unit to arrive within six minutes.

- Impact K.4 – Development of the commercial and high density residential components of the proposed project with building heights over 30 feet could result in insufficient water pressure for firefighting.

10. Utilities and Services Systems

- Impact L.4 – Construction of several of the proposed collection system and treatment plant improvements could have visual impacts at their locations.

- Impact L.5 – Construction of the new wastewater collection and treatment facilities could impact traffic near the project site or near the Primary or Secondary Plants.
• Impact L.8 – Emissions during project operation could cause sensitive receptors to be exposed to toxic air contaminants.

• Impact L.9 – Emissions of objectionable odors could occur during project operation.

• Impact L.10 – Construction and operation of the new wastewater facilities to support development on the Tivoli site would result in changes in local noise levels.

• Impact L.12 – Increased use of chlorine and sulfur dioxide at the Secondary Plant could expose workers and the public to accidental release of toxic gases.

• Impact L.13 – Additional solid waste would be generated by new, near-term wastewater treatment facilities.

• Impact L.20 – Implementation of the proposed project may result in surface water quality degradation due to pollutant loading associated with treated effluent discharges.

• Impact L.24 – Construction of the near-term tertiary treatment facilities would provide wastewater treatment capacity for population growth that could cause the City to exceed its population projections.

11. Water Supply

• Impact M.1 – Implementation of the Tivoli Specific Plan could increase the demand for potable water.

• Impact M.3 – Development of the proposed project could contribute to cumulative demand for potable water in the Modesto Water Service Area.

• Impact M.4 – Development of the proposed project would not contribute substantially to the potential for regional cumulative demand to result in overdraft of groundwater supplies.

12. Population and Housing

• Impact N.2 – Development of the proposed project would increase the number of jobs located within the City which could affect the demand for housing.

• Impact N.3 – Development of the proposed Tivoli Specific Plan could contribute to substantial growth in undeveloped areas and require extension of major infrastructure.
I. Findings and Recommendations Regarding Significant Environmental Impacts

A detailed analysis of the potential environmental impacts and the proposed mitigation measures for the Tivoli Specific Plan Project is set forth in Sections IV.A through IV.N of the DEIR, as incorporated into the FEIR. The DEIR evaluated the Project's potential environmental impacts in 14 separate categories, and also evaluated the Project's potential cumulative impacts. The City Council concurs with the conclusions in the DEIR, as incorporated into the FEIR, that: (i) the majority of the Project's significant and potentially significant impacts will be rendered less than significant by the mitigation measures described and discussed below; and (ii) for those impacts that will not be rendered less than significant by such mitigation measures, there are overriding considerations that make those impacts acceptable to the City.

IV.B. Agricultural Resources

Impact B.1 Implementation of the proposed project would directly result in the permanent loss of Prime Farmland.

a) Potential Impact. The impact identified above is described and discussed on page IV.B.6 of the DEIR.

b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure B.1 (pp. IV.B.7 and IV.B.8 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that:

(i) Effects of Mitigation. Although Mitigation Measure B.1, which could possibly provide for contribution to the Farmland Conservancy Fund or an equivalent funding program, might partially compensate for the loss of prime farmland, it is not feasible to fully mitigate this impact, which will remain significant even with mitigation.

(ii) Remaining Impacts. As explained above, although implementation of Mitigation Measure B.1 might partially mitigate the environmental effects of the permanent loss of Prime Farmland, such impacts would remain significant even with mitigation. Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining
significant adverse impacts of the Project relating to the permanent loss of Prime Farmland, as set forth in the Statement of Overriding Considerations below.

Impact B.3 Implementation of the proposed project would incrementally contribute to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County.

a) Potential Impact. The impact identified above is described and discussed on page IV.B.9 of the DEIR.

b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure B.3 (p. IV.B.9 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that:

(i) Effects of Mitigation. Although Mitigation Measure B.3, which could possibly provide for contribution to the Farmland Conservancy Fund or an equivalent funding program, might partially compensate for the Project’s incremental contribution to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County, it is not feasible to fully mitigate this impact, which will remain significant even with mitigation.

(ii) Remaining Impacts. As explained above, although implementation of Mitigation Measure B.3 might partially mitigate the Project’s incremental contribution to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County, such impacts would remain significant even with mitigation. Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to its incremental contribution to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County, as set forth in the Statement of Overriding Considerations below.
IV.D. Transportation and Circulation

Impact D.1  Construction and occupancy of Phase 1 of the proposed project would result in significant impacts at study intersections adjacent to and near the Project site in 2012.

a) Potential Impact. The potential impacts related to construction and occupancy of Phase 1 of the Project at study intersections adjacent to and near the Project site in 2012 are described and discussed on pages IV.D.29 and IV.D.30 of the DEIR.

b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

The City shall implement FEIR Mitigation Measures D.1d, D.1f, D.1l, and D.1n. In addition, the City shall attempt to implement Mitigation Measures D.1a, D.1b, D.1c, D.1e, D.1g, D.1h, D.1i, D.1k, D.1m, D.1p, D.1q, and D.1r, but these measures have been identified as potentially infeasible, and there is a strong chance that the City will not be able to successfully implement these mitigation measures in sufficient time to fully mitigate the traffic impacts they are designed to mitigate. Finally, the City shall also attempt to implement part of Mitigation Measure D.1j, insofar as it calls for addition of a second northbound and southbound left-turn lane, but this measure is likewise potentially infeasible. (pp. IV.D.30 through IV.D.37 of the DEIR.)

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that:

(i) Effects of Mitigation. Mitigation Measures D.1a through D.1r require construction or installation of a set of traffic improvements that would improve LOS at the eighteen impacted intersections analyzed in the EIR. In some cases, the improvement would only bring LOS to D, which would meet City of Modesto standards for acceptable operations but would not meet Stanislaus County standards. Nonetheless, because the City’s adopted standard is LOS D, the City Council finds traffic impacts to be insignificant so long as at least LOS D is achieved.

However, as explained in the Table “Potentially Infeasible or Rejected Traffic Mitigation Measures and Explanation for Infeasibility or Rejection” (attached hereto as Exhibit A1 and incorporated herein by reference) (hereafter “the Table”), and as further described below, certain of these mitigation measures are either infeasible or are potentially infeasible. As to many of the referenced intersections, this project is only responsible for a small percentage of the overall traffic impact, and thus, can only
be required to pay its fair proportional share of the intersection improvements necessary to mitigate the cumulative traffic impact. Where the project only contributes to a relatively small percentage of the overall traffic impact, the City cannot lawfully require the project to pay for the entire traffic improvement, but is instead requiring the project to pay a development fee as part of the City’s Capital Facilities Fee (CFF) program. The proceeds of the CFF fee are programmed to be used for many (but not all) of these improvements. Because the City cannot guarantee that full funding will be available for each of the improvements in time to mitigate the traffic impact in question, many of the measures are deemed potentially infeasible, insofar as they may not be timely implemented, and thus there may be a period of time in which the traffic facility in question will not comply with the City’s traffic standards. Thus, in such cases, the mitigation measure is identified as “potentially infeasible,” even though the project is being required to pay its fair share of the measure.

In some cases, as noted in the Table, certain of the mitigation measures are not already programmed to be funded by proceeds from the CFF fee. As to these measures, the City has no program in place to fund the necessary mitigation measure, and thus the measure is deemed potentially infeasible. The City will periodically review its CFF program to consider including additional traffic improvements, but, because of the uncertainty of funding the full cost of the mitigation measure, the measure is deemed potentially infeasible.

In some cases, as noted in the Table, certain of the mitigation measures are not within the jurisdiction of the City, either because the traffic facility in question is under the jurisdiction of CalTrans, or because it is located within the County or within the City of Riverbank. The City’s CFF program still will provide funding for some of these improvements (specifically, some of the improvements under CalTrans’ and the County’s jurisdiction), in order to pay for the City’s fair share of such improvements. Currently, no funding mechanism exists by which development within the City of Modesto can contribute to traffic improvements within the City of Riverbank, just as no mechanism exists by which development within the City of Riverbank contributes to funding of traffic improvements within the City of Modesto. Development of such a mechanism would require negotiations between the two agencies to figure out if an acceptable, bilateral funding arrangement could be developed. If such an arrangement were to be developed, then project development could be conditioned on payment towards such improvements at the time of tentative map approval for individual subdivisions within the project area.
Mitigation Measure D.1j calls for both addition of a second northbound and southbound left turn lane as well as fourth northbound and southbound through lanes at the intersection of McHenry Avenue at Sylvan Avenue. The City Council finds that the addition of the fourth northbound and southbound through lanes is physically infeasible, as it would require acquisition of private property which is already developed with other uses. As a matter of policy, the Council finds that such acquisition would unduly interfere with private property rights. The remainder of Mitigation Measure D.1j is potentially infeasible for the reasons set forth in the Table, but the City will attempt to implement this portion of Mitigation Measure D.1j.

Thus, for all of the reasons described above, certain of the Mitigation Measures D.1a through D.1r are identified as "infeasible" or "potentially infeasible," as described in detail in the Table. These measures shall be implemented only to the extent that they are feasible.

Therefore, for the reasons set forth above and in the Table, the impacts identified in Impact D.1 at the intersections of Coffee Road/Clarantina Avenue, Coffee Road/Mable Avenue, Oakdale Road/Mable Avenue, and Oakdale Road/Sylvan Avenue shall be mitigated to a level of insignificance. All remaining impacts at other intersections identified in Impact D.1 will remain significant even with mitigation. More specifically, although the mitigation measures identified above would reduce the impacts of buildout of the Project on traffic at the study intersections in 2012, the impacts at the following intersections remains significant:

- Claus Road at Briggsmore Avenue (Mitigation Measure D.1a)
- Claus Road at Milnes Road (Mitigation Measure D.1b)
- Claus Road at Sylvan Avenue (Mitigation Measure D.1c)
- Coffee Road at Claribel Avenue (Mitigation Measure D.3h)
- Coffee Road at Sylvan Avenue (Mitigation Measure D.1e)
- McHenry Avenue at Claribel Road (Mitigation Measure D.1h)
- McHenry Avenue at Clarantina Avenue (Mitigation Measure D.1i)
- McHenry Avenue at Sylvan Avenue (Mitigation Measure D.1j)
- Oakdale Road at Claribel Road (Mitigation Measure D.1k)
- Oakdale Road at Morrill Avenue (Mitigation Measure D.1m)
- Roselle Avenue at Belharbour Drive (Mitigation Measure D.1p)
Roselle Avenue at Claribel Road (Mitigation Measure D.1q)
Terminal Avenue at Claribel Road (Mitigation Measure D.1r)

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measures D.1a through D.1r would reduce the impacts identified above, many of these measures are infeasible or potentially infeasible, and most such impacts would thus remain significant even with mitigation. Because there are no feasible measures available to further mitigate these significant impacts, they are considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of Phase 1 of the Project on traffic at the study intersections in 2012, as set forth in the Statement of Overriding Considerations below.

**Impact D.2** Construction and occupancy of Phase 1 of the proposed project would result in significant impacts on roadway segments adjacent to and near the project site in 2012.

a) **Potential Impact.** The potential impacts of the Project related to construction and occupancy of Phase 1 of the Project on roadway segments adjacent to and near the Project site in 2012 are described and discussed on page IV.D.37 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures D.2a through D.2c (pp. IV.D.37 through IV.D.38).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measures D.2a through D.2c require the Project developers to increase the number of lanes along specific roadway segments that will be impacted by the Project. Together with the intersection mitigation measures identified in Mitigation Measures D.1a through D.1r above, implementation of these mitigation measures will substantially lessen or avoid the impacts of the Project related to construction and occupancy of Phase 1 of the Project on roadway segments adjacent to and near the Project site in 2012.
Impact D.3 Buildout of the proposed project would result in significant impacts at study intersections adjacent to and near the project site in 2017.

a) Potential Impact. The potential impacts related to buildout of the Project at study intersections adjacent to and near the Project site in 2017 are described and discussed on pages IV.D.42 and IV.D.45 of the DEIR.

b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

The City shall implement FEIR Mitigation Measures D.3a, D.3g, D.3l, D.3m, D.3p, and D.3s. In addition, the City shall attempt to implement Mitigation Measures D.3b, D.3c, D.3d., D.3e., D.3f., D.3h, D.3j, D.3k, D.3n, D.3o, D.3q, D.3r, and D.3t, but these measures have been identified as potentially infeasible, and there is a strong chance that the City will not be able to successfully implement these mitigation measures in sufficient time to fully mitigate the traffic impacts they are designed to mitigate. (pp. IV.D.45 through IV.D.53 of the DEIR.)

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that:

(i) Effects of Mitigation. Mitigation Measures D.3a through D.3t provide for construction or installation of a set of traffic improvements that would improve LOS at the twenty impacted intersections analyzed in the EIR.

However, as explained in the Table “Potentially Infeasible Traffic Mitigation Measures and Explanation for Infeasibility,” and as further described below, certain of these mitigation measures are either infeasible or are potentially infeasible. As to many of the referenced intersections, this project is only responsible for a small percentage of the overall traffic impact, and thus, can only be required to pay its fair proportional share of the intersection improvements necessary to mitigate the cumulative traffic impact. Where the project only contributes to a relatively small percentage of the overall traffic impact, the City cannot lawfully require the project to pay for the entire traffic improvement, but is instead requiring the project to pay a development fee as part of the City's Capital Facilities Fee (CFF) program. The proceeds of the CFF fee are programmed to be used for many (but not all) of these improvements. Because the City cannot guarantee that full funding will be available for each of the improvements in time to mitigate the traffic impact in question, many of the measures are deemed potentially infeasible, insofar as they may not be timely implemented, and
thus there may be a period of time in which the traffic facility in question will not comply with the City's traffic standards. Thus, in such cases, the mitigation measure is identified as "potentially infeasible," even though the project is being required to pay its fair share of the measure.

In some cases, as noted in the Table, certain of the mitigation measures are not already programmed to be funded by proceeds from the CFF fee. As to these measures, the City has no program in place to fund the necessary mitigation measure, and thus the measure is deemed potentially infeasible. The City will periodically review its CFF program to consider including additional traffic improvements, but, because of the uncertainty of funding the full cost of the mitigation measure, the measure is deemed potentially infeasible.

In some cases, as noted in the Table, certain of the mitigation measures are not within the jurisdiction of the City, either because the traffic facility in question is under the jurisdiction of CalTrans, or because it is located within the County or within the City of Riverbank. The City's CFF program still will provide funding for some of these improvements (specifically, some of the improvements under CalTrans' and the County's jurisdiction), in order to pay for the City's fair share of such improvements. Currently, no funding mechanism exists by which development within the City of Modesto can contribute to traffic improvements within the City of Riverbank, just as no mechanism exists by which development within the City of Riverbank contributes to funding of traffic improvements within the City of Modesto. Development of such a mechanism would require negotiations between the two agencies to figure out if an acceptable, bilateral funding arrangement could be developed. If such an arrangement were to be developed, then project development could be conditioned on payment towards such improvements at the time of tentative map approval for individual subdivisions within the project area.

Mitigation Measure D.3i. calls for measures which would require acquisition of private property which is already developed with other uses, and which is thus not physically feasible. As a matter of policy, the Council finds that such acquisition would unduly interfere with private property rights.

Thus, for all of the reasons described above, certain of the Mitigation Measures D.3a through D.3t are identified as "infeasible" or "potentially infeasible," as described in detail in the Table. These measures shall be implemented only to the extent that they are feasible.
Therefore, for the reasons set forth above and in the Table, the impacts identified in Impact D.3 at the intersections of Claus Road/Briggsmore Avenue, Coffee Road/Clarantina Avenue, McHenry Road/Sylvan Avenue, Oakdale Road/Bridgewood Way, Oakdale Road/Sylvan Avenue, and Roselle Avenue/Tivoli Road C shall be mitigated to a level of insignificance. All remaining impacts at other intersections identified in Impact D.3 will remain significant even with mitigation. More specifically, although the mitigation measures identified above would reduce the impacts of buildout of the Project on traffic at the study intersections in 2017, the impacts at the following intersections remains significant:

- Claus Road at Claribel Road (Mitigation Measure D.3b)
- Claus Road at Floyd Avenue (Mitigation Measure D.3c)
- Claus Road at Milnes Road (Mitigation Measure D.3d)
- Claus Road at Plainview Road (Mitigation Measure D.3e)
- Claus Road at Sylvan Avenue (Mitigation Measure D.3f)
- Coffee Road at Claribel Avenue (Mitigation Measure D.3h)
- Coffee Road at Sylvan Avenue (Mitigation Measure D.3i)
- McHenry Avenue at Claribel Road (Mitigation Measure D.3j)
- McHenry Avenue at Clarantina Avenue (Mitigation Measure D.3k)
- Oakdale Road at Briggsmore Avenue (Mitigation Measure D.3n)
- Roselle Avenue at Belharbour Drive (Mitigation Measure D.3q)
- Roselle Avenue at Claribel Road (Mitigation Measure D.3r)
- Terminal Avenue at Claribel Road (Mitigation Measure D.3t)

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measures D.3a through D.3t would reduce the impacts identified above, many of these measures are infeasible or potentially infeasible, and most such impacts would thus remain significant even with mitigation. Because there are no feasible measures available to further mitigate these significant impacts, they are considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of buildout of the Project on traffic at the study intersections in 2017, as set forth in the Statement of Overriding Considerations below.
Impact D.4. Buildout off the proposed project would result in significant impacts on roadway segments adjacent to and near the project site in 2017.

a) **Potential Impact.** The potential impacts of the Project related to buildout of the Project on roadway segments adjacent to and near the Project site in 2017 are described and discussed on page IV.D.53 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.4 (pp. IV.D.53 and IV.D.54).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure D.4 will substantially lessen or avoid the impact identified above by requiring implementation of Mitigation Measure D.2a to improve the level of service on the roadway segment of Claratina Avenue from McHenry Avenue to Tivoli Road A.

Impact D.5 The project would contribute to significant impacts at study intersections adjacent to and near the project site in 2025.

a) **Potential Impact.** The potential impacts of the Project at study intersections adjacent to and near the Project site in 2025 are described and discussed on pages IV.D.57 through IV.D.60 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

The City shall implement FEIR Mitigation Measures D.5g, D.5m, D.5t, and D.5u. In addition, the City shall attempt to implement Mitigation Measures D.5a, D.5b, D.5d, D.5e, D.5h, D.5p, D.5q, D.5r, D.5s, and D.5v, but these measures have been identified as potentially infeasible, and there is a strong chance that the City will not be able to successfully implement these mitigation measures in sufficient time to fully mitigate the traffic impacts they are designed to mitigate. Finally, the City shall also attempt to implement those portions of Mitigation Measures D.5c, D.5f, D.5i, D.5l, and D.5n which have not been identified as physically infeasible, but those measures are likewise potentially infeasible. (pp. IV.D.60 through IV.D.70 of the DEIR.)
c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measures D.5a through D.5v provide for construction or installation of a set of traffic improvements that would improve LOS at the twenty-two impacted intersections analyzed in the EIR.

However, as explained in the Table "Potentially Infeasible Traffic Mitigation Measures and Explanation for Infeasibility," and as further described below, certain of these mitigation measures are either infeasible or are potentially infeasible. As to many of the referenced intersections, this project is only responsible for a small percentage of the overall traffic impact, and thus, can only be required to pay its fair proportional share of the intersection improvements necessary to mitigate the cumulative traffic impact. Where the project only contributes to a relatively small percentage of the overall traffic impact, the City cannot lawfully require the project to pay for the entire traffic improvement, but is instead requiring the project to pay a development fee as part of the City’s Capital Facilities Fee (CFF) program. The proceeds of the CFF fee are programmed to be used for many (but not all) of these improvements. Because the City cannot guarantee that full funding will be available for each of the improvements in time to mitigate the traffic impact in question, many of the measures are deemed potentially infeasible, insofar as they may not be timely implemented, and thus there may be a period of time in which the traffic facility in question will not comply with the City’s traffic standards. Thus, in such cases, the mitigation measure is identified as “potentially infeasible,” even though the project is being required to pay its fair share of the measure.

In some cases, as noted in the Table, certain of the mitigation measures are not already programmed to be funded by proceeds from the CFF fee. As to these measures, the City has no program in place to fund the necessary mitigation measure, and thus the measure is deemed potentially infeasible. The City will periodically review its CFF program to consider including additional traffic improvements, but, because of the uncertainty of funding the full cost of the mitigation measure, the measure is deemed potentially infeasible.

In some cases, as noted in the Table, certain of the mitigation measures are not within the jurisdiction of the City, either because the traffic facility in question is under the jurisdiction of CalTrans, or because it is located within the County or within the City of Riverbank. The City’s CFF program still will provide
funding for some of these improvements (specifically, some of the improvements under CalTrans’ and the County’s jurisdiction), in order to pay for the City’s fair share of such improvements. Currently, no funding mechanism exists by which development within the City of Modesto can contribute to traffic improvements within the City of Riverbank, just as no mechanism exists by which development within the City of Riverbank contributes to funding of traffic improvements within the City of Modesto. Development of such a mechanism would require negotiations between the two agencies to figure out if an acceptable, bilateral funding arrangement could be developed. If such an arrangement were to be developed, then project development could be conditioned on payment towards such improvements at the time of tentative map approval for individual subdivisions within the project area.

As is further identified in the Table, some of the measures are not physically feasible because they would require acquisition of private property which is already developed with other uses. As a matter of policy, the Council finds that such acquisition would unduly interfere with private property rights. Other measures are not feasible because of the substantial cost which would be involved.

Thus, for all of the reasons described above, certain of the Mitigation Measures D.5a through D.5v are identified as “infeasible” or “potentially infeasible,” as described in detail in the Table. These measures shall be implemented only to the extent that they are feasible.

Therefore, for the reasons set forth above and in the Table, the impacts identified in Impact D.5 at the intersections of Coffee Road/Clarantina Avenue, Oakdale Avenue/Bridgewood Way, Roselle Avenue/Tivoli Road C, and Roselle Avenue/Tivoli Road D shall be mitigated to a level of insignificance. All remaining impacts at other intersections identified in Impact D.5 will remain significant even with mitigation. More specifically, although the mitigation measures identified above would reduce the impacts of buildout of the Project on traffic at the study intersections in 2017, the impacts at the following intersections remains significant:

- Claus Road at Briggsmore Avenue (Mitigation Measure D.5a)
- Claus Road at Claribel Road (Mitigation Measure D.5b)
- Claus Road at Floyd Avenue (Mitigation Measure D.5c)
- Claus Road at Milnes Avenue (Mitigation Measure D.5d)
- Claus Road at Plainview Road (Mitigation Measure D.5e)
- Claus Road at Sylvan Avenue (Mitigation Measure D.5f)
Coffee Road at Claribel Road (Mitigation Measure D.5h)
Coffee Road at Sylvan Avenue (Mitigation Measure D.5i)
McHenry Avenue at Claribel Road (Mitigation Measure D.5j)
McHenry Avenue at Claratina Avenue (Mitigation Measure D.5k)
McHenry Avenue at Sylvan Avenue (Mitigation Measure D.5l)
Oakdale Road at Briggsmore Avenue (Mitigation Measure D.5n)
Oakdale Road at Claratina Avenue (Mitigation Measure D.5o)
Oakdale Road at Sylvan Avenue (Mitigation Measure D.5p)
Oakdale Road at Morrill Road (Mitigation Measure D.5q)
Roselle Avenue at Belharbour Drive (Mitigation Measure D.5r)
Roselle Avenue at Claribel Road (Mitigation Measure D.5s)
Terminal Avenue at Claribel Road (Mitigation Measure D.5v)

(ii) Remaining Impacts. As explained above, although implementation of Mitigation Measures D.5a through D.5v would reduce the impacts identified above, many of these measures are infeasible or potentially infeasible, and most such impacts would thus remain significant even with mitigation. Because there are no feasible measures available to further mitigate these significant impacts, they are considered significant and unavoidable.

(iii) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project on traffic at the study intersections in 2025, as set forth in the Statement of Overriding Considerations below.

Impact D.6 Buildout of the proposed project, in combination with other cumulative growth in the Modesto General Plan area, would result in significant impacts on roadway segments adjacent to and near the project site in 2025.

a) Potential Impact. The potential impacts of buildout of the Project, in combination with other cumulative growth in the Modesto General Plan area, on roadway segments adjacent to and near the Project site in 2025 are described and discussed on page IV.D.70 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.6 (pp. IV.D.70).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure D.6 will substantially lessen or avoid the impacts identified above by requiring the project developers to add a second eastbound and
westbound lane on Claratina Avenue between McHenry Avenue and Oakdale Road to ensure that this roadway segment will operate at an acceptable LOS D or better in both directions.

IV.E. Air Quality

Impact E.1. Emissions of criteria pollutants during project construction would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.E.17 and IV.E.18 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.1 (pp. IV.E.18 and IV.E.19 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure E.1 requires that the construction plans for each group of building permits incorporate a set of best-practices promulgated by the San Joaquin Valley Air Pollution Control District (the “District”) to minimize emissions during construction. Although implementation of this mitigation measure would reduce the impact of construction-related PM$_{10}$ and of ozone precursors from construction equipment exhaust, it would not substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the contribution of criteria pollutants emitted during construction to existing violations of ambient air quality standards in the region, as set forth in the Statement of Overiding Considerations below.
Impact E.2  Emissions of criteria pollutants during project operation would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.E.19 and IV.E.22 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

   FEIR Mitigation Measures E.2a through E.2c (pp. IV.E.22 and IV.E.23 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

   (i) **Effects of Mitigation.** Mitigation Measure E.2a requires the project developers to incorporate into the site design a set of provisions to reduce emissions from motor vehicles. Mitigation Measure E.2b requires the project developers to prepare a trip reduction plan to reduce emissions from motor vehicle activity to be reviewed and approved by the City of Modesto. Mitigation Measure E.2c requires the project developers to incorporate into the site design a set of provisions to reduce emissions from energy consumption. Although implementation of these measures would reduce the impact identified above, it would not substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.

   (ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

   (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the contribution of criteria pollutants emitted during Project operation to existing violations of ambient air quality standards in the region, as set forth in the Statement of Overriding Considerations below.

Impact E.6. The project would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.E.26 of the DEIR.
b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.6 (p. IV.E.26 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that:

(i) Effects of Mitigation. Mitigation Measure E.6 incorporates by reference Mitigation Measures E.1 (requiring that the construction plans for each group of building permits incorporate a set of best-practices promulgated by the District to minimize emissions during construction) and E.2 Mitigation Measures E.2a through E.2c (requiring the project developers to incorporate into the site design provisions to reduce emissions from motor vehicles and energy consumption and to prepare a trip reduction plan to reduce motor vehicle emissions). Although implementation of these measures would reduce the impact identified above, it would not substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.

(ii) Remaining Impacts. Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the Project's potential contribution to a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment, as set forth in the Statement of Overriding Considerations below.

Impact E.7 The proposed project, including annexation of the proposed parcels to the City of Modesto and changes to adopted community plans, could conflict with or obstruct implementation of the ozone and PM$_{10}$ attainment plans.

a) Potential Impact. The impact identified above is described and discussed on pages IV.E.26 through IV.E.28 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.7 (p. IV.E.28 of the DEIR).
c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure E.6 incorporates by reference Mitigation Measures E.2a through E.2c (requiring the project developers to incorporate into the site design provisions to reduce emissions from motor vehicles and energy consumption and to prepare a trip reduction plan to reduce motor vehicle emissions). Although implementation of these measures would reduce the impact identified above, it would not substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to its contribution to delaying the region’s progress in attaining the standards set out in the ozone and PM_{10} attainment plan, as set forth in the Statement of Overriding Considerations below s.

IV.K. Noise

**Impact F.2.** Future traffic could cause substantial noise levels for sensitive receptors in the Tivoli Specific Plan area.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.F.18 and IV.F.19 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures F.2a and F.2b (pp. IV.F.20 and IV.F.21 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure F.2a requires the project developers to design and construct 8-foot-tall earthen berms or sound walls for residences adjacent to major roadways, which should provide approximately 8 dB to 10 dB of noise reduction, reducing exterior noise conditions to 60 dB at the residential property lines. With such sound barriers in place, compliance with Building Code requirements should ensure that interior noise levels are reduced to 45 dB or less. Mitigation Measure F.2b requires the developers to
provide shielding for outdoor use areas by locating these areas behind buildings that are adjacent to major roadways. Together, these mitigation measures will substantially lessen or avoid Project impacts related to the noise levels of future traffic for sensitive receptors in the Tivoli Specific Plan area.

**Impact F.3.** New stationary sources of noise associated with the proposed project could generate noise levels incompatible with ordinances or goals for the surroundings.

- **Potential Impact.** The impact identified above is described and discussed on pages IV.F.21 and IV.F.22 of the DEIR.

- **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

  FEIR Mitigation Measures F.3 (pp. IV.F.22 of the DEIR).

- **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure F.3 will substantially lessen or avoid Project impacts related to new stationary sources of noise by requiring the developers of any project involving commercial uses or multi-family residential buildings that would include outdoor mechanical equipment to retain a qualified acoustical engineer to review and prepare a report on the project for submission to the City prior to approval of building permits. The mitigation measure details the contents required for inclusion in such a report, including calculation of the expected noise levels at the nearest residential property lines, determination of whether such noise levels would exceed City standards, and identification of means to reduce exterior noise levels to 60 dB.

**Impact F.4.** Non-stationary sources of noise associated with the proposed project could generate noise levels incompatible with ordinance or goals for the surroundings.

- **Potential Impact.** The impact identified above is described and discussed on pages IV.F.23 through IV.F.25 of the DEIR.

- **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

  FEIR Mitigation Measures F.4 (pp. IV.F.25 of the DEIR).

- **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure
F.4 will substantially lessen or avoid Project impacts related to non-stationary sources of noise by requiring the project developers to retain a qualified acoustical engineer to review site plans and building designs for proposed commercial activities to be located adjacent to sensitive residential or educational uses and to identify a complete list of measures that will reduce noise levels at the nearest residential property line to 60 dB or less.

**Impact F.5. Cumulative development could lead to noise conflicts between incompatible land uses.**

a) **Potential Impact.** The impact identified above is described and discussed on page IV.F.26 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

   No feasible mitigation measures are available to avoid the impact identified above.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

   (i) **Effects of Mitigation.** No feasible mitigation measures are available to avoid the impact identified above.

   (ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

   (iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to its contribution to cumulatively significant noise conflicts between incompatible land uses, as set forth in the Statement of Overriding Considerations below.

**IV.G. Hazards**

**Impact G.2. Excavation for installation of utilities and other construction on the project site could encounter contaminated soil and/or groundwater and expose workers and the public to hazardous substances.**

a) **Potential Impact.** The impact identified above is described and discussed on page IV.G.8 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation
Monitoring and Reporting Program:

FEIR Mitigation Measure G.2 (p. IV.G.8 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure G.2 will substantially lessen or avoid the impact identified above by requiring completion of Phase I Environmental Site Assessments for all parcels for which a Phase I has not yet been performed, Phase II studies for parcels where indicated, and remediation of any discovered chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes under the direction of the City and the County Health Services Department.

IV.H. Biological Resources

Impact H.3. Implementation of the Tivoli Specific Plan would result in loss of wetland habitat.

a) Potential Impact. The impact identified above is described and discussed on pages IV.H.14 and IV.H.15 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure H.3 (p. IV.H.15 of the DEIR, as amended in the FEIR in response to Comment D.4).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure H.3 will substantially lessen or avoid the impact identified above by requiring the developers to develop and implement a wetland mitigation strategy based on the Department of Fish and Game Recommended Wetland Definition, Mitigation Strategies and Habitat Value Assessment Methodology and subject to CDFG review and approval.


a) Potential Impact. The impact identified above is described and discussed on pages IV.H.15 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure H.4 (pp. IV.H.15 and IV.H.16 of the DEIR).
c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure H.4 will substantially lessen or avoid the impact identified above by requiring that a qualified ornithologist conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site and establishing a protocol to ensure that, if a nest site is found, the developers consult with CDFG to ensure that construction does not result in nest disturbance.

Impact H.5. Implementation of the Specific Plan would result in loss of Swainson’s Hawk foraging habitat.

a) Potential Impact. The impact identified above is described and discussed on page IV.H.16 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure H.5 (pp. IV.H.16 and IV.H.17 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure H.5 will substantially lessen or avoid the impact identified above by requiring the provision of offsite Habitat Management lands as described in the CDFG’s Staff Report regarding Mitigation for Impacts to Swainson’s Hawks (Buteo swainsoni) in the Central Valley of California.


a) Potential Impact. The impact identified above is described and discussed on page IV.H.18 of the DEIR.

b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures H.6a and H.6b (pp. IV.H.18 and IV.H.19 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure H.6a requires preparation of a habitat assessment on the project site and within a 500-foot buffer zone prior to the start of construction. In the event that suitable Burrowing Owl habitat is discovered, the measure requires implementation of a set of mitigation measures designed by CDFG to avoid disturbance, injury or death of owls. In the event that it is
infeasible to avoid development of occupied Burrowing Owl habitat, Mitigation Measure H.6b requires that the developers provide habitat compensation on off-site mitigation lands. Together, implementation of these mitigation measures will substantially lessen or avoid the Project's impacts related to the loss of occupied Burrowing Owl habitat.

Impact H.7. Implementation of the Specific Plan would result in cumulative loss of Swainson's Hawk and Burrowing Owl habitat.

a) Potential Impact. The impact identified above is described and discussed on pages IV.H.19 and IV.H.20 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure H.7 (p. IV.H.20 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure H.7 incorporates by reference Mitigation Measures H.3 (compensation for loss of wetlands), H.4 (pre-construction surveys to avoid nest disturbance), H.5 (compensation for loss of foraging habitat), and H.6a (implementation of CDFG guidelines to avoid and minimize impacts to Burrowing Owls) and H.6b (compensation for loss of Burrowing Owls), all described more fully above. Implementation of these mitigation measures will substantially lessen or avoid the cumulative impact identified above.

IV.I. Hydrology and Water Quality

Impact I.1. Construction activities could result in degradation of water quality in nearby surface water bodies by causing accidental spills and/or by reducing the quality of storm water runoff.

a) Potential Impact. The impact identified above is described and discussed on page IV.I.11 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure I.1 (pp. IV.I.11 and IV.I.12 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure I.1 will substantially lessen or avoid the impact identified above by requiring the developers to prepare a Storm Water Pollution Plan.
Prevention Plan (SWPPP) for each development project (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality during the construction period. The mitigation measure requires that the SWPPP emphasize measures designed to minimize erosion and off-site sedimentation, include specific and detailed Best Management Practices to mitigate construction-related pollutants and reduce erosion, provide for regular meetings of site supervisors to discuss pollution prevention, and include provisions for a monitoring program.

Impact I.2. Operation-phase use of the site could result in degradation of water quality in receiving waters by reducing the quality of storm water runoff.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.I.12 and IV.I.13 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure I.2 (pp. IV.I.13 and IV.I.14 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure I.2 will substantially less or avoid the impact described above by mandating that the Project meet all requirements of the current Municipal NPDES Permit. Specifically, the measure requires that a drainage plan be prepared and reviewed by the City Public Works Department prior to approval of a grading plan, that each drainage plan include features and operational BMP’s to reduce potential impacts to surface water quality, that the final design include measures to mitigate potential water quality degradation from runoff, and that an operations and maintenance plan be developed and implemented to avoid degradation of water quality in perpetuity.

Impact I.3. Implementation of the project could alter drainage patterns at the site potentially exceeding the capacity of existing conveyances and causing localized flooding.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.I.14 and IV.I.15 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures I.3a and I.3b (pp. IV.I.15 and IV.I.16 of the DEIR).
c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure 1.3a requires the developer to acquire written approval from the Modesto Irrigation District to discharge runoff to the MID Main Canal, or in the alternative, undertake supplemental CEQA review of any other proposed stormwater drainage design proposals. Mitigation Measure 1.3b requires that every proposed development: a) include adequately-sized detention facilities designed by a licensed professional engineer to accommodate anticipated runoff associated with a 100-year storm event, with such drainage plan to be reviewed and approved by the City of Modesto Department of Public Works; b) include drainage components designed in compliance with City of Modesto standards; and c) establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets, with an annual report of inspections and remedial action to be submitted to the City of Modesto Public Works Department. Implementation of Mitigation Measures 1.3a and 1.3b will substantially lessen or avoid the impact described above.

Impact I.4. Implementation of the project could place people and housing within an area subject to sheet flooding.

a) Potential Impact. The impact identified above is described and discussed on page IV.1.16 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures I.4 (pp. IV.1.16 and IV.1.17 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure I.4 will substantially lessen or avoid the impact identified above by requiring the Project proponent to: (a) submit for City Public Works Department review and approval proposed design-level sheetflow routing solutions prior to approval of any grading plans; (b) ensure that finished floor elevations be a minimum of one foot above the elevation of 100-year sheetflow flooding; and (c) contribute their fair share to the proposed northeast flood control solution.

Impact I.8. Existing water supply wells within the Specific Plan area, if not properly managed or decommissioned, could be damaged during construction, potentially allowing impacts to groundwater quality.

a) Potential Impact. The impact identified above is described and discussed on page IV.1.18 of the DEIR.
b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures I.8 (pp. IV.I.18 and IV.I.19 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure I.8 will substantially lessen or avoid the impact identified above by requiring completion of a well survey prior to the approval of a grading plan and requiring that water supply wells either be abandoned in compliance with applicable state and local regulations or properly sealed to prevent infiltration of water-borne contaminants.

IV.J. Geology, Soils and Seismicity

Impact J.1. Structures or property at the project could be adversely affected by expansive soils or by settlement of project soils.

a) Potential Impact. The impact identified above is described and discussed on pages IV.J.6 and IV.J.7 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure J.1 (p. IV.J.7 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure J.1 will substantially lessen or avoid the impact identified above by directing designers of foundations and improvements to consider the condition of the underlying soils and directing developers to have licensed professionals prepare for the City Building Department’s review and approval a design-level geotechnical report, to include measures to ensure mitigation of potential damages related to expansive soils and non-uniformly compacted fill.

Impact J.2. Differential settlement at the project site could result in damage to project buildings and other improvements.

a) Potential Impact. The impact identified above is described and discussed on pages IV.J.7 and IV.J.8 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure J.2 (p. IV.J.8 of the DEIR).
c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure J.2 will substantially lessen or avoid the impact identified above by requiring that prior to issuance of a grading permit, a site-specific grading plan be prepared by a licensed professional and submitted to the City Building Official for review and approval and requiring that such plan include specific measures to mitigate potential settlement associated with fill placement and areas of different fill thickness.

**IV.K. Community Services**

**Impact K.3.** Development of the proposed project site would result in an increase in full alarm call volumes which require an effective response force to arrive within ten minutes.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.K.14 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure K.3 (pp. IV.K.14 and IV.K.16 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure K.3 will substantially lessen or avoid the impact identified above by requiring the project developers to fund the construction of a Modesto Fire Department Fire Station to house an engine company and a truck company to serve the northeast area of the Tivoli Specific Plan.

**IV.L. Utilities and Services Systems**

**Impact L.1.** The City's wastewater collection system would not have adequate capacity to serve the project.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.27 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.1 (p. IV.L.28 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure L.1 will substantially lessen or avoid the impact identified above by requiring the project developers to install all on-site collection system
improvements necessary to serve the development, to pay for their fair share of the required off-site collection system improvements, and to fund and install all necessary off-site infrastructure.

Impact L.2. The project would generate wastewater in excess of the near-term disposal capacity for treated effluent from the Secondary Plant.

a) Potential Impact. The impact identified above is described and discussed on pages IV.L.28 through IV.L.29 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.2 (p. IV.L.28 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that:

(i) Effects of Mitigation. Mitigation Measure L.2 requires the project applicants to contribute their fair share of the costs of necessary wastewater treatment and disposal facilities. Although implementation of this measure could reduce the impact identified above, it is not certain that adequate funding will be secured in time to complete the treatment and disposal facility improvements prior to development, nor is it certain that the RWQCB will issue the new NPDES permit to allow the City to commence tertiary treatment in a timely manner. Therefore, the mitigation measure identified above may not substantially lessen or avoid this impact, which would remain significant even with mitigation.

(ii) Remaining Impacts. Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the generation of wastewater in excess of the near-term disposal capacity for treated effluent from the Secondary Plant, as set forth in the Statement of Overriding Considerations below.

Impact L.3. Implementation of the near-term tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland.

a) Potential Impact. The impact identified above is described and discussed on pages IV.L.31 and IV.L.32 of the DEIR.
b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.3 (p. IV.L.32 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure L.3 incorporates by reference Mitigation Measure B.1, which requires developers of prime farmland to contribute to the Farmland Conservancy Fund, or to an equivalent program for funding farmland preservation in Stanislaus County. Although implementation of this measure could reduce the impact identified above, it will not substantially lessen or avoid this impact, which would remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the permanent loss of Prime Farmland resulting from implementation of the near-term tertiary treatment facilities at the Secondary Plant, as set forth in the Statement of Overriding Considerations below.

**Impact L.6.** Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.34 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.6 (p. IV.L.34 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:
(i) **Effects of Mitigation.** Mitigation Measure L.6 basically re-states Mitigation Measure E.1, making the City of Modesto responsible for ensuring that the construction plans incorporate a set of best-practices promulgated by the San Joaquin Valley Air Pollution Control District (the "District") to minimize emissions during construction. Although implementation of this mitigation measure would reduce the increase in emissions during construction of wastewater system improvements, there would still be a net increase in emissions, and the impact would therefore remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to emissions of criteria pollutants during construction of wastewater system improvements contributing to existing violations of the ambient air quality standards in the region, as set forth in the Statement of Overriding Considerations below.

**Impact L.7.** Emissions of criteria pollutants during operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.35 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

   FEIR Mitigation Measure L.7 (p. IV.L.35 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure L.7 requires that the City abide by permit limits imposed by the SJVAPCD to reduce pollutant emissions from diesel-powered engines for emergency power generation. Although implementation of this measure would reduce the impact identified above, it will not substantially lessen or avoid this impact, which will remain significant even with mitigation.
(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to emissions of criteria pollutants during operation of wastewater system improvements contributing to existing violations of the ambient air quality standards in the region, as set forth in the Statement of Overriding Considerations below.

**Impact L.11.** Excavation for installation of wastewater system improvements could encounter contaminated soil and/or groundwater and expose workers and the public to hazardous substances.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.38 and IV.L.39 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.11 (p. IV.L.39 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure L.11 will substantially lessen or avoid the impact identified above by requiring the City to use reasonable means to determine the presence of soil or groundwater contamination prior to excavation, and if such contamination is discovered, requiring the City to remediate it.

**Impact L.14.** Impacts to Biological Resources and Regulated Habitats of Dry Creek and Tuolumne River.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.44 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.14 (pp. IV.L.44 and IV.L.45 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure L.14 will substantially lessen or avoid the impact identified above by
requiring that pre-construction surveys be conducted prior to project-related activities that may impact the resources of Dry Creek or the Tuolumne River and requiring coordination with the US Army Corps of Engineers, the US Fish and Wildlife Service, the California Department of Fish and Game, and the City of Modesto to ensure that any Project impacts are reduced to a less-than-significant level.

Impact L.15. Loss of Swainson's Hawk Foraging Habitat.

a) Potential Impact. The impact identified above is described and discussed on pages IV.L.45 and IV.L.46 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.15 (p. IV.L.46 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.15 incorporates by reference Mitigation Measures H.4 and H.5. Implementation of Mitigation Measure L.15 will substantially lessen or avoid the impact identified above by: 1) requiring that a qualified ornithologist conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site; 2) establishing a protocol to ensure that, if a Swainson's Hawk nest site is found, the developers consult with CDFG to ensure that construction does not result in nest disturbance; and 3) requiring the provision of offsite Habitat Management lands as described in the CDFG's Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California.

Impact L.16. Loss of Occupied Burrowing Owl Habitat.

a) Potential Impact. The impact identified above is described and discussed on page IV.L.46 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.16 (p. IV.L.46 of the DEIR).

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.16 incorporates by reference Mitigation Measures H.6a (requiring preparation of a habitat assessment on the project site and within a 500-foot buffer zone prior to the start of construction and, in the event that suitable Burrowing
Owl habitat is discovered, requiring implementation of a set of mitigation measures designed by CDFG to avoid disturbance, injury or death of owls) and H.6b (requiring that, in the event that it is infeasible to avoid development of occupied Burrowing Owl habitat, the developers provide habitat compensation on off-site mitigation lands). Implementation of Mitigation Measure L.15 will substantially lessen or avoid the impact identified above.

**Impact L.17. Disturbance of Nesting Raptors.**

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.46 and IV.L.47 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.17 (pp. IV.L.46 and IV.L.47 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.17 incorporates by reference Mitigation Measures H.4. Implementation of Mitigation Measure L.17 will substantially lessen or avoid the impact identified above by requiring that a qualified ornithologist conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site and establishing a protocol to ensure that, if a raptor nest site is found, the developers consult with CDFG to ensure that construction does not result in nest disturbance.

**Impact L.18. Impacts to Regulated Habitats Associated with Improvements to the Secondary Plant.**

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.47 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures L.18a and L.18b (pp. IV.L.47 and IV.L.48 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.18a requires the City to use microtunneling techniques to go under the east-west slough to the north of the proposed 2.3 mgd of tertiary treatment, rather than crossing it at the surface. Mitigation Measure L.18b mandates pre-
construction surveys prior to activities that might impact wetland areas and those areas potentially under the jurisdiction of the Army Corps of Engineers and/or the California Department of Fish and Game and further requires coordination with those agencies to ensure the implementation of adequate measures to mitigate impacts to riparian and aquatic resources. Implementation of these mitigation measures will substantially lessen or avoid the impacts identified above.

Impact L.19. Construction activities could result in degradation of water quality by reducing the quality of storm water runoff.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.48 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.19 (p. IV.L.49 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure L.19 will substantially lessen or avoid the impact identified above by requiring the City to prepare a Stormwater Pollution Prevention Plan to reduce potential impacts to surface water quality during the wastewater system construction period.

Impact L.21. The Tivoli Lift Station, Sonoma Trunk extension, and smaller collector pipes in the Specific Plan area could be adversely affected by expansive soils or by settlement of project soils.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.51 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.21 (p. IV.L.51 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure L.21 will substantially lessen or avoid the impact identified above by requiring preparation of a design-level geotechnical investigation, which will include measures to minimize potential damages related to expansive soils and non-uniformly compacted fill, for the review and approval of the City Engineer, and specifically requiring implementation of all such measures.
Impact L.22. Differential settlement at the project site could result in damage to wastewater system improvements.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.51 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.22 (pp. IV.L.51 and IV.L.52 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure L.22 will substantially lessen or avoid the impact identified above by requiring preparation of a site-specific grading plan for review by the City Engineer prior to issuance of a grading permit and requiring that the grading plan include specific measures to mitigate potential settlement associated with fill placement and areas of different fill thickness in relation to the then-existing wastewater collection facilities.

Impact L.23. Extension of the Sonoma Trunk and construction of the “downstream” collection system improvements would provide wastewater collection capacity for population growth that could cause the City to exceed its population projections.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.53 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

No feasible mitigation measures are available to avoid the impact identified above.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** No feasible mitigation measures are available to avoid the impact identified above.

(ii) **Remaining Impacts.** Because there are no feasible measures available to mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic,
social and other benefits of the Project override any significant adverse impacts of the Project relating to extension of the Sonoma Trunk and construction of the “downstream” collection system improvements providing wastewater collection capacity for population growth that could cause the City to exceed its population projections, as set forth in the Statement of Overriding Considerations below.

**Impact L.25.** The City’s wastewater collection and treatment system would not have adequate capacity to serve the project, along with anticipated cumulative development.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.55 and IV.L.56 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.25 (pp. IV.L.56 and IV.L.57 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure L.25 incorporates by reference Mitigation Measures L.1 (requiring the project applicants to install on-site collection system improvements prior to or concurrent with the development and requiring them to contribute toward their fair share of off-site collection system improvements) and L.2 (requiring project applicants to contribute toward their fair share of wastewater treatment and disposal facilities). However, because the new rate and fee program has not yet been adopted nor bonds issued for any of the near term treatment or disposal improvements and because the City cannot commence tertiary treatment without a new NPDES permit from the RWQCB, the City cannot be certain that adequate funding to pay for necessary collection system improvements will be available in a timely manner nor that necessary treatment and disposal infrastructure will be permitted prior to development. Therefore, the City cannot find that Mitigation Measure L.25 will substantially lessen or avoid this impact, which will remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.
(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the capacity of the City's wastewater collection and treatment system to serve the Project in combination with anticipated cumulative development, as set forth in the Statement of Overriding Considerations below.

Impact L.26. Implementation of the proposed project would incrementally contribute to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.57 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.26 (p. IV.L.57 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure L.26 incorporates by reference Mitigation Measures B.3, which in turn incorporates by reference Mitigation Measure B.1 (providing for contribution to the California Farmland Conservancy fund or an equivalent program to fund farmland preservation projects in Stanislaus County). However, although such contribution would partially compensate for the loss of prime farmland, it is not feasible to fully mitigate this cumulative impact, which will remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to its incremental contribution to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County, as set forth in the Statement of Overriding Considerations below.
Impact L.27. The wastewater treatment facilities would cause a cumulatively considerable net increase in pollutants for which the San Joaquin Valley is designated as nonattainment.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.57 and IV.L.58 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.27 (p. IV.L.58 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure L.27 incorporates by reference Mitigation Measure E.2a (requiring the project developers to incorporate into the site design a set of provisions to reduce emissions from motor vehicles), E.2b (requiring the project developers to prepare a trip reduction plan to reduce emissions from motor vehicle activity to be reviewed and approved by the City of Modesto), and E.2c (requiring the project developers to incorporate into the site design a set of provisions to reduce emissions from energy consumption). Although these measures would reduce the cumulative impact identified above, it is not feasible to fully mitigate this cumulative impact, which will remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to its incremental contribution to the contribution of the wastewater treatment facilities to a cumulatively considerable net increase in pollutants for which the San Joaquin Valley is designated as nonattainment, as set forth in the Statement of Overriding Considerations below.

Impact L.28. Cumulative Loss of Swainson’s Hawk and Burrowing Owl Habitat.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.58 of the DEIR.
b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure L.58 (p. IV.L.58 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.28 incorporates by reference Mitigation Measure L.15, which in turn incorporates by reference Mitigation Measures H.4 (requiring that a qualified ornithologist conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site and establishing a protocol to ensure that, if a nest site is found, the developers consult with CDFG to ensure that construction does not result in nest disturbance) and H.5 (requiring the provision of offsite Habitat Management lands as described in the CDFG's *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California*), and Mitigation Measure L.16, which in turn incorporates by reference Mitigation Measures H.6a (requiring preparation of a habitat assessment on the project site and within a 500-foot buffer zone prior to the start of construction and further requiring, in the event that suitable Burrowing Owl habitat is discovered, implementation of a set of mitigation measures designed by CDFG to avoid disturbance, injury or death of owls) and H.6b (requiring, in the event that it is infeasible to avoid development of occupied Burrowing Owl habitat, that the developers provide habitat compensation on off-site mitigation lands). Implementation of these measures together will substantially lessen or avoid the Project's contribution to the cumulative loss of Swainson's Hawk and Burrowing Owl Habitat.

**IV.M. Water Supply**

**Impact M.2.** Demand from the project would cause low water pressure problems within the City's water system.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.M.14 and IV.M.15 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure M.2 (p. IV.M.15 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure M.2 will substantially lessen or avoid the impact identified above by
requiring installation of two additional wells with a combined capability to meet or exceed the Project's water demand.

IV.N. Population and Housing

Impact N.1. Development of the proposed project would directly induce population growth that could cause the City to exceed its population projections.

a) Potential Impact. The impact identified above is described and discussed on pages IV.N.10 and IV.N.11 of the DEIR.

b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

No feasible mitigation measures are available to avoid the impact identified above.

c) Findings. Based on the FEIR and the entire record before the City, the City Council finds that:

(i) Effects of Mitigation. No feasible mitigation measures are available to avoid the impact identified above.

(ii) Remaining Impacts. Because there are no feasible measures available to mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any significant adverse impacts of the Project relating to population growth in excess of projections, as set forth in the Statement of Overriding Considerations below.
IV. Findings Regarding Project Alternatives.

A. Identification of Project Objectives.

The CEQA Guidelines state that the "range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects" of the Project. CEQA Guidelines § 15126.6(c). Thus, an evaluation of the Project objectives is key to determining which alternatives should be assessed in the EIR.

The DEIR lists eleven specific objectives for the Project (pages III.2 and III.3):

**Land Use Objectives**

1. To foster distinctive, attractive developments with a strong sense of place.

2. To provide development consistent with the Neotraditional Planning Principles provided in Section III-C (3) of the Modesto Urban Area General Plan. The primary concept is to provide a complete and integrated community with housing, work places, commercial and retail services, schools, parks, and civic facilities essential to the daily life of the residents.

3. To create a range of housing opportunities and choices with multi-family and/or affordable housing in compliance with the regional housing needs consistent with the Housing Element.

4. To enhance the City’s economic base through increased sales tax revenue.

5. To provide a regional commercial development to serve the east side of the City in a timely manner.

6. To locate regional commercial development along or near regional transportation corridors.

7. To provide commercial and institutional services and employment on the east side of the City to reduce travel time.

**Circulation Objectives**

8. To provide acceptable levels of traffic service on roadways consistent with the General Plan policies and Level of Service standards.

9. To create neighborhoods that encourage pedestrian and bicycle use and link to the commercial, school, and park sites.
Public Facilities and Service Objectives

10. To ensure public facilities and services are adequately planned and provided with development.

11. To ensure that a financing plan is provided with funding mechanisms for the provision of adequate public facilities and services.

B. Alternatives Analyzed in the FEIR.

The CEQA Guidelines state that the range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects of the Project. The City evaluated the alternatives listed below.

1. No Project Alternative.

a) Findings. The No Project Alternative is discussed at pages VI.2 through VI.3 of the DEIR. The No Development Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

b) Explanation. Under the No Project Alternative, the Project site would not be developed in accordance with the proposed Tivoli Specific Plan but would instead remain in agricultural, residential, and commercial uses according to current County land use designation and zoning. Although the No Project Alternative would avoid the Project's significant impacts, it would not further the City's Project objectives of fostering distinctive, attractive development in the Specific Plan area; promoting development of a complete and integrated community with housing, work places, commercial and retail services, public facilities and necessary infrastructure; enhancing the City's economic base; and encouraging regional commercial development to serve the east side of the City along or near regional transportation corridors.

2. Existing General Plan Alternative

a) Findings. The Existing General Plan Alternative is discussed at pages VI.3 through VI.16 of the DEIR. The Existing General Plan Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

b) Explanation. The Existing General Plan Alternative would result in the City's annexation of the Project and development as part of the Roselle-Claribel Comprehensive Planning District. Although the Existing General Plan Alternative would result in somewhat reduced impacts as compared to the Project, it would also produce approximately 2,648 fewer housing units and 1,665 fewer jobs than the proposed project. Thus the Existing General Plan Alternative would not achieve the objectives of the proposed Project related to developing a complete and integrated community that would substantially contribute to meeting the City's housing needs and to promoting economic development and job creation in the Tivoli area.
3. **Reduced Footprint Alternative.**

   a) **Findings.** The Reduced Footprint Alternative is discussed at pages VI.16 through VI.28 of the DEIR. The Reduced Footprint Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

   a) **Explanation.** Under the Reduced Footprint Alternative, the western 234 acres of the Project site would be developed as proposed for the Project, but with fewer residential units, while the eastern 220 acres of the Project site would remain in existing agricultural and residential uses. Although the Reduced Footprint Alternative would result in reduced, though similar, impacts as compared to the Project, and although the DEIR identifies this alternative as the environmentally superior alternative, it would result in approximately 6,827 fewer dwelling units and 337 fewer jobs than the proposed Project. Thus, like the Existing General Plan Alternative, the Reduced Footprint Alternative would not achieve the objectives of the proposed Project related to developing a complete and integrated community that would substantially contribute to meeting the City’s housing needs and to promoting economic development and job creation in the Tivoli area.

V. **Statement of Overriding Considerations.**

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, this City Council adopts and makes the following Statement of Overriding Considerations regarding the remaining significant unavoidable impacts of the Project, as discussed above, and the anticipated economic, social and other benefits of the Project.

The City finds and determines that: (i) the majority of the significant impacts of the Project will be reduced to acceptable levels by the mitigation measures recommended in these Findings; (ii) the City’s approval of the Project as proposed will result in certain significant adverse environmental effects that cannot be avoided even with the incorporation of all feasible mitigation measures into the Project; and (iii) there are no other feasible mitigation measures or other feasible Project alternatives that would further mitigate or avoid the remaining significant environmental effects. The significant effects that have not been mitigated to a less-than-significant level and are therefore considered significant and unavoidable are:

- **IV.B.1 – Agricultural Resources – Implementation of the proposed project would directly result in the permanent loss of Prime Farmland.**

- **IV.B.3 – Agricultural Resources – Implementation of the proposed project would incrementally contribute to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County.**

- **IV.D.1 – Transportation and Circulation – Construction and occupancy of Phase 1 of the proposed project would result in significant impacts at study intersections adjacent to and near the Project site in 2012.**
• IV.D.3 – Transportation and Circulation – Buildout of the proposed project would result in significant impacts at study intersections adjacent to and near the project site in 2017.

• IV.D.5 – Transportation and Circulation – The project would contribute to significant impacts at study intersections adjacent to and near the project site in 2025.

• IV.E.1 – Air Quality – Emissions of criteria pollutants during project construction would contribute to existing violations of the ambient air quality standards in the region.

• IV.E.2 – Air Quality – Emissions of criteria pollutants during project operation would contribute to existing violations of the ambient air quality standards in the region.

• IV.E.6 – Air Quality – The project would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.

• IV.E.7 – Air Quality – The proposed project, including annexation of the proposed parcels to the City of Modesto and changes to adopted community plans, could conflict with or obstruct implementation of the ozone and PM10 attainment plans.

• IV.F.5 – Noise – Cumulative development could lead to noise conflicts between incompatible land uses.

• IV.L.2 – Utilities and Service Systems – The project would generate wastewater in excess of the near-term disposal capacity for treated effluent from the Secondary Plant.

• IV.L.3 – Utilities and Service Systems – Implementation of the near-term tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland.

• IV.L.6 – Utilities and Service Systems – Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

• IV.L.7 – Utilities and Service Systems – Emissions of criteria pollutants during operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

• IV.L.23 – Utilities and Service Systems – Extension of the Sonoma Trunk and construction of the “downstream” collection system improvements
would provide wastewater collection capacity for population growth that could cause the City to exceed its population projections.

- IV.L.25 – Utilities and Service Systems – The City’s wastewater collection and treatment system would not have adequate capacity to serve the project, along with anticipated cumulative development.

- IV.L.26 – Utilities and Service Systems – Implementation of the proposed project would incrementally contribute to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County.

- IV.L.27 – Utilities and Service Systems – The wastewater treatment facilities would cause a cumulatively considerable net increase in pollutants for which the San Joaquin Valley is designated as nonattainment.

- IV.N.1 – Population and Housing – Development of the proposed project would directly induce population growth that could cause the City to exceed its population projections.

The following statement identifies the reasons why, in the City’s judgment, the benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the enumerated benefits of the Project can be found in the preceding findings, which are herein incorporated by reference, in the Project itself, and in the record of proceedings as defined in Section II.A. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental effects and is an overriding consideration warranting approval.

The City finds that the Project, as conditionally approved, would have the following economic, social, technological, and environmental benefits:

1. **Growth Consistent With General Plan.** The City’s General Plan provides an overall framework for the City’s growth. The Tivoli Specific Plan provides an area-specific comprehensive framework for attractive and distinctive development within the Tivoli Specific Plan area that is consistent with the goals and policies of the General Plan.

2. **Housing.** The Tivoli Specific Plan designates approximately 286 acres for residential development, allowing a maximum of 3,241 dwelling units in a variety of residential housing types and configurations. As much as 50% of the dwelling units may be developed as Medium Density, at 8 to 18 units per acre, and Medium High Density Residential, at 18 to 24 units per acre. The Medium High Density Residential designation is intended to provide 924 units to meet the Project’s share of affordable housing consistent with the City’s Housing Element. The variety and range of housing types allowed under the Specific Plan will increase opportunities for entry level and step-up housing.
3. **Infrastructure Needs.** The Tivoli Specific Plan provides for the public facilities and infrastructure necessary to support growth consistent with the General Plan and the Tivoli Specific Plan, including by identifying a financing strategy and funding mechanisms to pay for such facilities and infrastructure. The Specific Plan emphasizes a grid-oriented street network that provides direct walking connections between residential areas, parks, schools, and major commercial areas. All streets are designed to be pedestrian-friendly with ample street landscaping and sidewalks. Parkway planter strips along all collector level (and above) streets will allow for canopy shade trees to be planted adjacent to the street edges.

4. **Parks and Open Space.** The Tivoli Specific Plan provides for an approximately 19-acre dual-use basin and neighborhood park adjacent to an elementary school site and additional small neighborhood greens/parks in residential districts as appropriate. The paseos along primary collector streets will offer appealing pedestrian linkages to the centrally located basin/park.

5. **Economic Development and Job Creation.** The Tivoli Specific Plan provides for commercial and institutional development that will serve the east side of Modesto, will be located along or near regional transportation corridors, and will create job opportunities for area residents.

6. **Public Revenues.** The Tivoli Specific Plan provides for new regional commercial development opportunities on the east side of Modesto, which in turn will enhance the City’s economic base through increased property and sales tax revenue.
### TIVOLI SPECIFIC PLAN
### POTENTIALLY INFEASIBLE OR REJECTED TRAFFIC MITIGATION MEASURES
### AND EXPLANATION FOR INFEASIBILITY OR REJECTION

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<th>Project Impact</th>
<th>Mitigation Measure</th>
<th>Explanation for Infeasibility or Rejection</th>
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<tr>
<td><strong>Transportation and Circulation</strong></td>
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<td><strong>D.1</strong> Construction and occupancy of Phase 1 of the proposed project would result in significant impacts at study intersections adjacent to and near the project site in 2012.</td>
<td>D.1a. Claus Road at Briggsmore Avenue: Widen the intersection by adding a third northbound through lane and a third southbound through lane. Adjust signal timing to allow for overlap on all approaches.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 for the City to construct the improvements. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.1b. Claus Road at Milnes Road: Signalize the intersection. Add an exclusive northbound through lane to the intersection. The City shall establish a mechanism for developers to pay a fair share of the cost of these improvements.</td>
<td>This mitigation measure is potentially infeasible. Stanislaus County has identified funding for a traffic signal and some intersection improvements. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of improvements to Claus Road but not Milnes Road at this intersection, to which the project sponsors would be required to contribute. Project sponsors would also be required to contribute to the cost of improvements not already funded; however, a funding mechanism must be developed. The project’s fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.1c. Claus Road at Sylvan Avenue: Add a second eastbound left turn lane, a second northbound left turn lane, and a second southbound through lane. Adjust signal timing to allow for overlap on all approaches.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 for the City to construct the improvements. As a result, the intersection could operate poorly for a substantial period of time.</td>
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Potentially Infeasible or Rejected Traffic Mitigation Measures and Explanation for Infeasibility or Rejection

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<td>D.le. Coffee Road at Claribel Road: Widen the intersection by adding exclusive left- and right-turn lanes to the northbound and westbound approaches and two exclusive left- and right-turn lanes to the eastbound and westbound approaches. Convert shared lanes to exclusive through lanes at all four approaches and signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Coffee Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.lg. Coffee Road at Sylvan Avenue: Add exclusive eastbound right turn lane.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.1h. McHenry Avenue at Claribel Road (Claribel Road becomes Kiernan Avenue west of McHenry Avenue): Add second left turn lanes on northbound and southbound approaches; add second and third through lanes on eastbound and westbound approaches.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue (SR 108) and Claribel Road (Kiernan Avenue/SR 219 west of McHenry Avenue) intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) to cover its share of the cost of intersection improvements, to which the project sponsors would be required to contribute. The County PFF program and Caltrans includes funding for improvements to SR 108 and SR 219, respectively. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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Preliminary – Not Reviewed for Accuracy – Subject to Revision
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<td>D.1i. McHenry Avenue and Claratina Avenue: Add third and fourth northbound and southbound through lanes. Add third eastbound and westbound through lanes.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue/Claratina Avenue intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<tr>
<td></td>
<td>D.1j. McHenry Avenue at Sylvan Avenue: Add second northbound and southbound left turn lane; add fourth northbound and southbound through lanes.</td>
<td>This mitigation measure is not feasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue/Sylvan Avenue intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of some of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. The CFF does not include the fourth northbound and southbound through lanes. In addition, substantial acquisition of private property would be necessary to add the fourth through lane in the north-south direction. This measure would affect developed land uses. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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### Potentially Infeasible or Rejected Traffic Mitigation Measures and Explanation for Infeasibility or Rejection

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<td>D.1k. Oakdale Road at Claribel Road: Add a second northbound exclusive left turn lane and second southbound through lane; add second and third eastbound and westbound through lanes.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Oakdale Road/Claribel Road intersection, which is under the jurisdiction of the City of Riverbank and Stanislaus County. In the future, a portion of the intersection may be within the City's jurisdiction following annexation. Therefore, the City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td></td>
<td>D.1m. Oakdale Road at Morrill Avenue: Add exclusive southbound and northbound left turn lanes. Signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The Oakdale Road and Morrill Avenue intersection is outside the jurisdiction of the City. The City does not have jurisdiction to design and construct improvements at this location. The City of Riverbank and Stanislaus County have the funds to signalize the intersection and make other improvements; however, the funding may not be sufficient to fully mitigate impacts at this location. Since funding for the construction of all improvements necessary to fully mitigate this impact is not identified and the intersection is outside of the City's jurisdiction, there can be no assurance that this intersection could operate at an acceptable LOS.</td>
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<td>D.1p. Roselle Avenue at Belharbour Drive: Add northbound and southbound exclusive left- and right-turn lanes, and signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. Construction of the road improvements is anticipated to occur because funding is available as part of the project to install a roundabout at Roselle Avenue and Floyd Avenue. However, funding to signalize the intersection has not been identified and there can be no assurance that the measure would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<tr>
<td>D.1q. Roselle Avenue at Claribel Road: Add exclusive left turn lanes on all approaches to the intersection. Add northbound and southbound exclusive right turn lanes. Add a second, exclusive through lane on eastbound and westbound approaches to the intersection.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Roselle Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<tr>
<td>D.1r. Terminal Avenue at Claribel Road: Add exclusive left turn lanes at all four approaches to the intersection. Add a second eastbound through lane, and signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these intersection improvements to the Terminal Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>Buildout of the proposed project would result in significant impacts at study intersections adjacent to and near the project site in 2017.</td>
<td>D.3b. Claus Road at Claribel Road: Add second southbound through lane; add second northbound left turn lane; add second eastbound right turn lane; and add second westbound through lane.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Claus Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The County has adopted a Public Facilities Fee (PFF) program that includes improving Claus Road to six lanes from Claribel Road to Terminal Avenue, to which the project sponsors would have to contribute. The specific improvements are not known and a mechanism must be developed so that the project sponsors could pay a fair share contribution to the PFF. The project’s fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.3c. Claus Road at Floyd Avenue: Add second northbound and southbound through lanes; add second northbound left turn lane.</td>
<td>This mitigation measure is potentially infeasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.3d. Claus Road at Milnes Road: Add second northbound and southbound through lanes and signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. Stanislaus County has identified funding for a traffic signal and some intersection improvements. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of improvements to Claus Road but not Milnes Road at this intersection, to which the project sponsors would be required to contribute. Project sponsors would also be required to contribute to the cost of improvements not already funded; however, a funding mechanism must be developed. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.3e. Claus Road at Plainview Road: Add southbound and northbound exclusive left-turn lanes and a second northbound and southbound through lane. Signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Claus Road/Plainview Road intersection, which is under the jurisdiction of Stanislaus County. The County has adopted a Public Facilities Fee (PFF) program that includes improving Claus Road to six lanes from Claribel Road to Terminal Avenue, to which the project sponsors would have to contribute. The specific improvements are not known and a mechanism must be developed so that the project sponsors could pay a fair share contribution to the cost of improvements not covered. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<tr>
<td>D.3f. Claus Road at Sylvan Avenue: Add second eastbound right turn lane.</td>
<td>This mitigation measure is potentially infeasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.3h. Coffee Road at Claribel Avenue: Convert existing lanes to exclusive through lanes. Add second exclusive through lane in the southbound direction and second and third exclusive through lanes in the eastbound and westbound directions. Add one exclusive southbound left turn lane and two exclusive left turn lanes for the westbound, northbound and eastbound directions. Add exclusive right-turn lanes at all four approaches to the intersection. Signalize the intersection, and implement overlap phasing for the northbound right turn lane.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Coffee Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<tr>
<td>D.3i. Coffee Road at Sylvan Road: Add exclusive southbound, eastbound and westbound right turn lanes.</td>
<td>This mitigation measure is not feasible. Implementation would require acquisition of private property with developed land uses and subsequent demolition and loss of the existing land uses. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. The CFF does not include the exclusive southbound right turn lane. While construction of some intersection improvements is anticipated to occur as the City builds out, not all improvements are physically possible to accommodate. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.3j. McHenry Avenue at Claribel Road (Claribel Road becomes Kiernan Avenue west of McHenry Avenue): Add second left turn lanes on eastbound and westbound approaches; add third through lane on northbound and southbound approaches; and add fourth through lane on westbound approach.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue (SR 108) and Claribel Road (Kiernan Avenue/SR 219 west of McHenry Avenue) intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) to cover its share of the cost of intersection improvements, to which the project sponsors would be required to contribute. The County PFF program and Caltrans includes funding for improvements to SR 108 and SR 219, respectively. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.3k. McHenry Avenue at Claratina Avenue: Add second left turn lane on all approaches; add exclusive right turn lane on northbound, southbound, and westbound approaches; change signal timing to overlapping phasing on all approaches.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue/Claratina Avenue intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) to cover its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<tr>
<td>D.3n. Oakdale Road at Briggsmore Avenue: Add third eastbound and westbound through lanes. Implement overlapping signal phasing on the northbound, westbound, and eastbound approaches.</td>
<td>This mitigation measure is potentially infeasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.3o. Oakdale Road at Morrill Road: Implement Measure D.1m.</td>
<td>Mitigation Measure D.1m is potentially infeasible. The Oakdale Road and Morrill Avenue intersection is outside the jurisdiction of the City. The City does not have jurisdiction to design and construct improvements at this location. The City of Riverbank and Stanislaus County have the funds to signalize the intersection and make other improvements; however, the funding may not be sufficient to fully mitigate impacts at this location. Since funding for the construction of all improvements necessary to fully mitigate this impact is not identified and the intersection is outside of the City's jurisdiction, there can be no assurance that this intersection could operate at an acceptable LOS.</td>
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<td>D.3q. Roselle Avenue at Beiharbour Drive: Implement Measure D.1p.</td>
<td>Mitigation Measure D.1p is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. Construction of the road improvements is anticipated to occur because funding is available as part of the project to install a roundabout at Roselle Avenue and Floyd Avenue. However, funding to signalize the intersection has not been identified and there can be no assurance that the measure would available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.3r. Roselle Avenue at Claribel Road: Add one exclusive left turn lane on the northbound and southbound approaches and two exclusive left turn lanes on the eastbound and westbound approaches to the intersection. Add a second exclusive through lane on the southbound approach and second and third exclusive through lanes on the eastbound and westbound approaches. Add exclusive right turn lanes on all approaches. Signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Roselle Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.3t. Terminal Avenue at Claribel Road: Add second through lanes on the eastbound and westbound approaches. Add exclusive left turn lanes on all approaches. Signalize the intersection</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these intersection improvements to the Terminal Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.5</td>
<td>The project would contribute to significant impacts at study intersections adjacent to and near the project site in 2025.</td>
<td>D.5a. Claus Road at Briggsmore Avenue: Add a second eastbound and third westbound through lane and a second southbound right turn lane.</td>
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<td>D.5b. Claus Road at Claribel Road:  Add a second left turn lane on the northbound, eastbound, and westbound approaches; add a third through lane on the southbound and westbound approaches.  Provide a free right turn lane on the eastbound approach; provide a second southbound right turn lane.</td>
<td>This mitigation measure is potentially infeasible.  The City of Modesto does not have the jurisdiction to design or construct these improvements to the Claus Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County.  The County has adopted a Public Facilities Fee (PFF) program that includes improving Claus Road to six lanes from Claribel Road to Terminal Avenue.  The specific improvements are not known and a mechanism must be developed so that the project sponsors could pay a fair share contribution to the PFF.  The project's fair share would be a small portion of the total cost.  While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS.  As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.5c. Claus Road at Floyd Avenue:  Add second exclusive left turn lanes on all approaches; add second eastbound through lane and second and third northbound, southbound and westbound through lanes; add second eastbound and westbound right turn lanes; operate all right turns with overlap signal phasing.</td>
<td>This mitigation measure is not physically feasible because it would require removing recently constructed or approved residential developments adjacent to Floyd Avenue.  The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute.  The project's fair share would be a small portion of the total cost.  While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS.  As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.5d. Claus Road at Milnes Road:  Add two exclusive southbound through lanes and a second and third exclusive southbound lanes.  Signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible.  Stanislaus County has identified funding for a traffic signal.  The City CFF program does not cover the cost of other improvements at this intersection.  Project sponsors would be required to contribute their fair share of the cost of intersection improvements not already funded; however, a funding mechanism must be developed.  The project's fair share would be a small portion of the total cost.  While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS.  As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.5e. Claus Road at Plainview Road: Add exclusive left turn lanes at all approaches to the intersection. Add second and third exclusive through lanes on the northbound and southbound approaches. Signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Claus Road/Plainview Road intersection, which is under the jurisdiction of Stanislaus County. The County has adopted a Public Facilities Fee (PFF) program that includes improving Claus Road to six lanes from Claribel Road to Terminal Avenue, to which the project sponsor would have to contribute. The specific improvements are not known and a mechanism must be developed so that the project sponsors could pay a fair share contribution to the cost of improvements not covered. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.5f. Claus Road at Sylvan Avenue: Add a third southbound through lane and a separate southbound right turn lane. Add a second eastbound left turn lane and provide a free eastbound right turn lane.</td>
<td>This mitigation measure is not physically feasible because it would require acquisition of private property with developed land uses, requiring demolition and loss of existing land uses. The City has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The CFF does not include the third southbound through lane, and the acquisition of developed property was not assumed in the City's cost estimates for improvements. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.Sh. Coffee Road at Claribel Avenue: Add three exclusive left turn lanes on the northbound approach and two exclusive left turn lanes at the other three approaches. Add second northbound and southbound through lanes and 3 additional through lanes at the eastbound and westbound approaches. Add exclusive right turn lanes on all approaches. Signalize the intersection. Implementation of these measures would result in LOS D in the a.m. and p.m. peak hours.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Coffee Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a CFF program to cover the cost of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.Si. Coffee Road at Sylvan Avenue: Add exclusive southbound, eastbound, and westbound right turn lanes.</td>
<td>This mitigation measure is not physically feasible because it would require acquisition of private property with developed land uses, requiring demolition and loss of existing land uses. The City has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The CFF does not include the exclusive southbound right turn lane, and the acquisition of developed property was not assumed in the City’s cost estimates for intersection improvements. The project’s fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, not all improvements are physically feasible.</td>
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<td>D.5j. McHenry Avenue at Claribel Road (Claribel Road becomes Kiernan Avenue west of McHenry Avenue): Require a Grade-Separated Interchange or Split Diamond.</td>
<td>This mitigation measure is not feasible because of the substantial cost. The project's contribution to traffic would not be substantial enough to support a requirement that project sponsors contribute the full cost of construction. In addition, the City does not have jurisdiction to design or construct improvements because portions of this intersection are under the jurisdiction of Caltrans. Caltrans may have available funds for improvements on McHenry Avenue (SR 108) and Claribel Road/Kiernan Avenue (SR 219 west of the intersection). The City has established a Capital Facilities Fees program (CFF) to provide its share of the cost of these measures, to which the project sponsors are required to contribute. Funding from Caltrans in combination with the project's fair share contribution as well as contributions from other expected developments that would result in new traffic at this intersection, may not be sufficient to acquire the necessary private property and construct the necessary improvements. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS.</td>
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<tr>
<td>D.5k. McHenry Avenue at Claratina Avenue: Require a Grade-Separated Interchange or Split Diamond.</td>
<td>This mitigation measure is not feasible because of the substantial cost. The project's contribution to traffic would not be substantial enough to support a requirement that project sponsors contribute the full cost of construction. In addition, the City does not have jurisdiction to design or construct improvements because portions of this intersection are under the jurisdiction of Caltrans. Caltrans may have available funds for improvements on McHenry Avenue (SR 108). The City has established a Capital Facilities Fees program (CFF) for its share of the cost of improving this intersection, to which the project sponsors would be required to contribute. Funding from Caltrans in combination with the project's fair share contribution as well as contributions from other expected developments that would result in new traffic at this intersection, may not be sufficient to acquire the necessary private property and construct the necessary improvements. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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(continued)
### Potentially Infeasible or Rejected Traffic Mitigation Measures and Explanation for Infeasibility or Rejection

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<td>(continued)</td>
<td>D.51. McHenry Avenue at Sylvan Avenue: Add a fourth through lane on eastbound and westbound approaches; provide right turn lanes on northbound and westbound approaches.</td>
<td>This mitigation measure is not feasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue/Sylvan Avenue intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of some improvements to the intersection. The CFF does not include a fourth through lane in the east-west direction. Project sponsors would be required to contribute to the CFF, however, the project's fair share would be a small portion of the total cost. In addition, substantial acquisition of private property would be necessary to implement all of the improvements requiring the demolition and removal of developed land uses. The acquisition of developed property was not assumed in the City's cost estimates for intersection improvements. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<tr>
<td>(continued)</td>
<td>D.5n. Oakdale Road at Briggsmore Avenue: Provide third and fourth northbound lanes; provide a fourth southbound through lane; provide a separate southbound right turn lane.</td>
<td>This mitigation measure is not feasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The CFF does not include the fourth northbound lane or the fourth southbound lane. The project's fair share would be a small portion of the total cost. In addition, substantial acquisition of private property would be necessary to implement all of the improvements requiring the demolition and removal of developed land uses. The acquisition of developed property was not assumed in the City's cost estimates for intersection improvements. While some improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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## Potentially Infeasible or Rejected Traffic Mitigation Measures and Explanation for Infeasibility or Rejection

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<td>D.5o. Oakdale Road at Claratina Avenue: The project developers shall add a second southbound left turn lane and second right turn lanes in the southbound and eastbound directions. Add fourth northbound and westbound, and third and fourth southbound through lanes. Add a third northbound left turn lane.</td>
<td>This mitigation measure is infeasible. The fourth through lanes and third northbound left turn lane, and second right turn lanes in the southbound and eastbound directions are infeasible at this location, because in would require up to 15 lanes, including up to four through lanes, three left turn lanes, and two right turn lanes in each direction. Intersections with this number of lanes do not operate efficiently and would be wider than major freeways. The number of lanes would exceed the City of Modesto standards for local arterials.</td>
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<td></td>
<td>D.5p. Oakdale Road at Sylvan Avenue: The project developers shall add third eastbound and westbound through lanes. The project developers shall add a separate right turn lane on northbound and southbound approaches and provide funding support for the City to implement overlap signal phasing on eastbound right turn lanes. Add fourth northbound and southbound through lanes.</td>
<td>This mitigation measure is potentially infeasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The CFF does not include the fourth northbound and southbound through lanes at this location because it is not physically feasible to accommodate them. The inclusion of these improvements would require substantial acquisition of private property and removal of existing commercial buildings and loss of these existing land uses at this intersection. The acquisition of developed property was not assumed in the City’s cost estimates for intersection improvements. The total number of lanes would exceed the City of Modesto standards for local arterials and would not operate efficiently.</td>
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<td></td>
<td>D.5q. Oakdale Road at Morrill Road: Add exclusive left- and right-turn lanes on the northbound and southbound approaches. Add a second exclusive southbound through lane. Signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The Oakdale Road and Morrill Avenue intersection is outside the jurisdiction of the City. The City does not have jurisdiction to design and construct improvements at this location. The City of Riverbank and Stanislaus County have the funds to signalize the intersection and make other improvements; however the funding may not be sufficient to fully mitigate impacts at this location. Since funding for the construction of all improvements necessary to fully mitigate this impact is not identified and the intersection is outside of the City’s jurisdiction, there can be no assurance that this intersection could operate at an acceptable LOS.</td>
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(continued)
## Potentially Infeasible or Rejected Traffic Mitigation Measures and Explanation for Infeasibility or Rejection

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<td>D.5r. Roselle Avenue at Belharbour Drive: Implement mitigation measure D.1p.</td>
<td>Mitigation Measure D.1p is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. Construction of the road improvements is anticipated to occur because funding is available as part of the project to install a roundabout at Roselle Avenue and Floyd Avenue. However, funding to signalize the intersection has not been identified and there can be no assurance that the measure would available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td></td>
<td>D.5s. Roselle Avenue at Claribel Road: Add exclusive left turn lanes to the northbound and southbound approaches, and add two exclusive left turn lanes to the eastbound and westbound approaches to the intersection. Add one additional exclusive through lane to the northbound and southbound approaches and three additional exclusive through lanes to the eastbound and westbound approaches. Add exclusive right turn lanes to all approaches with overlap signal phasings, and signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Roselle Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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<td>D.5v. Terminal Avenue at Claribel Road: Add exclusive left-turn lanes on all approaches to the intersection. Add two additional through lanes on the eastbound and westbound approaches. Signalize the intersection.</td>
<td>This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these intersection improvements to the Terminal Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project’s fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.</td>
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Exhibit "B"

MITIGATION MONITORING AND REPORTING PROGRAM
TIVOLI SPECIFIC PLAN PROJECT
MITIGATION MONITORING AND REPORTING PROGRAM

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<td><strong>Agricultural Resources</strong></td>
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<td><strong>B.1.</strong> Prior to any actual development in the Tivoli Specific Plan area, the City Council will consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation of the loss of prime farmland.</td>
<td>City of Modesto and Project Developers</td>
<td>Prior to any actual development in the Tivoli Specific Plan area, the City Council will consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation of the loss of prime farmland. Project Developers shall be responsible for applicable mitigation measures from an approved farmland mitigation program.</td>
<td>Community and Economic Development Department shall prepare or manage the preparation of a farmland mitigation program at the direction of the City Council.</td>
<td>The consideration of a farmland mitigation program shall be prior to building permit issuance.</td>
</tr>
<tr>
<td><strong>B.3.</strong> Prior to any actual development in the Tivoli Specific Plan area, the City Council will consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation of the loss of prime farmland. (Same as Mitigation Measure B.1)</td>
<td>Same as Mitigation Measure B.1.</td>
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Turnstone Consulting, T160
Comments and Responses  

C&R.V.  

Tivoli Specific Plan Project  
January 8, 2008  
(B.1. and B.3 revised by City Council on February 26, 2008)
### Mitigation Measure

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<td><strong>Transportation and Circulation</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
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<tr>
<td>D.1d. Coffee Road at Claratina Avenue: At 75 percent buildout of the Tivoli Specific Plan area, the City shall conduct a traffic study, to be funded by the project developers, to determine the adequacy of the roundabout as intersection traffic control. If the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.</td>
<td>Project Developers and City of Modesto</td>
<td>Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Coffee Road and Claratina Avenue. City of Modesto shall conduct the traffic study.</td>
<td>City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic engineer shall review and approve the traffic study.</td>
<td>City of Modesto shall conduct the traffic study at 75 percent of buildout. Project developer shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the Facilities Master Plan (FMP) and Infrastructure Financing Plan (IFP).</td>
</tr>
<tr>
<td>D.1f. Coffee Road at Mable Avenue: The City shall add exclusive westbound left and right turn lanes.</td>
<td>City of Modesto</td>
<td>Project Developers shall contribute their fair share of the cost of implementation by paying into the Capital Facilities Fee Fund.</td>
<td>Public Works Department shall construct improvements.</td>
<td>All improvements shall be completed within five years of the first development of Phase I or completion of Phase I, whichever occurs first.</td>
</tr>
</tbody>
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<sup>1</sup> The analysis of traffic impacts is based on an assumed project buildout in ten years. Phase I is assumed to build out in five years or by 2012 and Phase II is assumed to build out in an additional five years or by 2017. If development proceeds slower than the assumed buildout schedule, then the timing of the mitigation measures may be revised.
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<tr>
<td><strong>D.1f. Oakdale Road at Mable Avenue:</strong> The project developers shall add a second southbound through lane.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Mable Avenue.</td>
<td>City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.</td>
<td>For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the first phase of development or as determined by the FMP and IFP.</td>
</tr>
<tr>
<td><strong>D.1n. Oakdale Road at Sylvan Avenue:</strong> The project developers shall add a second eastbound left lane and third southbound through lane.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Sylvan Avenue.</td>
<td>City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.</td>
<td>For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the first phase of development or as determined by the FMP and IFP.</td>
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<tr>
<td><strong>D.2a. Claratina Avenue between McHenry Avenue and Oakdale Road:</strong> The project developers shall add a second eastbound lane and a second westbound lane.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for the road improvement plans and construction for the segment of Claratina Avenue between McHenry Avenue and Oakdale Road.</td>
<td>City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.</td>
<td>Provide improvement plans prior to street construction as described below. All improvements shall be completed concurrent with development of Phase I or as determined by the FMP and IFP.</td>
</tr>
<tr>
<td><strong>D.2b. Sylvan Avenue between Roselle Avenue and Oakdale Road:</strong> The project developers shall add a second westbound lane.</td>
<td>Project Developers</td>
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<td></td>
<td>Completed by Traffic Operations on December 20, 2006.</td>
</tr>
<tr>
<td><strong>D.2c. Oakdale Road between Sylvan Avenue and Claratina Avenue:</strong> The project developers shall improve the southbound direction to three lanes between Sylvan Avenue and Claratina Avenue. (Improvements to the northbound direction to three lanes are assumed to be part of the project, to be implemented by project developers, and therefore do not need to be identified in this mitigation measure.)</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for the road improvement plans and construction for the segment of Oakdale Road between Sylvan Avenue and Claratina Avenue.</td>
<td>City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.</td>
<td>For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the first phase of development or as determined by the FMP and IFP.</td>
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<td><strong>D.3g. Coffee Road at Claratina Road:</strong> Implement Mitigation Measure D.1d, to conduct a traffic study at 75 percent buildout, to be funded by project developers, to determine the adequacy of the intersection traffic control. As with Measure D.1d, if the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.</td>
<td>Project Developers and the City of Modesto</td>
<td>Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Coffee Road and Claratina Avenue. City of Modesto shall conduct the traffic study.</td>
<td>City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.</td>
<td>City of Modesto shall conduct the traffic study at 75 percent of buildout. Project developers shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP.</td>
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<tr>
<td><strong>D.3l. McHenry Avenue at Sylvan Avenue:</strong> The City of Modesto will add a third eastbound through lane and a third westbound through lane.</td>
<td>City of Modesto</td>
<td>Project Developers shall contribute their fair share of the cost of implementation by paying into the Capital Facilities Fee program. Public Works Department shall construct improvements.</td>
<td>All improvements shall be completed within five years of the first development of Phase I or completion of Phase I, whichever occurs first.</td>
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### Mitigation Measure

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<td>D.3m. Oakdale Road at Bridgewood Way: The project developers shall provide an exclusive eastbound right turn lane with signal overlap.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Bridgewood Way.</td>
<td>City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.</td>
<td>For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the second phase of development or as determined by the FMP and IFP.</td>
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*Turnstone Consulting, T160*

*Comments:* n/a

*C&R.V.*

*Tivoli Specific Plan Project*

*January 8, 2008*
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<td>D.3p. Oakdale Road at Sylvan Avenue: The project developers shall add a third northbound through lane. The project developers shall fund actions by the City to change signal timing, implementing overlap phasing on the eastbound approach.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Sylvan Avenue to the City Engineer. Project Developers shall fund City actions to change signal timing and to implement overlap phasing on the eastbound approach.</td>
<td>City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.</td>
<td>For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the second phase of development or as determined by the FMP and IFP.</td>
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<tr>
<td>D.3s. Roselle Avenue at Tivoli Road C: Fund a traffic study at 75 percent buildout to determine the adequacy of the intersection traffic control. If the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.</td>
<td>Project Developers and City of Modesto</td>
<td>Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Roselle Avenue and Tivoli Road C. City of Modesto shall conduct the traffic study.</td>
<td>City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.</td>
<td>City of Modesto shall conduct the traffic study at 75 percent of buildout. Project Developers shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP.</td>
</tr>
<tr>
<td>D.4. Claratina Avenue from McHenry Avenue to Oakdale Road: Implement Mitigation Measure D.2a to add a second eastbound lane and a second westbound lane</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for the road improvement plans and construction for the segment of Claratina Avenue between McHenry Avenue and Oakdale Road.</td>
<td>City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.</td>
<td>Provide improvement plans prior to street construction as described below. All improvements shall be completed concurrent with development of Phase II or as determined by the FMP and IFP.</td>
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<td>D.5g. Coffee Road at Claratina Avenue: Implement Mitigation Measure D.1d, to conduct a traffic study, at the project developers' expense at 75 percent buildout to determine the adequacy of the intersection traffic control. As with Measure D.1d, if the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.</td>
<td>Project Developers and City of Modesto</td>
<td>Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Coffee Road and Claratina Avenue. City of Modesto shall conduct the traffic study.</td>
<td>City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.</td>
<td>City of Modesto shall conduct the traffic study at 75 percent of buildout. Project Developers shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recording or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP.</td>
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<td>D.5m. Oakdale Avenue at Bridgewood Way: The project developers shall provide an exclusive eastbound right turn lane with signal overlap.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Bridgewood Way.</td>
<td>City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.</td>
<td>For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recording or certificate of occupancy, whichever occurs first, of the second phase of development or as determined by the FMP and IFP.</td>
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Turnstone Consulting, T160

Comments: 

C&R.V.

Tivoli Specific Plan Project

January 8, 2008
### Mitigation Measure

**D.5t. Roselle Avenue at Tivoli Road C:** At 75 percent build-out, the City shall conduct a traffic study, funded by project developers, to determine the adequacy of the intersection traffic control. As with Measure D.1d, if the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.

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<td>Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Roselle Avenue and Tivoli Road C. City of Modesto shall conduct the traffic study.</td>
<td>City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.</td>
<td>City of Modesto shall conduct the traffic study at 75 percent of buildout. Project Developers shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP.</td>
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<tr>
<td>D.5u. Roselle Avenue at Tivoli Road D: At 75 percent build-out, the City shall conduct a traffic study, funded by the project developers, to determine the adequacy of the intersection traffic control. As with Measure D.1d, if the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.</td>
<td>Project Developers and City of Modesto</td>
<td>Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Roselle Avenue and Tivoli Road D. City of Modesto shall conduct the traffic study.</td>
<td>City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.</td>
<td>City of Modesto shall conduct the traffic study at 75 percent of buildout. Project Developer shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP. Provide improvement plans prior to street construction as described below. All improvements shall be completed concurrent with development of Phase II or as determined by the FMP and IFP.</td>
</tr>
<tr>
<td>D.6. The project developers shall add a second eastbound and westbound lane on Claratina Avenue between McHenry Avenue and Oakdale Road.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for the road improvement plans and construction for the segment of Claratina Avenue between McHenry Avenue and Oakdale Road.</td>
<td>City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.</td>
<td>Provide improvement plans prior to street construction as described below. All improvements shall be completed concurrent with development of Phase II or as determined by the FMP and IFP.</td>
</tr>
</tbody>
</table>
### Air Quality

**E.1.** The construction plans for each group of building permits shall incorporate the following recommendations from the District to minimize emissions during construction phases:

- The project developers shall review Regulation VIII of the San Joaquin Valley Air Pollution Control District regulations and submit a compliance plan to the City of Modesto prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented.

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<tbody>
<tr>
<td>E.1.</td>
<td>Project Developers</td>
<td>Project Developers shall review Regulation VIII and submit a compliance plan to the City of Modesto's Community and Economic Development Department. The compliance plan shall be incorporated in construction contracts and implemented by developers.</td>
<td>Project Developers shall provide draft compliance plan to the Community and Economic Development Department for review and approval.</td>
<td>Compliance plan shall be submitted to and approved by the Community and Economic Development Department prior to the issuance of a grading or building permit, whichever occurs first.</td>
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<td></td>
<td>Project Developers</td>
<td>Project Developers shall consult with SJVAPCD and identify available new technology and shall incorporate requirements for new technology in construction contracts.</td>
<td>Project Developers shall report to the Community and Economic Development Director on new technology to be included.</td>
<td>The Project Developers shall incorporate available new technology in construction contracts.</td>
</tr>
</tbody>
</table>

Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. It is anticipated that in the near future both NO\(_x\) and PM\(_{10}\) control equipment will be available. The San Joaquin Valley Air Pollution Control District should be consulted during this process.
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<tbody>
<tr>
<td>• The project developers shall limit traffic speed on unpaved roads to 15 miles per hour.</td>
<td>Project Developers</td>
<td>The construction foreman or liaison shall post speed limit signs and ensure that construction vehicle operators travel at or less than 15 mph.</td>
<td>The construction foreman or liaison shall monitor speed limits. Project Developers shall monitor compliance throughout the construction duration.</td>
<td>The Project Developers shall install speed limit signs as part of the site preparation process prior to issuance of a grading permit. Implement measures throughout the construction duration.</td>
</tr>
<tr>
<td>• The project developers shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.</td>
<td>Project Developers</td>
<td>All slopes shall be measured by the Project Developers and identified on the building permit plan set submitted. The construction foreman or liaison shall oversee the placement of sandbags or other runoff control measure(s) on all slopes determined to have a slope greater than 1 percent.</td>
<td>The construction foreman or liaison shall monitor runoff control measure(s) and shall conduct weekly runoff control measure(s) inspections and shall submit results in a monthly report to the Community and Economic Development Director.</td>
<td>The building permit submittal shall identify slope measurements. Implement measures throughout the construction duration.</td>
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<td>Mitigation Measure</td>
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<tr>
<td>• The project developers shall install wheel washers for all exiting trucks, or</td>
<td>Project Developers</td>
<td>The construction foreman or liaison shall ensure that wheel washers and/or</td>
<td>Construction foreman or liaison shall</td>
<td>The washers shall be provided prior to issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.</td>
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<tr>
<td>wash off all trucks and equipment leaving the site, to prevent track-out of soil to</td>
<td></td>
<td>equipment washers are in place at all points of exit from the site and are</td>
<td>record inspections in a daily construction log and submit results in a monthly report to the Community and Economic Development Director.</td>
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<td>public roadways.</td>
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<td>correctly implemented.</td>
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<tr>
<td>• The project developers shall install windbreaks at windward sides of construction</td>
<td>Project Developers</td>
<td>Windbreaks shall be installed by the Project Developers.</td>
<td>The construction foreman or liaison shall inspect installed windbreaks on a weekly basis and record inspections in the construction log. Inspection results shall be submitted in a monthly report to the Community and Economic Development Director.</td>
<td>Windbreaks shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.</td>
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<td>areas, if necessary to prevent wind-blown dust.</td>
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<tr>
<td>• The project developers shall suspend excavation and grading activity when winds exceed 20 miles per hour.</td>
<td>Project Developers</td>
<td>Project developers shall install wind speed measuring devices and ensure that these devices are correctly located and calibrated.</td>
<td>The construction foreman shall cease all excavating and grading activities when wind speed measuring devices indicate speeds over 20 mph. Suspension of construction activity due to wind speeds shall be recorded in the construction log. Construction reports shall be submitted to the Community and Economic Development Director on a monthly basis.</td>
<td>Wind speed measuring devices shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.</td>
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<td>• The project developers shall limit the area subject to excavation, grading, and other construction activity at any one time.</td>
<td>Project Developers</td>
<td>The project sponsor shall provide a written statement with any request for development permits or other permits involving movement of soil supporting a determination that the request minimizes the amount of exposed soil on the project site during the relevant construction period. The Community and Economic Development Director will either accept the report or require additional means to reduce the amount of exposed soil, such as hydroseeding or planting vegetation with irrigation, in areas that are proposed to be exposed for more than 20 days with no construction activity. Construction shall comply with the General Construction Permit.</td>
<td>The construction foreman or liaison shall ensure that construction activities do not exceed the allowable area of excavation and grading activity permitted on the site and shall oversee implementation of any required best management practices. The construction foreman or liaison shall record excavation and grading activities in a construction log on a daily basis and submit results in a monthly report to the Community and Economic Development Director.</td>
<td>Project Developer shall provide a plan to reduce soil exposure prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.</td>
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<tr>
<td>The project developers shall ensure that the accumulation of mud or dirt is expeditiously removed from adjacent public streets at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions).</td>
<td>Project Developers</td>
<td>The construction foreman or liaison shall establish and implement a daily street sweeping schedule during construction activities that involve movement of soil.</td>
<td>The construction foreman or liaison shall monitor daily street sweeping and provide a daily log. Results shall be submitted in a monthly report to the Community and Economic Development Director.</td>
<td>Project Developer shall provide a daily street sweeping schedule prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.</td>
</tr>
<tr>
<td>The project developers shall use alternative-fuel construction equipment, where feasible.</td>
<td>Project Developers</td>
<td>Project Developers shall consult with SJVAPCD to identify feasible goals for equipment use. These goals shall be incorporated into construction contracts. The Project Developers shall use alternative-fuel construction equipment throughout the construction duration, where feasible.</td>
<td>The Project Developers shall report to the Community and Economic Development Director the alternative-fuel equipment to be used in each phase.</td>
<td>Project Developer shall provide a list of any alternative equipment prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.</td>
</tr>
<tr>
<td>The project developers shall minimize idling time (e.g., to a 10-minute maximum).</td>
<td>Project Developers</td>
<td>The construction foreman or liaison shall limit idling time on the construction site to a 10-minute maximum.</td>
<td>The construction foreman or liaison shall monitor idling.</td>
<td>Implement measures throughout the construction duration.</td>
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### Mitigation Measure

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<tr>
<td>- The project developers shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.</td>
<td>Project Developers</td>
<td>The construction foreman or liaison shall limit the hours of heavy-duty equipment and/or the amount of equipment in use on the construction site.</td>
<td>The construction foreman or liaison shall monitor hours and use of heavy-duty equipment.</td>
<td>Implement measures throughout the construction duration.</td>
</tr>
<tr>
<td>- The project developers shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible.</td>
<td>Project Developers</td>
<td>Project Developers shall incorporate requirements to replace fossil-fueled equipment with electrically driven equivalents, where feasible.</td>
<td>Project Developers shall report to the Community and Economic Development Director about electrically driven equipment to be used in each phase.</td>
<td>The Project Developers shall use electrically driven equipment throughout the construction duration, where feasible.</td>
</tr>
<tr>
<td>- The project developers shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the San Joaquin Valley Air Pollution Control District.</td>
<td>Project Developers</td>
<td>The construction foreman or liaison shall comply with traffic control programs to curtail construction activities during periods of high ambient pollutant concentrations based on advisories from the SJVAPCD, such as on declared ‘Spare the Air’ days.</td>
<td>The construction foreman or liaison shall curtail or cease construction activity based on SJVAPCD advisories.</td>
<td>During advisory periods, such as ‘Spare the Air’ days, construction activity shall be curtailed or stopped.</td>
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<tbody>
<tr>
<td>- The project developers shall implement activity management to reduce cumulative short-term impacts.</td>
<td>Project Developers</td>
<td>Project Developers shall submit and implement an activity management plan.</td>
<td>Community and Economic Development Department shall review the activity management plan.</td>
<td>Activity management plan shall be submitted to and approved prior to the issuance of a grading or building permit, whichever occurs first. Implement measures throughout the construction duration.</td>
</tr>
<tr>
<td>E.2a. The site design shall fulfill the following requirements to reduce emissions from motor vehicle activity:</td>
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<tr>
<td>- The project developers shall incorporate improvements for transit service, including bus turnouts, transit loading areas, and shelters.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for a plan for bus turnouts, loading and shelters along perimeter streets to the Community and Economic Development Department.</td>
<td>The Transit Manager and City Engineer shall review and approve the plan.</td>
<td>Review and approval of transit service improvements shall occur before approval of each Final Development Plan. All improvements shall be completed prior to certificate of occupancy of the first phase of development or as determined by the FMP and IFP.</td>
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<tr>
<td>• The project developers shall incorporate sidewalks and bicycle paths throughout the site and connect those facilities to any nearby pedestrian and bicycle facilities, including those located at open space areas, parks, schools, or commercial areas.</td>
<td>Project Developers</td>
<td>Project Developers shall submit plans to the Community and Economic Development Department that identify the appropriate locations of all pedestrian and bicycle facilities elements and implement the plans.</td>
<td>The Community and Economic Development Department shall review the plans.</td>
<td>Review and designation of pedestrian and bicycle facilities shall occur before approval of each Final Development Plan. All improvements shall be completed prior to certificate of occupancy of each project.</td>
</tr>
<tr>
<td>• The project developers shall incorporate secure bicycle storage and parking facilities throughout the site.</td>
<td>Project Developers</td>
<td>Project Developers shall submit plans to the Community and Economic Development Department that identify all the bicycle storage and parking facilities on the project site and implement the plans.</td>
<td>The Community and Economic Development Department shall review the plans.</td>
<td>Review of on-site bicycle storage and parking facilities shall occur before approval of each Final Development Plan. All improvements shall be completed prior to certificate of occupancy of each project.</td>
</tr>
</tbody>
</table>
### Mitigation Measure

#### E.2b. The project developers shall prepare a trip reduction plan to reduce emissions from motor vehicle activity. The plan shall be reviewed and approved by the City of Modesto prior to occupation of each element of the proposed project. To be compliant with the policies of the *Urban Area General Plan*, the trip reduction plan shall address how the following features would be implemented:

- Provision of matching services (for participants in carpools and vanpools) by employers with over 100 weekday employees or coordination with Caltrans’ “Commuter Computer” program;
- Employer-based dissemination of commute information;
- Employer subsidies for transit passes and incorporation of transit stop facilities into site design;
- A program to guarantee rideshare participants a ride home in case of emergency;
- Flex-time scheduling;
- Site plan design which encourages pedestrian movement between adjacent land uses;
- Incentives such as preferred location of 4 percent of parking for carpoolers and hybrid or other clean-fuel vehicles; and
- Encouraging employers to experiment with telecommuting options, where feasible.

#### E.2c. The site design shall fulfill the following requirements to reduce emissions from energy consumption:

- The project developers shall incorporate energy efficient building design features including automated control systems for heating and air conditioning and overall energy efficiency at least 10 percent beyond the requirements of the California Energy Code (Title 24, California Code of Regulations), using features such as increased wall and ceiling insulation beyond Energy Code requirements, light colored roof materials to reflect heat, and energy efficient lighting and lighting controls.

### Mitigation Responsibility

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<tr>
<td>E.2b.</td>
<td>Project Developers</td>
<td>Project Developers shall submit trip reduction plans, and ensure, at a minimum, that all of the required elements are included in the plan. Project Developers shall ensure that all measures detailed in the trip reduction plan are being carried out.</td>
<td>The trip reduction plan shall be submitted for review and approval by the Community and Economic Development Department prior to certificate of occupancy of each applicable project. The Project Developers shall submit status results of the trip reduction plan in an annual report to the Community and Economic Development Director.</td>
<td>The trip reduction plan shall be submitted and approved prior to certificate of occupancy of each applicable project. Implement measures according to the plan.</td>
</tr>
<tr>
<td>E.2c.</td>
<td>Project Developers</td>
<td>Project Developers shall submit construction drawings showing energy efficient building design features and implement the measures.</td>
<td>The Building Division shall review and approve all construction plans to ensure that all required energy efficiency measures are included.</td>
<td>Prior to building permit issuance of each project, construction plans shall show that all energy efficient measures are included. Implement measures prior to certificate of occupancy.</td>
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<tbody>
<tr>
<td>• The project developers shall design buildings with windows and/or skylights</td>
<td>Project Developers</td>
<td>Project Developers shall submit construction drawings showing energy efficient</td>
<td>The Building Division shall review and approve all construction plans to ensure that all required energy</td>
<td>Prior to building permit issuance of each project, construction plans shall show that all energy</td>
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<td>oriented to maximize natural cooling and heating in accordance with the California</td>
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<td>building design features and implement the measures.</td>
<td>efficiency measures are included.</td>
<td>efficient measures are included.</td>
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<td>Energy Commission’s 2005 Building Energy Efficiency Standards.</td>
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<td></td>
<td>Implement measures prior to certificate of occupancy.</td>
<td>Prior to building permit issuance of each project, landscape plans shall be approved.</td>
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<tr>
<td>• The project developers shall incorporate approved deciduous trees to provide</td>
<td>Project Developers</td>
<td>Project Developers shall submit site plans showing shade trees on the south- and</td>
<td>The Department of Parks, Recreation and Neighborhoods shall review and approve all landscape plans.</td>
<td>Implement measures prior to certificate of occupancy.</td>
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<td>shade on the south- and west-facing sides of buildings.</td>
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<td>west-facing sides of buildings and implement the plans.</td>
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<tr>
<td>E.6. See Mitigation Measures E.1, E.2a, E.2b, and E.2c</td>
<td>Same as Mitigation</td>
<td>Same as Mitigation Measures E.1, E.2a, E.2b, and E.2c</td>
<td>Same as Mitigation Measures E.1, E.2a, E.2b, and E.2c</td>
<td>Same as Mitigation Measures E.1, E.2a, E.2b, and E.2c</td>
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<td>Measures E.1, E.2a, E.2b,</td>
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<td>E.7. See Mitigation Measure E.2a, E.2b, and E.2c</td>
<td>Same as Mitigation</td>
<td>Same as Mitigation Measure E.2a, E.2b, and E.2c</td>
<td>Same as Mitigation Measure E.2a, E.2b, and E.2c</td>
<td>Same as Mitigation Measure E.2a, E.2b, and E.2c</td>
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<td>E.2c.</td>
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<td><strong>Noise</strong></td>
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<tr>
<td>F.2a. Design and implement new barriers for noise control at exterior locations of proposed residential development adjacent to major roadways.</td>
<td>Project Developers</td>
<td>Project Developers shall submit construction plans showing the location and design features of noise control barriers and implement the features.</td>
<td>The Community and Economic Development Department shall review and approve all construction plans to ensure that all noise control features are included.</td>
<td>Prior to building permit issuance of each project, construction plans shall show all noise control features are included. The noise control features shall be installed prior to certificate of occupancy.</td>
</tr>
<tr>
<td>F.2b. Provide shielding for outdoor use areas by locating these areas behind buildings adjacent to major roadways.</td>
<td>Project Developers</td>
<td>Project Developers shall submit construction plans showing the location and design features of noise reduction features and implement the features.</td>
<td>The Community and Economic Development Department shall review and approve all construction plans to ensure that all noise reduction features are included.</td>
<td>Prior to building permit issuance of each project, construction plans shall show all noise reduction features are included. The noise reduction features shall be implemented prior to certificate of occupancy.</td>
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Mitigation Measure

F.3. Each development project that involves commercial uses or multifamily residential buildings that would include outdoor mechanical equipment shall carry out the following:

- Retain a qualified acoustical engineer to review the development project during the design phase, prior to approval of building permits.
- Submit a report to the City by the acoustical engineer that calculates the noise levels at the nearest residential property lines that would result from proposed mechanical equipment, determines whether noise levels would exceed the City's Normally Acceptable standards, and identifies means to reduce exterior noise levels to an Ldn of 60 dB.
- Noise reduction measures that must be considered by the acoustical engineer include:
  - use of acoustical silencers on inlet and discharge openings of mechanical equipment,
  - installation of parapets or enclosures with louvers or other barriers to shield noise,
  - orientation of equipment so that it faces away from sensitive receptors,
  - orientation or setback of buildings to increase distance from sensitive receptors.
- Other noise reduction measures that would accomplish the same or similar purposes should be included if applicable to the particular building proposed.

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<tr>
<td>F.3.</td>
<td>Project Developers</td>
<td>Project Developers shall submit a noise report to the Community and Economic Development Department and implement the features.</td>
<td>The Community and Economic Development Department shall review and approve the noise report.</td>
<td>A noise report shall be provided and approved prior to approval of each applicable Final Development Plan. Prior to building permit issuance of each project, construction plans shall show all noise reduction features are included. The noise reduction features shall be implemented prior to certificate of occupancy.</td>
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</table>
### Mitigation Measure

**F.4.** A qualified acoustical engineer shall be retained to review the site plans and building designs for proposed commercial activities when located adjacent to sensitive residential or educational land uses. The acoustical engineer shall consider the following measures, and shall identify a complete list of measures that will reduce noise levels at the nearest residential property line to an Ldn of 60 dB:

- Limiting loading and exterior warehouse activities to daytime hours from 8:00 a.m. to 7:00 p.m.
- Requiring loading and trash compacting and collection activities to be fully enclosed.
- Establishing minimum setback distances from rear yards for single family residences and from common open space for multi-family residential buildings for locations of commercial loading docks, warehousing activity areas, and trash compaction and collection areas in commercial developments.

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<tr>
<td><strong>F.4.</strong> A qualified acoustical engineer shall be retained to review the site plans and building designs for proposed commercial activities when located adjacent to sensitive residential or educational land uses. The acoustical engineer shall consider the following measures, and shall identify a complete list of measures that will reduce noise levels at the nearest residential property line to an Ldn of 60 dB:</td>
<td>Project Developers</td>
<td>Project Developers shall submit a noise report to the Community and Economic Development Department and implement the noise features.</td>
<td>The Community and Economic Development Department shall review and approve the noise report.</td>
<td>A noise report shall be provided and approved prior to approval of each applicable Final Development Plan. Prior to building permit issuance, construction plans shall show all noise reduction features are included. The noise reduction features shall be implemented prior to certificate of occupancy.</td>
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</table>

### Hazards

**G.2.** Conduct remaining Phase I Environmental Site Assessments, conduct site investigations and implement remediation as necessary.

<table>
<thead>
<tr>
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<th>Monitoring / Reporting Responsibility</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>G.2.</strong> Conduct remaining Phase I Environmental Site Assessments, conduct site investigations and implement remediation as necessary.</td>
<td>Project Developers</td>
<td>Project Developers shall retain a registered environmental assessor to conduct Phase I Environmental Site Assessments on properties where the assessment was not previously prepared and implement the remediation.</td>
<td>The Community and Economic Development Department shall review and approve the Phase I Environmental Site Assessments.</td>
<td>Conduct Phase I Environmental Site Assessments prior to issuance of grading or building permit, whichever occurs first. Remediation shall be implemented prior to issuance of grading or building permit or as determined by the Phase I ESA.</td>
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</tbody>
</table>

**Turnstone Consulting, T160**  
**C&R.V.**  
**Tivoli Specific Plan Project**  
**January 8, 2008**
**Mitigation Measure**

<table>
<thead>
<tr>
<th>Biological Resources</th>
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<tr>
<td>H.3. When wetland habitat cannot be avoided, any reduction in the 2.51 acres of wetlands will be compensated for, at a minimum ratio of 1:1, by the project proponents by implementing one of the four mitigation alternatives described in the Department of Fish and Game Recommended Wetland Definition, Mitigation Strategies, and Habitat Value Assessment Methodology: In-kind, On-site; In-kind, Off-site; Out-of-kind, On-site; or Out-of-kind, Off-site. The project sponsors are responsible for submitting their specific wetland mitigation strategy to CDFG for review and gain approval prior to issuance of a building permit. The wetland mitigation strategy shall include providing additional land for the dual use park/basin if the mitigation occurs on-site. Should the project sponsor select an off-site strategy that affects USACE or CDFG regulated habitats, the project sponsor shall be responsible for obtaining all necessary permits. The project sponsors would also be responsible for obtaining Streambed Alteration Agreements from CDFG if they are determined to be required for removing agricultural irrigation ditches.</td>
</tr>
<tr>
<td>Project Developers</td>
</tr>
<tr>
<td>Project Developers shall retain a qualified biologist to develop and implement a wetland mitigation strategy to compensate for the loss of wetlands.</td>
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<tr>
<td>CDFG shall review and approve the wetland mitigation strategy.</td>
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<td>Provide approved wetland mitigation strategy prior to approval of an Area Plan for any project containing or directly adjacent to the wetlands.</td>
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<tr>
<td>Implement wetland mitigation strategy prior to issuance of a grading or building permit, whichever occurs first.</td>
</tr>
</tbody>
</table>

| H.4. Pre-construction surveys to avoid nest disturbance. In order to assure that nesting Swainson's Hawks will not be disturbed by construction, a qualified ornithologist shall conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site. Survey Period I occurs from January 1 to March 20, Period II from March 21 to April 5, Period III from April 6 to April 20, Period IV from April 21 to June 10 (surveys not recommended during this period because identification is difficult, as the adults tend to remain within the nest for longer periods of time), and Period V from June 11 to July 30. No fewer than three surveys shall be completed, in at least each of the two survey periods immediately prior to project initiation. If a nest site is found, consultation with CDFG shall be required to ensure project initiation will not result in nest disturbance. |
| Project Developers |
| Project Developers shall retain a qualified ornithologist to conduct pre-construction surveys of project site and adjacent areas within 0.5 mile of project site during at least two of the survey periods identified. Identify and implement appropriate mitigation measures. |
| CDFG shall review and approve the pre-construction surveys to ensure that project initiation will not result in nest disturbance. |
| Prior to issuance of the first grading or building permit, whichever occurs first. |
Mitigation Measure | Mitigation Responsibility | Monitoring Actions | Monitoring / Reporting Responsibility | Schedule  
--- | --- | --- | --- | ---  
H.5. Compensation for loss of foraging habitat. Loss of 297.5 acres of foraging habitat for Swainson’s Hawks shall be mitigated by providing offsite Habitat Management (HM) lands as described in the CDFG’s Staff Report regarding Mitigation for Impacts to Swainson’s Hawks (Buteo swainsoni) in the Central Valley of California because the site was confirmed to be foraging habitat for Swainson’s Hawks through direct observation and is likely within ten miles of an active nest (used during one or more of the last five years). | Project Developer | Project Developer shall provide and implement mitigation plans in accordance with CDFG requirements. | CDFG shall review and approve the habitat mitigation strategy. | Provide approved habitat mitigation strategy prior to approval of the first Final Development Plan. Implement habitat mitigation strategy prior to issuance of the first grading or building permit, whichever occurs first.  

The acreage of off-site management lands to be provided will depend on the distance between the project site and the nearest active nest site. The 1994 CDFG staff report states:  
- Projects within one mile of an active nest tree shall provide:  
  - One acre of HM land (at least 10% of the HM land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90% of the HM lands protected by a conservation easement [acceptable to the Department] on agricultural lands or other suitable habitats that provide foraging habitat for Swainson’s Hawk) for each acre of development authorized (1:1 ratio); or  
  - One-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement [acceptable to the Department] which allows for the active management of the habitat for prey production on the HM lands) for each acre of development authorized (0.5:1 ratio).  

(cont’d.)
Mitigation Measure

- Projects within 5 miles of an active nest tree but greater than 1 mile from the nest tree shall provide 0.75 acres of HM land for each acre of urban development authorized (0.75:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the department) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson’s Hawks.

- Projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree shall provide 0.5 acres of HM land for each acre of urban development authorized (0.5:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the Department) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson’s Hawks.

- Management Authorization holders/project sponsors shall provide for the long-term management of the HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at the rate of $400 per HM acre.

(cont’d.)
Mitigation Measure

Current records within the CNDDB are more than five years old, so they alone cannot be used to confirm a mitigation ratio for the loss of approximately 298 acres of foraging habitat. The CNDDB records do, however, provide guidance. The mitigation ratio depends on whether the project site is within one of three zones: 1) less than a mile; 2) between one and five miles; or 3) between five and ten miles. Nests have been recorded within the riparian habitats along both the Stanislaus River and Tuolumne River within ten miles of the project site. Even though the existing records along these rivers are more than five years old, active unpublished nests along these rivers within the last five years are nearly certain to have occurred. Therefore, this analysis assumes that active Swainson's Hawks nests are present within ten miles of the project site.

Nest season surveys for Swainson's Hawks should be conducted to confirm whether an active nest occurs within one of the closer zones. Assuming that nests are present within ten miles, however, reduces the area requiring nest-season surveys from 314.2 square miles to 78.5 square miles; the area within 5 miles of the project site.
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>H.6a. Implementation of formal CDFG guidelines (Staff Report on Burrowing Owl Mitigation) to avoid and minimize impacts to Burrowing Owls. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls should be completed prior to the start of construction. Burrowing Owl habitat on the project site and within a 500-foot (150 m) buffer zone should be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat should be mapped at an appropriate scale, and the following mitigation measures should be implemented:</td>
<td>Project Developers</td>
<td>Project Developer shall retain a qualified biologist to conduct pre-construction survey for breeding or resident burrowing owls in pastures, fallow fields, canal rights of way and other areas where ground squirrels occupy or have occupied burrows or pipes or other locations that could be used by burrowing owls. If found, establish and implement construction schedule to avoid nesting season, identify buffer areas, and report accidental take to CDFG.</td>
<td>CDFG shall review the habitat assessment and mitigation measures.</td>
<td>Complete survey and establish and implement construction schedule and buffer area prior to issuance of the first grading or building permit, whichever occurs first, and monitor during construction.</td>
</tr>
</tbody>
</table>

1. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, should be completed no more than 30 days prior to the start of construction within suitable habitat. Three additional surveys should also be completed per CDFG guidelines prior to construction.

2. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31).Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction.

3. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This protected area will remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently.

4. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.
Mitigation Measure | Mitigation Responsibility | Monitoring Actions | Monitoring / Reporting Responsibility | Schedule
---|---|---|---|---
H.6b. Compensation for loss of Burrowing Owl habitat. If pre-construction surveys determine that Burrowing Owls occupy the site and avoiding development of occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat Management (HM) lands comprising existing Burrowing Owl foraging and breeding habitat should be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement with the CDFG, the project applicant should secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would:
- Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of HM lands;
- Provide initial protection and enhancement activities on the HM lands, potentially including, but not limited to, such measures as fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG;
- Establish an endowment for the long-term management of the HM lands; and
- Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement.

Pending CDFG approval, HM lands providing foraging habitat for Swainson's Hawks (see "Loss of Swainson's Hawk Foraging Habitat" below) may also be used to mitigate impacts to Burrowing Owls provided the HM lands provide existing Burrowing Owl foraging and breeding habitat.


| Monitoring Actions | Monitoring / Reporting Responsibility | Schedule |
---|---|---|
If avoidance is not feasible, work with CDFG to secure a habitat mitigation agreement. | CDFG shall review and approve the habitat mitigation plan. | Prior to issuance of the first grading or building permit, whichever occurs first. |

### Mitigation Measure

#### Hydrology and Water Quality

1.1. The project proponent shall prepare a SWPPP for each development project under the Specific Plan (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than one acre). The SWPPP shall emphasize measures designed to minimize erosion and off-site sedimentation.

- It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include:
  - Specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed, centralized storage areas that keep these materials out of the rain.
  - An important component of the storm water quality protection effort is knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of storm water quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.

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<tr>
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<tbody>
<tr>
<td>I.1.</td>
<td>Project Developers</td>
<td>Project Developers shall prepare and implement SWPPP.</td>
<td>The City Engineer shall review the SWPPP.</td>
<td>Complete the SWPPP prior to issuance of a grading or building permit, whichever occurs first, for each project. SWPPP measures shall be implemented during grading and construction for each project.</td>
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<td>Project Developers shall maintain copy of the SWPPP on the construction site and implement the SWPPP.</td>
<td>The City of Modesto shall inspect on a periodic basis in accordance with the provisions set forth in the City’s NPDES permit.</td>
<td>SWPPP shall be prepared prior to excavation or grading permits are issued and shall be implemented during grading and construction for each project.</td>
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<td></td>
<td></td>
<td>Project Developers shall prepare a drainage plan and conduct inspections to ensure approved design is being implemented.</td>
<td>The City Engineer shall review and approve drainage plan.</td>
<td>Provide drainage plan prior to approval of the grading plan. Drainage plan shall be implemented during grading and construction for each project.</td>
</tr>
</tbody>
</table>
The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and must include both dry and wet weather inspections. In addition, in accordance with State Water Resources Control Board Resolution No. 2001-046, monitoring would be required during the construction period for pollutants that may be present in the runoff that are "not visually detectable in runoff."

The City staff shall review and approve project SWPPP prior to developer obtaining a Grading and Building Permit. Project SWPPP shall include and adequately address all elements in the State General Construction Permit (Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity, State Water Resources Control Board Order Number 99-08-DWQ).

BMPs designed to reduce erosion of exposed soil may include, but are not limited to, soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control; that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Entry and egress from the excavation area shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.

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<tr>
<td>- BMPs designed to reduce erosion of exposed soil may include, but are not limited to, soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control; that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Entry and egress from the excavation area shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.</td>
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</table>
### Mitigation Measure

1.2. The City shall ensure that development under the proposed project meets all the requirements of the current Municipal NPDES Permit (NPDES Permit No. R5-2002-0132 as amended by Order No. R5-2003-0182) for operation-phase water quality treatment. The drainage plan for each proposed development under the Specific Plan shall include features and operational BMPs to reduce potential impacts to surface water quality associated with operation of the project. The final design shall include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development. In general, "passive," low-maintenance BMPs (e.g., grassy swales, porous pavements) are preferred over active filtering or treatment systems. An operations and maintenance plan shall be developed and implemented to inspect and maintain BMPs in perpetuity.

The final design team for the development project shall review and incorporate as many concepts as practicable from the City's Guidance Manual for New Development Stormwater Quality Control Measures, Start at the Source, Design Guidance Manual for Stormwater Quality Protection and the California Stormwater Quality Association's Stormwater Best Management Practice Handbook, Development and Redevelopment. BMPs to be implemented by the developers within the plan area may include, but are not limited to, the BMPs described below for the construction and operation phases of the projects:

**During the Construction Phase**

- Erosion control BMPs may include preservation of existing vegetation, use of hydraulic mulch, hydoseeding, soil binders, earth dikes and drainage swales, velocity dissipation devices and implementation of channel bank stabilization techniques;
- Temporary sediment control BMPs may include use of silt fences, sediment traps, sediment basins, check dams, fiber rolls, and drainage inlet protection;

(Cont'd.)

### Mitigation Responsibility

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<tbody>
<tr>
<td>Project Developers</td>
<td>Project Developers shall prepare a site drainage plan or require construction contractor to prepare plan. Implement plan.</td>
<td>City Engineer shall review and approve drainage plans.</td>
<td>Drainage plan shall be prepared prior to issuance of a grading permit and shall be implemented during grading and construction for each project.</td>
</tr>
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Turnstone Consulting, T160

Comments and Responses

C&R.V. 35

Tivoli Specific Plan Project
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### Mitigation Measure

**During the Operation Phase**
- Permanent operation-phase BMPs may include: minimization of directly connected impervious surfaces, use of permeable pavements or unit pavers, grassy bioswales, stormwater planters, covering of refuse handling areas, stencilling drainage inlets, wet ponds, and detention basins.

At a minimum, runoff from all components of the project shall receive some level of treatment prior to discharging to the detention basins. Runoff would then be detained in the basins prior to being pumped into the Modesto Irrigation District's canal.

1.3a. As a condition of approval of the final grading and drainage plans for the first project proposed in the plan area, the developer must acquire written approval from the MID to discharge runoff to the MID Main Canal (up to 5.0 cfs), and provide this documentation to the City of Modesto Public Works Department. If this first project, or any subsequent projects, propose to use some alternative stormwater drainage design that does not require discharge to the MID Main Canal, then additional supplemental CEQA review shall be conducted for these projects. Should MID not approve discharge to its facility an alternative design may include infiltration trenches at the bottom of the proposed ponds in combination with detention and/or retention of a higher volume (100-yr 6-day) frequency storm runoff. This design may increase the size of the detention basin(s), thus requiring additional land to be utilized for drainage, land that otherwise would be occupied by structures or parking.

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<tbody>
<tr>
<td><strong>Project Developers</strong></td>
<td>Project Developers shall be responsible for plans to discharge runoff to the MID Main Canal. The developer must acquire written approval from the MID or the City of Modesto and Modesto Irrigation District must enter into an agreement to discharge water into the MID Main Canal. Alternative stormwater drainage design must be approved if MID approval is not obtained.</td>
<td>City Engineer shall coordinate the agreement with MID and develop an alternative design if necessary.</td>
<td>Securing MID approval to discharge runoff into the MID Main Canal shall be completed and implemented or an approved alternative design shall be implemented prior to approval of the first final grading and drainage plans or as determined by the FMP and IFP.</td>
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</tbody>
</table>
I.3b. As a condition of approval of the final grading and drainage plans for all projects proposed within the plan area it must be demonstrated through detailed hydraulic analysis that implementation of the proposed drainage plans will:

- Include adequately sized detention facilities to accommodate anticipated runoff associated with the 100-year storm event. A licensed professional engineer shall prepare the final drainage plan for the project and plans must be submitted to the City of Modesto Public Works for review and approval.
- Include drainage components that are designed in compliance with City of Modesto standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the Department of Public Works; and
- Establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets. Any accumulation of sediment or other debris shall be promptly removed. An annual report documenting the inspection and any remedial action conducted shall be submitted to the City of Modesto Public Works Department for review.

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<tr>
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<tr>
<td>I.3b.</td>
<td>Project Developers</td>
<td>Prepare site drainage plan or require construction contractor to prepare plan. Project Developers shall implement plan.</td>
<td>City Engineer</td>
<td>The final grading and drainage plans shall be approved prior to issuance of a grading permit and shall be implemented prior to acceptance of improvements or issuance of building permit, whichever occurs first, or where appropriate as determined by the FMP and IFP. An alternative temporary retention basin may be considered for regional commercial development.</td>
</tr>
</tbody>
</table>

An alternative temporary retention basin may be considered for regional commercial development.
### Mitigation Measure

**Mitigation Measure**

1.4. The Tivoli Specific Plan project proponent shall:

- Design and construct the proposed on-site development so that the sheetflow flooding generated from the upstream watershed that can occur in the region will be safely passed through the proposed development. These flows shall be contained within the streets and be dispersed on the downstream side of the project site in a manner that does not concentrate or increase flows, ensuring that the potential for increased erosion or flooding downstream is minimized.

- Ensure that finished floor elevations of all residential, commercial, and industrial structures be a minimum of one foot above the elevation of 100-year sheetflow flooding.

- Contribute their fair share of the cost to design and construct the proposed northeast flood control solution.

---

**Mitigation Responsibility**

Project Developers

**Monitoring Actions**

- Prepare site drainage plan or require construction contractor to prepare plan.
- Project Developers shall implement plan.
- Project Developers shall contribute their fair share of infrastructure costs into a fund.

---

**Monitoring / Reporting Responsibility**

City Engineer

**Schedule**

The final grading and drainage plans shall be approved prior to issuance of a grading permit and shall be implemented prior to acceptance of improvements or certificate of occupancy, whichever occurs first.

---

### L.8. Prior to approval of a grading plan for development of a particular parcel of the Specific Plan area, a well survey shall be conducted to determine the location and characteristics of each well for that particular parcel. The survey shall be conducted and documented by a State-registered geologist or engineer, and the results submitted to the City for review. The water supply wells shall either be:

1. Properly abandoned in compliance with the California Department of Water Resources, California Well Standards and Stanislaus County Code, Chapter 9.36 prior to final approval of the grading plan, or

2. Inspected by a qualified professional to determine whether each well is properly sealed at the surface to prevent infiltration of water-borne contaminants into the well casing or surrounding gravel pack. The California Well Standards require an annular surface seal of at least 20 feet. If any of the wells are found not to comply with this requirement, the applicant shall retain a qualified well driller to install the required seal. Documentation of the inspections and seal installations, if any, shall be provided to the City prior to final approval of the grading plan.

---

**Mitigation Measure**

Project Developers

**Monitoring Actions**

- Project Developers shall conduct a well survey to determine location and characteristics of each well. The survey shall be conducted by a state-registered geologist or engineer, and results shall be submitted to the City Engineer and implemented by the developers.

---

**Monitoring / Reporting Responsibility**

The City Engineer shall review the well survey and determine whether the well be abandoned or sealed.

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**Schedule**

The well survey shall be conducted prior to approval of a grading permit for development of the Specific Plan area and shall be implemented prior to certificate of occupancy.
<table>
<thead>
<tr>
<th>Mitigation Measure</th>
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<tbody>
<tr>
<td>Geology, Soils, and Seismicity</td>
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<tr>
<td>J.1. In locations underlain by expansive soils and/or non-engineered fill, the designers of foundations and improvements (including sidewalks, roads, and utilities) shall consider these conditions. The design-level geotechnical investigation, to be prepared by licensed professionals and approved by the City Building Department, shall include measures to ensure potential damages related to expansive soils and non-uniformly compacted fill are minimized. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.</td>
<td>Project Developers</td>
<td>Project Developers shall retain a licensed professional to prepare a geotechnical report and implement the measures.</td>
<td>Building Division shall review and approve the geotechnical report.</td>
<td>The geotechnical report shall be prepared and approved prior to the issuance of grading or building permit, whichever occurs first. Implement mitigation measures during construction.</td>
</tr>
<tr>
<td>J.2. Prior to issuance of a grading permit, a site-specific grading plan shall be prepared by a licensed professional and submitted to the City Building Department for review and approval. The plan shall include specific recommendations for mitigating potential settlement associated with fill placement and areas of different fill thickness.</td>
<td>Project Developers</td>
<td>Project Developers shall retain a licensed professional to prepare site-specific grading plans and implement the plans.</td>
<td>Building Division shall review and approve the site-specific grading plans.</td>
<td>The site specific grading plan shall be prepared and approved prior to issuance of a grading permit. Implement recommended measures during construction.</td>
</tr>
<tr>
<td>Community Services</td>
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<tr>
<td>K.3. Prior to development of the northeast area of the Tivoli Specific Plan, project developers must provide the necessary funding for the construction of a Modesto Fire Department Fire Station to house an engine company and a truck company.</td>
<td>Project Developers</td>
<td>Project Developers shall provide funding for the construction of a fire station when development occurs in the northeast portion of the Tivoli Specific Plan.</td>
<td>Community and Economic Development Department and Modesto Fire Department</td>
<td>Funding to be provided prior to issuance of a building permit.</td>
</tr>
<tr>
<td>Mitigation Measure</td>
<td>Mitigation Responsibility</td>
<td>Monitoring Actions</td>
<td>Monitoring / Reporting Responsibility</td>
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<td><strong>Utilities and Services Systems</strong></td>
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<td>L.1. Prior to or concurrent with development, the project sponsors and any project applicants for future development in the Tivoli Specific Plan area shall install all on-site collection system improvements which are necessary to serve the development. Prior to issuance of a building permit, the project applicants will be required to contribute toward their fair share of the required off-site collection system improvements through payment of future capacity charges, as adopted by the City or through an equivalent funding measure. In addition, prior to or concurrent with development, the project developers shall fund and install all off-site infrastructure which are necessary to serve the development.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for installation of on-site collection system improvements and shall contribute a fair share of the costs to construct off-site collection system improvements. Project Developers shall fund and construct all off-site infrastructure necessary to serve the project site.</td>
<td>City Engineer shall review and approve infrastructure improvements to ensure that the City's Standard Specifications are incorporated.</td>
<td>All improvements shall be completed prior to issuance of the first building permit of Phase I or as determined by the FMP and IFP.</td>
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<td>L.2. Prior to issuance of a building permit, the project applicants will be required to contribute toward their fair share of the required wastewater treatment and disposal facilities through payment of future capacity charges, as adopted by the City, or through an equivalent funding measure. In addition, the City cannot commence tertiary treatment without a new NPDES permit from the RWQCB. The RWQCB is encouraged to issue the new NPDES permit in a manner that would allow for successful implementation of the City's proposed tertiary treatment. While the City is optimistic that an appropriate NPDES permit will eventually be issued, this action is beyond the City's jurisdiction and control and therefore the City cannot assure that the necessary treatment and disposal infrastructure will be permitted prior to development.</td>
<td>Project Developers and City of Modesto</td>
<td>City of Modesto shall ensure that Project Developers contribute a fair share of the costs to construct wastewater treatment and disposal system improvements. City of Modesto shall be responsible for obtaining a new NPDES permit.</td>
<td>Department of Public Works</td>
<td>Prior to issuance of any building permit.</td>
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</table>
### Mitigation Measure

**L.11.** Prior to excavation for construction for the improvements to the wastewater collection and treatment systems for near-term development, the City shall use reasonable means to determine the presence of soil or groundwater contamination. Those reasonable means may consist of tracer gas surveys, soil or groundwater sampling, and/or conducting a Phase I Environmental Site Assessment and, if necessary, a Phase II assessment, in accordance with the most recent ASTM International standard. Where the results of these studies indicate that soil or groundwater contamination is present, any necessary remediation shall be conducted.

- **City of Modesto**
  - City of Modesto shall retain a registered environmental assessor to conduct Phase I Environmental Site Assessments.
  - The Public Works Department shall review and approve the Phase I Environmental Site Assessments.
- **Schedule**
  - Conduct Phase I Environmental Site Assessments prior to issuance of any construction contract.
  - Implement prior to start of construction.

**L.14.** Pre-Construction Surveys and Agency Coordination.

Pre-construction surveys should be conducted prior to project-related activities that may impact the resources of Dry Creek or the Tuolumne River in order to identify significant impacts. If Dry Creek, the Tuolumne River, or their tributaries are impacted by project activities, U.S. Army Corps of Engineers (USACE) permits and a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG) would be required. If regulated habitats are impacted by project activities, USACE permits and a Streambed Alteration Agreement from CDFG would be required. Early consultation with the USACE and CDFG is recommended to determine adequate protocols, as project modification and/or mitigation measures may be necessary and would require agency approval.

- **City of Modesto and Project Biologist**
  - Retain qualified biologist to conduct pre-construction surveys for projects that would impact Dry Creek and Tuolumne River and obtain USACE permit and Streambed Alteration.
  - CDFG shall review pre-construction surveys. USACE, USFWS, and any other affected agencies will review permit applications.
- **Schedule**
  - Conduct surveys prior to issuance of any construction contract.
  - Implement prior to start of construction.

**L.15.** Implement Mitigation Measure H.4 and Mitigation Measure H.5.

See Mitigation Measures H.4 and H.5.

See Mitigation Measures H.4 and H.5.

See Mitigation Measures H.4 and H.5.

See Mitigation Measures H.4 and H.5.

**L.16.** Implement Mitigation Measures H.6a and H.6b.

See Mitigation Measures H.6a and H.6b.

See Mitigation Measures H.6a and H.6b.

See Mitigation Measures H.6a and H.6b.

See Mitigation Measures H.6a and H.6b.

**L.17.** Implement Mitigation Measure H.4.

See Mitigation Measure H.4.

See Mitigation Measure H.4.

See Mitigation Measure H.4.

See Mitigation Measure H.4.
<table>
<thead>
<tr>
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<th>Monitoring Actions</th>
<th>Monitoring / Reporting Responsibility</th>
<th>Schedule</th>
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<tbody>
<tr>
<td>L.18a. Microtunnel under slough near 2.3 mgd of tertiary treatment.</td>
<td>Public Works Department and Construction Contractor Representative</td>
<td>Prepare monitoring and contingency plan for micro-tunneling or require construction contractor to prepare plan. Implement plan.</td>
<td>Public Works Department shall construct in accordance with City’s Standard Specifications.</td>
<td>Plan shall be prepared prior to commencement of micro-tunneling under a riparian area or other identified wetland and shall be implemented during micro-tunneling.</td>
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<td>L.19. The City shall prepare a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction period of the wastewater system components (whether or not the particular portion of the project disturbs more than one acre). The SWPPP shall emphasize measures designed to minimize erosion and off-site sedimentation.</td>
<td>See Mitigation Measure L.1.</td>
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<td>L.21. In locations underlain by expansive soils and/or non-engineered fill, the designers of the Tivoli Lift Station and sewer pipes shall consider these conditions. The design-level geotechnical investigation, to be prepared by licensed professionals and approved by the City Engineer, shall include measures to ensure potential damages related to expansive soils and non-uniformly compacted fill are minimized. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.</td>
<td>Project Developers</td>
<td>Project Developers shall be responsible for a geotechnical analysis that must be prepared by a licensed professional and shall implement the measures.</td>
<td>City Engineer shall review and approve the geotechnical analysis.</td>
<td>Prepare and approve geotechnical analysis prior to approval of final grading and drainage plans. Implement recommended measures prior to the issuance of the first building permit or where appropriate as determined by the FMP and IFP.</td>
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<td>L.22. Prior to issuance of a grading permit for each development site in the Tivoli Specific Plan area, a site-specific grading plan shall be prepared by a licensed professional and submitted to the City Engineer for review and approval. The grading plan shall include specific recommendations for mitigating potential settlement associated with fill placement and areas of different fill thickness in relation to then-existing wastewater collection facilities. In addition, the City shall inspect sewer lines after adjacent construction has been completed and shall remedy any differential settlement of wastewater collection facilities.</td>
<td>Project Developers</td>
<td>Prepare site drainage plan or require construction contractor to prepare plan. Project Developers shall implement plan.</td>
<td>City Engineer</td>
<td>The final grading and drainage plans shall be approved prior to the issuance of a grading permit. Implement the plan prior to acceptance of improvements or the first certificate of occupancy, whichever occurs first, or where appropriate as determined by the FMP and IFP.</td>
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### Mitigation Measure

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<td>L.27. See mitigation measures listed under Impact E.2.</td>
<td>See Mitigation Measure E.2.</td>
<td>See Mitigation Measure E.2.</td>
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<td>See Mitigation Measure E.2.</td>
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### Water Supply

M.2. In order to maintain adequate water pressure in the City’s delivery system, it would be necessary to install two new wells that would have a combined capability to meet or exceed the project’s peak-hour demand of 2,160 gallons per minute and maximum-day demand of approximately 6.57 afday. One well must be fully developed and operational by the time of the initial project development. The second well must be provided and operational during the second phase of development or as determined by the City of Modesto.

One or both of these wells could be located within the Tivoli Specific Plan area; however, it may be necessary to reduce the extent of residential or commercial development in order to accommodate the wells, pumps, distribution system, and groundwater treatment facilities. One of the wells may instead be installed east of the project area as is currently expected with the Grogan Well site. Installation and development of the wells would not create any new impacts within the Tivoli Specific Plan area; installation east of the project area would involve typical construction impacts such as temporary, localized noise and dust production.

Project Developers shall be responsible for providing/funding the wells. Wells are installed by the City of Modesto.

The City Engineer shall review and approve the proposed wells.

First well to be developed and operational prior to the issuance of the first building permit of the first phase of development or as determined by the FMP and IFP.

Second well to be developed and operational prior to or concurrent with the issuance of the first building permit of the second phase of development or as determined by the FMP and IFP.

### General Notes:

The Capital Facilities Fee and other applicable fee programs identify regional infrastructure improvements (such as roads, sewer, water, etc.) that are based on the buildout of the City’s Urban Area General Plan. These projects are identified in the City’s Capital Improvement Program. If a development project occurs in Tivoli that triggers that the infrastructure improvements be constructed in advance of the CIP schedule, then the development will be responsible to construct the identified improvement. The developer will enter into a reimbursement agreement with the City, construct the project, and will be reimbursed per the terms of the agreement.