RESOLUTION AMENDING THE FISCAL YEAR 2016-2017 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2016-17,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2016-17 Annual Operating and Capital Improvement budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Deputy City Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
PUBLIC WORKS
The Transit Analyst currently residing in the Transit Services Division of Public Works devotes the majority of her time managing the Dial-A-Ride contract and associated ADA tasks. Therefore, this budget line item is being moved to Cost Center 53473, Transportation Dial-A-Ride. A budget adjustment is necessary to reduce Intergov - State LTF Revenue and Salary & Benefit Decrease in the amount of $94,964 in Cost Center 53472, Transit Services; and, move said funds to Cost Center 53473, Transportation Dial-A-Ride, respectively, increasing Intergov – State LTF Revenue and Salary & Benefit Expense.
RESOLUTION AMENDING THE FISCAL YEAR 2016-17 WASTEWATER OPERATING BUDGET IN THE AMOUNT OF $8,409,145 IN ORDER TO FUND THE INITIAL PAYMENT OF THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD STATE REVOLVING FUND LOAN

WHEREAS, the Council authorized the City Manager, or his designee, to sign and file, for and on behalf of the City of Modesto for the Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment Project, a Financial Assistance Application, to certify that the City of Modesto has and will comply with all applicable state and federal statutory and regulatory requirements, and to negotiate and execute a financial assistance agreement from the State Water Resources Control Board and any amendments or change orders thereto, and certify financing agreement disbursements on behalf of the City of Modesto recommended., and

WHEREAS, the Council dedicated sewer service charges to payment of any and all Clean Water State Revolving Fund financing. They deemed that a dedicated source of revenue shall remain in effect throughout the term of such financing unless modification or change of such dedication is approved in writing by the State Water Resources Control Board, and

WHEREAS, Council outlined a finance amount to be provided by the State of California and stating the City of Modesto intends to reimburse the State of California for borrowed funds, and

WHEREAS, approved accepting the Phase 2 BNR Tertiary Wastewater Treatment Project as complete authorizing all necessary steps to file with the County Recorder, release securities, and release payments, and
WHEREAS, on December 1, 2016 the first payment of $8,409,145 is due to the California State Water Resources Control Board State Revolving Fund. This amount includes both the principal and interest portions of the payment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2016-2017 Wastewater Operating Budget in the amount of $8,409,145 in order to fund the initial payment of the California State Water resources Control Board State revolving Fund Loan.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers:  Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  Grewal

Attest:  

(SEAL)

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2016-465

RESOLUTION APPROVING A SMALL CELL MASTER LICENSE AGREEMENT (MLA) TOGETHER WITH ITS FEE SCHEDULE FOR THE LINKMODESTO PROJECT PHASE ONE (1), TO BE USED BY THE INFORMATION TECHNOLOGY AND PUBLIC WORKS DEPARTMENTS FOR DEPLOYMENT OF FUTURE SMALL CELL TECHNOLOGY ON THE CITY’S VERTICAL ASSETS, RESCINDING RESOLUTION 2016-185 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEEE, TO EXECUTE ALL DOCUMENTS RELATING TO THE MLA

WHEREAS, LinkModesto is a City wide project designed to make high-speed internet access available throughout the City, and

WHEREAS, the City Council previously approved Resolution 2016-185 which allowed for the placement of Small Cell and Wi-Fi technology on City Assets and approved a Master License Agreement to be used by the Information and Technology and Public Works Departments for deployment of that technology, and

WHEREAS, it has been determined that different forms of Master License Agreements should be used for Small Cell leases and agreements for facilities that will provide free public Wi-Fi services, and

WHEREAS, the City can lease space upon its vertical elements such as street light poles and Signals and buildings to cell carriers for placement of wireless Small Cell and Wi-Fi transceivers that are now small enough to be unobtrusive, and

WHEREAS, In LinkModesto Phase One, the City expects to receive lease payments (revenue) from cell service providers for placement of Small Cell devices on its street light poles and buildings, and

WHEREAS, to provide for guidelines and expectations for installation of transceivers, City has developed a Master License Agreement for Small Cell implementation attached hereto, for authorizing providers to install devices,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Council hereby approves the Master License Agreements (MLAs), attached hereto as Exhibit, for the LinkModesto project Phase One (1), to be used by the Information Technology and Public Works Departments for deployment of future Small Cell technology on the City’s Street Light Poles.

BE IT FURTHER RESOLVED that the City Council hereby approves the Annual Fee Schedule attached to the Small Cell MLA.

BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby rescinds Resolution 2016-185.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all documents related to Small Cell MLAs.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
This Master License Agreement (the "Agreement") made this day of ____, 20__, by and between the City of Modesto, California, a municipal corporation (the "City"), and ______________________, a ______________________ (the "Licensee"). The City and Licensee are at times collectively referred to hereinafter as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, the City owns and controls certain buildings, streetlight poles and/or other improvements and/or facilities (hereinafter "City Assets" or "City Property"), and

WHEREAS, City wishes to allow Licensee to install, maintain and operate wireless communications facilities known as WiFi antenna systems (hereinafter "Facilities") in and/or upon certain City Assets, some of which may be located in the public rights-of-way in order to provide free WiFi internet access to the public for a predetermined amount of time (hereinafter "Limited Free WiFi"); and

WHEREAS, the Parties desire to enter into this Agreement to define the general terms and conditions to govern their relationship with installation, maintenance, and operation of Licensee’s Facilities on City assets as hereinafter set forth; and

WHEREAS, City and Licensee acknowledge that they will enter into a supplemental license ("Supplement"), a copy of which is attached hereto as Exhibit A, with respect to each particular location or site which Licensee will install said Facilities.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

1. LICENSE. City hereby grants, at no cost to the Licensee, a non-exclusive, revocable license to install, attach, replace, operate, and maintain Licensee Facilities on certain City assets, described in the applicable Supplement. Such use is subject to all of the terms and conditions of this Agreement, including but not limited to Paragraph 3 below, and the applicable Supplement.

2. TERM. This Agreement shall be for a term of ____ years commencing upon the execution hereof by both Parties. Each Supplement shall be effective as of the date of execution by both Parties (the "Effective Date"), provided, however, the initial term of each Supplement shall be for ____ years and shall commence on the first day of the month following the day that Licensee commences installation of the equipment on the Property (the "Commencement Date").

2.1 Extensions. Each Supplement shall automatically be extended for three (3) additional five (5) year terms unless Licensee terminates it at the end of the current term by giving City written notice of the intent to terminate at least three (3) months prior to the end of the unexpired term. The initial term and all extensions under a Supplement shall be collectively referred to herein as the "Term". Notwithstanding anything herein, after the expiration of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Supplements in effect until their expiration or termination.

2.2 Annual termination. Notwithstanding anything to the contrary contained herein, provided Licensee is not in default hereunder beyond applicable notice and cure periods, Licensee shall have the right
to terminate each Supplement upon the annual anniversary of the Commencement Date provided that three (3) months prior written notice is given to City.

3. **USE.** Licensee shall use the Property identified in Supplement(s) for the purpose of installing, attaching, maintaining, repairing and operating their Facilities and uses incidental thereto. Licensee’s facilities shall be installed, attached, maintained and operated in a workmanlike manner and accordance with all applicable local, state and federal laws, regulations, and specifications, including, but not limited to, the City’s Specifications and Standards, all applicable orders, rules, and/or regulations issued by the California Public Utilities Commission (CPUC) and Federal Communications Commission (FCC); and the National Electric Code. Licensee shall confine activities on Property to strictly those necessary for the exercise of the privilege and activities hereby licensed and shall collaborate and cooperate with City so as not to interfere with the transaction of City business and the convenience of the public, or jeopardize the safety of persons or property. Licensee shall promptly comply with such further conditions and requirements as City may hereafter prescribe.

3.1 **Governmental Approvals.** It is understood and agreed that Licensee’s ability to use the Property is contingent upon its obtaining after the execution date of each Supplement all of the certificates, permits and other approvals (collectively the “Governmental Approvals”) that may be required by any Federal, State or Local authorities as well as a satisfactory building or light pole structural analysis which will permit Licensee use of the Property as set forth above. City shall cooperate with Licensee in its effort to obtain such approvals. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to Licensee is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; and (iii) Licensee determines that such Governmental Approvals may not be obtained in a timely manner, Licensee shall have the right to terminate the applicable Supplement. Notice of Licensee’s exercise of its right to terminate shall be given to City in accordance with the notice provisions set forth in Paragraph 15 and shall be effective upon the mailing of such notice by Licensee, or upon such later date as designated by Licensee. Upon such termination, the applicable Supplement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other thereunder.

3.2 **E-SSID.** For the benefit of users, all Licensees are required to use the following E-SSID template: LinkModesto by [Licensee’s Name].

3.3 **Utilities.** Licensee, at Licensee’s expense, shall have the right to install utilities and to improve any existing utilities on the Property (including, without limitation, the installation of emergency power generators) upon approval from the City’s Traffic Engineer. Licensee shall be solely responsible for the safe and proper use and operation of any such utilities.

3.4 **Permits.** Licensee shall apply to the City’s Community and Economic Development Department for an encroachment permit, at no cost to the Licensee, for all work to be done within the City’s right-of-way during the installation of Licensee’s Facilities as required by City. The requirements and application for which are contained in Exhibit B. The City’s approval of any drawings, cable storage requirements schedule, or the issuing of any required permits, shall not in any way impart liability to the City, increase the liability of the City, nor relieve the Licensee of any duties, liabilities, responsibilities, or obligations.

Licensee shall perform all work on Licensee’s communications equipment within the public rights-of-way and park vehicles in the streets and other public rights-of-way when necessary for the installation, replacement, abandonment, operation or maintenance of Licensee’s Facilities in accordance with the encroachment permit obtained by Licensee. Following completion of work in
the public rights-of-way, Licensee shall repair any affected public rights-of-way as soon as possible, but no later than the time frame established by the encroachment permit issued by the City. No street, alley, highway or public place shall be encumbered for a longer period than shall be necessary to execute the work authorized by the encroachment permit.

3.5 Supplements. The installation of wireless telecommunications facilities on any City Asset and execution of a Supplement shall be subject to the following review and approval process:

a. City Manager, or his designee, shall initially review requests to execute a Supplement and accompanying site plan to install Licensee's Facilities on a particular City asset.

b. The Planning Department shall review and approve site plan for proposed Supplement for conformance for with the applicable zoning regulations under Modesto Municipal Code section 10-3.401, et seq., design, and California Environmental Quality Act (CEQA).

c. The Traffic Engineering Division of the Public Works Department shall review and approve site plan, including building or light pole structural analysis, and issue the necessary permits (e.g. encroachment permit). Licensee shall submit the documentation satisfactory to the City's Engineer, or his/her designee, according to Exhibit B.

3.6 Emergency Repairs. Licensee shall provide City and maintain a current contact name and phone number to which any emergency repairs or incidents shall be reported. Licensee and contractors performing work for Licensee shall not be required to pay any fee in order to perform work on Licensee's communications equipment, or park within the streets and other public rights-of-way when responding to an emergency repair request from City. Emergency repair shall mean any repair needed to be completed within less than 48 hours in order to continue the normal operations of City or Licensee facilities or equipment.

Removal at End of Term. Licensee shall, upon termination of this Agreement, or within sixty (60) days after any earlier termination of a Supplement, remove its facilities and restore the Property to its original condition, reasonable wear and tear and casualty damage excepted.

4. REPRESENTATION AND WARRANTIES. Licensee represents and warrants, as of the Effective Date of this Agreement and execution thereof, following:

4.1 Licensee is either: (a) a personal wireless service provider authorized, certificated or licensed by the FCC or other agency, (b) an operator of a distributed antenna system network authorized, certificated or licensed by the FCC, the CPUC or other agency, (c) a wireline provider of Telecommunications Service authorized, certificated or licensed by the CPUC, or (d) a provider of Multichannel Video Services which is franchised by the CPUC or other agency;

4.2 Licensee is authorized to provide communications services, is otherwise qualified to do business in California, and has obtained all necessary authorizations, certifications, or licenses from the FCC, the CPUC or other agency; and that a copy of the Licensee's Certificate of Public Convenience and Necessity, if applicable, shall be submitted to City prior to execution of this Agreement.

5. INTERFERENCE. Licensee agrees to install equipment of the type and frequency which will not cause harmful interference. All equipment and services provided shall comply with FCC regulations, as amended
from time to time, and existing industry standards. In the event any after-installed Licensee's equipment causes such interference, and after City has notified Licensee in writing of such interference, Licensee will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at Licensee’s option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will City be entitled to terminate a Supplement or relocate the equipment as long as Licensee is making a good faith effort to remedy the interference issue. City agrees that City and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of Licensee. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

6. CONSIDERATION.

6.1 Free Limited WiFi. In consideration of the City’s grant of a license to the Licensee, the Licensee shall provide free limited WiFi as follows:

a. [To be agreed upon by the parties]

6.2 Installation of Licensee Facility for Commercial Use. Licensee shall install one (1) [facility] on City Assets to be used by Licensee for commercial use as follows:

7. DEFAULT AND REMEDIES. The following will be deemed an “event of default” and a breach of this Agreement:

7.1 Event of Default.

a. Licensee’s failure to perform or fulfill any other term or obligation under this Agreement within thirty (30) days after receipt of written notice from City specifying the failure; or

b. The revocation, expiration or denial of any certification, permit, approval or license required under federal, state or local law for Licensee to operate or maintain facilities.

In the event there is a breach by a Party with respect to any of the provisions of this Agreement or its obligations under it, the non-breaching Party shall give the breaching Party written notice of such breach. After receipt of such written notice, the breaching Party shall have thirty (30) days in which to cure any breach, provided the breaching Party shall have such extended period as may be required beyond the thirty (30) days if the breaching Party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion.

The nonbreaching Party may not maintain any action or effect any remedies for default against the breaching Party unless and until the breaching Party has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if City fails, within ten (10) days after receipt of written notice of such breach, to perform an obligation required to be performed by City if the failure to perform such an obligation interferes with Licensee’s ability to conduct its business on Property; provided, however, that if the nature of City’s obligation is such that more than ten (10) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such ten (10) day period and thereafter diligently pursued to completion.
7.2 **Remedies for Default.** In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the applicable Supplement, this Agreement, and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the City's assets are located.

8. **DAMAGE TO CITY OPERATIONS OR PROPERTY.** Licensee shall assume all responsibility for, and promptly reimburse, City, in full, for any costs associated with damages caused directly or indirectly by the Licensee, its employees, agents, and/or contractors to City Property, including but not limited to repairs, staff time and equipment replacement. Licensee shall immediately notify City upon the occurrence of any such damages.

9. **DAMAGE TO LICENSEE'S FACILITIES.** In the event of damage by fire or other casualty to the Property or Assets that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt Licensee's operations at the Premises for more than forty-five (45) days, then Licensee may, at any time following such fire or other casualty, provided City has not completed the restoration required to permit Licensee to resume its operation at the Premises, terminate the Supplement upon fifteen (15) days prior written notice to City.

10. **ASSIGNMENT.** Licensee shall have the right to assign, sell or transfer its interest under this Agreement and each Supplement without the approval or consent of City, to Licensee's principal, affiliates, or to any entity which acquires all or substantially all of the Licensee's assets in the market defined by Federal Communications Commission in which the Property is located by reason of merger, acquisition, or other business reorganization. No change of stock ownership, partnership interest or control of Licensee or transfer upon partnership or corporate dissolution of Licensee shall constitute an assignment hereunder. As to other parties, this Agreement and each Supplement may not be sold, assigned or transferred without the written consent of the City. As long as any such assignees agree to abide by the terms and conditions of this Agreement and each Supplement, such consent will not be unreasonably withheld or delayed.

11. **INDEMNIFICATION.** Licensee shall hold the City, its agents, officers, employees and volunteers harmless from and save, defend and indemnify them against any and all claims, losses liabilities, judgments or damages from every cause, including but not limited to injury to person or property or wrongful death, including reasonable costs and expenses of defense of any judicial or administrative action, arising directly or indirectly out of or in connection with Licensee's use of Property and the installation, operation, maintenance or repair of Licensee's Facilities or failure by Licensee, its agents, contractors, or employees to comply with the obligations contained in this Agreement or any violation of its agents, officers, employees, or volunteers relating to or during the performance of its obligations under this Agreement.

Licensee's obligation to defend, indemnify, and hold the City, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Licensee to procure and maintain a policy of insurance.

12. **DISCLAIMER AND WAIVER.** In no event shall the City, its elected officials, officers, employees, agents or representatives be liable for any lost profits, consequential, special, exemplary, indirect, punitive or incidental losses or damages, including loss of use, loss of goodwill, lost revenues, loss of profits or loss of contracts even if advised of the possibility of such damages. Licensee waives all such claims and releases the City from any such liability.
13. **CALIFORNIA CIVIL CODE SECTION 1542.** California Civil Code section 1542 provides that "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." The Parties hereby waive the provisions of Section 1542, or other similar provisions of law, and intend that the waiver and release provided in Article 5.1.6 shall be fully enforceable despite its reference to future or unknown claims.

14. **INSURANCE.** Licensee shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

14.1 Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of $1,000,000.

14.2 General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent Licensees and subcontractors; products and completed operations as applicable.

14.3 Automobile Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. This insurance shall cover any automobile for bodily injury and property damage.

14.4 If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, Licensee shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Licensee to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended or terminated. Failure of the Licensee to obtain and/or maintain any required insurance shall not relieve the Licensee from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Licensee concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation and Professional Liability. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by Licensee for the City. The Licensee's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Licensee must deliver certificates evidencing existence of the insurance listed above to the City prior to the time the contract is signed.

14.5 Licensee shall provide City with separate endorsements evidencing proof of the City's additional insured status as to both the general liability and automobile liability insurance policies. In addition,
Licensee shall provide City with a Workers Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.

14.6 For any claims related to this Agreement, Licensee’s insurance coverage shall be primary insurance with respect to City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of the Licensee’s insurance and shall not contribute with it.

15. **NOTICES.** Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (a) upon actual delivery, if delivery is by hand; or (b) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

**CITY:** City of Modesto  
Attn: City Manager  
1010 10th Street  
Modesto, CA 95353

Copy to: City of Modesto  
Chief Information Officer  
1010 10th Street  
Modesto, CA 95353

**LICENSEE:**

16. **APPLICABLE LICENSES.** Licensee shall submit proof of City Business License and all applicable licenses as required by City prior to execution of this Agreement.

17. **MISCELLANEOUS.**

17.1 **Entire Agreement.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between City and Licensee and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

17.2 **Amendments.** This Agreement may not be amended or varied except in a writing signed by all Parties.

17.3 **Governing Law and Venue.** This Agreement shall be governed according to the laws of the State of California. In the event that either Party brings any action to enforce or interpret this Agreement, venue shall be vested exclusively in the state courts of California in the County of Stanislaus.

17.4 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
17.5 **Compliance with Applicable Laws.** Licensee shall fully comply with all applicable federal, state and local laws, ordinances, regulations, and permits, now in effect or which may hereafter come into effect (collectively "Laws").

17.6 **Waiver.** The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

17.7 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

17.8 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Licensee shall survive the termination of this Agreement.

17.9 **Headings.** The headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.
Exhibit A

License Supplement

One required for each installation.
EXHIBIT A

LICENSE SUPPLEMENT

This License Supplement ("Supplement"), is made this _____ day of ________, ________, between
CITY OF MODESTO, CALIFORNIA, whose principal place of business is 1010 10th Street, Modesto, CA 95353
("CITY"), and ________________________________, whose principal place of
business is ________________________________ ("LICENSEE").

1. Master License Agreement. This Supplement is a Supplement as referenced in that certain
Master License Agreement between City of Modesto, California and ________________________________, dated
________ ____, 201__ (the "Agreement"). All of the terms and conditions of the Agreement are incorporated herein
by reference and made a part hereof without the necessity of repeating or attaching the Agreement. In the event of a
contradiction, modification or inconsistency between the terms of the Agreement and this Supplement, the terms of
this Supplement shall govern. Capitalized terms used in this Supplement shall have the same meaning described for
them in the Agreement unless otherwise indicated herein.

2. License. CITY hereby grants a license to LICENSEE that certain premises on CITY's Property located at
LOCATION/CITY IDENTIFIER as shown on Exhibit "C" attached hereto and made a part hereof.

3. Term. The Commencement Date and the Term of this Supplement shall be as set forth in the
Agreement.

4. Consideration. Consideration Rent under this Supplement shall be as set forth in Section 6 of the
Agreement, payable to the City of Modesto, California at 1010 10th Street, Modesto, CA 95353.

5. Site Specific Terms. (Include any site-specific terms)
   5.1. Description of Site
   5.2. Signage for WiFi Providers: (dimensions and locations of signs)

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seal
the day and year first above written.

CITY: LICENSEE:

City of Modesto, California
Date: __________________________
By: __________________________

Date: __________________________
By: __________________________

Name: __________________________
Exhibit B

Encroachment Permit Application and Information

To be submitted with this MLA.
Exhibit C

Encroachment Permit

Attach all permits to packet for final submission and filing.
MODESTO CITY COUNCIL
RESOLUTION NO. 2016-466

RESOLUTION APPROVING A FREE PUBLIC WI-FI SPECIFIC MASTER LICENSE AGREEMENT (MLA) TOGETHER WITH PARTNERSHIP FEE WAIVERS FOR THE LINKMODESTO PROJECT PHASE ONE (1), BEING USED BY THE INFORMATION TECHNOLOGY AND PUBLIC WORKS DEPARTMENTS FOR DEPLOYMENT OF FUTURE FREE PUBLIC WI-FI TECHNOLOGY ON THE CITY’S VERTICAL ASSETS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL DOCUMENTS RELATING TO THE MLA.

WHEREAS, LinkModesto is a City wide project designed to make high-speed internet access available throughout the City, and

WHEREAS, the City Council previously approved Resolution 2016-185, which allowed for the placement of Small Cell and Wi-Fi technology on City Assets and approved a Master Lease Agreement to be used by the Information and Technology and Public Works Departments for deployment of that technology, and

WHEREAS, it has been determined that different forms of Master License Agreements should be used for Small Cell leases and agreements for facilities that will provide free public Wi-Fi services, and

WHEREAS, Free Public Wi-Fi providers are working in partnership with the City to serve citizens with a free internet access, and

WHEREAS, Free Public Wi-Fi providers will not benefit financially from the free Wi-Fi service they are providing directly to Citizens, and

WHEREAS, to provide a daily measured amount of free Wi-Fi access to the public, the City will work with Wi-Fi providers to place, at no external expense to the City, Wi-Fi transceivers on vertical elements such as Street Light Poles (SLP) in targeted areas of the City as well as on select City buildings, and

WHEREAS, the City will support the necessary evaluation of equipment and
engineering specifications for each type of installation configuration, and

WHEREAS, to provide for guidelines and expectations for installation of transceivers, the City has developed a Wi-Fi specific Master License Agreement, attached hereto, for authorizing providers to install devices,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Master License Agreement (MLA) attached as Exhibit A for the installation of facilities that will provide Free Public Wi-Fi services, and which will waive all charges associated with supplement licensing, encroachment permits, inspections, and administrative processing.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all steps needed for MLA for free public Wi-Fi implementation.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 

ADAM U. LINDGREN, City Attorney
FREE PUBLIC WIFI MASTER LICENSE AGREEMENT FOR THE INSTALLATION OF WIRELESS
TELECOMMUNICATIONS FACILITIES AND THE PROVISION OF WIRELESS INTERNET SERVICES BETWEEN
THE CITY OF MODESTO AND [ ]

This Master License Agreement (the "Agreement") made this day of ___, 20__, by and between the City of
Modesto, California, a municipal corporation (the "City"), and __________________________, a
________________________ (the "Licensee"). The City and Licensee are at times collectively
referred to hereinafter as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, the City owns and controls certain buildings, streetlight poles and/or other improvements and/or facilities
(hereinafter "City Assets" or "City Property"), and

WHEREAS, City wishes to allow Licensee to install, maintain and operate wireless communications facilities known
as WiFi antenna systems (hereinafter "Facilities") in and/or upon certain City Assets, some of which may be located
in the public rights-of-way in order to provide free WiFi internet access to the public for a predetermined amount of
time (hereinafter "Limited Free WiFi"); and

WHEREAS, the Parties desire to enter into this Agreement to define the general terms and conditions to govern their
relationship with installation, maintenance, and operation of Licensee’s Facilities on City assets as hereinafter set
forth; and

WHEREAS, City and Licensee acknowledge that they will enter into a supplemental license ("Supplement"), a copy
of which is attached hereto as Exhibit A, with respect to each particular location or site which Licensee will install said
Facilities.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

1. LICENSE. City hereby grants, at no cost to the Licensee, a non-exclusive, revocable license to
install, attach, replace, operate, and maintain Licensee’s Facilities on certain City assets, described in the
applicable Supplement. Such use is subject to all of the terms and conditions of this Agreement, including
but not limited to Paragraph 3 below, and the applicable Supplement.

2. TERM. This Agreement shall be for a term of ___ years commencing upon the execution hereof by both
Parties. Each Supplement shall be effective as of the date of execution by both Parties (the "Effective
Date"), provided, however, the initial term of each Supplement shall be for ___ years and shall commence
on the first day of the month following the day that Licensee commences installation of the equipment on the
Property (the "Commencement Date").

2.1 Extensions. Each Supplement shall automatically be extended for three (3) additional five (5)
year terms unless Licensee terminates it at the end of the current term by giving City written notice
of the intent to terminate at least three (3) months prior to the end of the unexpired term. The initial
term and all extensions under a Supplement shall be collectively referred to herein as the "Term".
Notwithstanding anything herein, after the expiration of this Agreement, its terms and conditions
shall survive and govern with respect to any remaining Supplements in effect until their expiration
or termination.

2.2 Annual termination. Notwithstanding anything to the contrary contained herein, provided Licensee
is not in default hereunder beyond applicable notice and cure periods, Licensee shall have the right
to terminate each Supplement upon the annual anniversary of the Commencement Date provided that three (3) months prior written notice is given to City.

3. **USES.** Licensee shall use the Property identified in Supplement(s) for the purpose of installing, attaching, maintaining, repairing and operating their Facilities and uses incidental thereto. Licensee’s facilities shall be installed, attached, maintained and operated in a workmanlike manner and accordance with all applicable local, state and federal laws, regulations, and specifications, including, but not limited to, the City’s Specifications and Standards, all applicable orders, rules, and/or regulations issued by the California Public Utilities Commission (CPUC) and Federal Communications Commission (FCC); and the National Electric Code. Licensee shall confine activities on Property to strictly those necessary for the exercise of the privilege and activities hereby licensed and shall collaborate and cooperate with City so as not to interfere with the transaction of City business and the convenience of the public, or jeopardize the safety of persons or property. Licensee shall promptly comply with such further conditions and requirements as City may hereafter prescribe.

3.1 **Governmental Approvals.** It is understood and agreed that Licensee’s ability to use the Property is contingent upon its obtaining after the execution date of each Supplement all of the certificates, permits and other approvals (collectively the “Governmental Approvals”) that may be required by any Federal, State or Local authorities as well as a satisfactory building or light pole structural analysis which will permit Licensee use of the Property as set forth above. City shall cooperate with Licensee in its effort to obtain such approvals. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to Licensee is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; and (iii) Licensee determines that such Governmental Approvals may not be obtained in a timely manner, Licensee shall have the right to terminate the applicable Supplement. Notice of Licensee’s exercise of its right to terminate shall be given to City in accordance with the notice provisions set forth in Paragraph 15 and shall be effective upon the mailing of such notice by Licensee, or upon such later date as designated by Licensee. Upon such termination, the applicable Supplement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other thereunder.

3.2 **E-SSID.** For the benefit of users, all Licensees are required to use the following E-SSID template: LinkModesto by [Licensee’s Name].

3.3 **Utilities.** Licensee, at Licensee’s expense, shall have the right to install utilities and to improve any existing utilities on the Property (including, without limitation, the installation of emergency power generators) upon approval from the City’s Traffic Engineer. Licensee shall be solely responsible for the safe and proper use and operation of any such utilities.

3.4 **Permits.** Licensee shall apply to the City’s Community and Economic Development Department for an encroachment permit, at no cost to the Licensee, for all work to be done within the City’s right-of-way during the installation of Licensee’s Facilities as required by City. The requirements and application for which are contained in Exhibit B. The City’s approval of any drawings, cable storage requirements schedule, or the issuing of any required permits, shall not in any way impart liability to the City, increase the liability of the City, nor relieve the Licensee of any duties, liabilities, responsibilities, or obligations.

Licensee shall perform all work on Licensee’s communications equipment within the public rightsof-way and park vehicles in the streets and other public rights-of-way when necessary for the installation, replacement, abandonment, operation or maintenance of Licensee’s Facilities in accordance with the encroachment permit obtained by Licensee. Following completion of work in
the public rights-of-way, Licensee shall repair any affected public rights-of-way as soon as possible, but no later than the time frame established by the encroachment permit issued by the City. No street, alley, highway or public place shall be encumbered for a longer period than shall be necessary to execute the work authorized by the encroachment permit.

3.5 Supplements. The installation of wireless telecommunications facilities on any City Asset and execution of a Supplement shall be subject to the following review and approval process:

a. City Manager, or his designee, shall initially review requests to execute a Supplement and accompanying site plan to install Licensee’s Facilities on a particular City asset.

b. The Planning Department shall review and approve site plan for proposed Supplement for conformance for with the applicable zoning regulations under Modesto Municipal Code section 10-3.401, et seq., design, and California Environmental Quality Act (CEQA).

c. The Traffic Engineering Division of the Public Works Department shall review and approve site plan, including building or light pole structural analysis, and issue the necessary permits (e.g. encroachment permit). Licensee shall submit the documentation satisfactory to the City’s Engineer, or his/her designee, according to Exhibit B.

3.6 Emergency Repairs. Licensee shall provide City and maintain a current contact name and phone number to which any emergency repairs or incidents shall be reported. Licensee and contractors performing work for Licensee shall not be required to pay any fee in order to perform work on Licensee’s communications equipment, or park within the streets and other public rights-of-way when responding to an emergency repair request from City. Emergency repair shall mean any repair needed to be completed within less than 48 hours in order to continue the normal operations of City or Licensee facilities or equipment.

Removal at End of Term. Licensee shall, upon termination of this Agreement, or within sixty (60) days after any earlier termination of a Supplement, remove its facilities and restore the Property to its original condition, reasonable wear and tear and casualty damage excepted.

4. REPRESENTATION AND WARRANTIES. Licensee represents and warrants, as of the Effective Date of this Agreement and execution thereof, following:

4.1 Licensee is either: (a) a personal wireless service provider authorized, certificated or licensed by the FCC or other agency, (b) an operator of a distributed antenna system network authorized, certificated or licensed by the FCC, the CPUC or other agency, (c) a wireline provider of Telecommunications Service authorized, certificated or licensed by the CPUC, or (d) a provider of Multichannel Video Services which is franchised by the CPUC or other agency;

4.2 Licensee is authorized to provide communications services, is otherwise qualified to do business in California, and has obtained all necessary authorizations, certifications, or licenses from the FCC, the CPUC or other agency; and that a copy of the Licensee’s Certificate of Public Convenience and Necessity, if applicable, shall be submitted to City prior to execution of this Agreement.

5. INTERFERENCE. Licensee agrees to install equipment of the type and frequency which will not cause harmful interference. All equipment and services provided shall comply with FCC regulations, as amended
from time to time, and existing industry standards. In the event any after-installed Licensee’s equipment causes such interference, and after City has notified Licensee in writing of such interference, Licensee will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at Licensee’s option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will City be entitled to terminate a Supplement or relocate the equipment as long as Licensee is making a good faith effort to remedy the interference issue. City agrees that City and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of Licensee. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

6. CONSIDERATION.

6.1 Free Limited WiFi. In consideration of the City’s grant of a license to the Licensee, the Licensee shall provide free limited WiFi as follows:

   a. [To be agreed upon by the parties]

6.2 Installation of Licensee Facility for Commercial Use. Licensee shall install one (1) [facility] on City Assets to be used by Licensee for commercial use as follows:

7. DEFAULT AND REMEDIES. The following will be deemed an “event of default” and a breach of this Agreement:

7.1 Event of Default.

   a. Licensee’s failure to perform or fulfill any other term or obligation under this Agreement within thirty (30) days after receipt of written notice from City specifying the failure; or

   b. The revocation, expiration or denial of any certification, permit, approval or license required under federal, state or local law for Licensee to operate or maintain facilities.

In the event there is a breach by a Party with respect to any of the provisions of this Agreement or its obligations under it, the non-breaching Party shall give the breaching Party written notice of such breach. After receipt of such written notice, the breaching Party shall have thirty (30) days in which to cure any breach, provided the breaching Party shall have such extended period as may be required beyond the thirty (30) days if the breaching Party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion.

The nonbreaching Party may not maintain any action or effect any remedies for default against the breaching Party unless and until the breaching Party has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if City fails, within ten (10) days after receipt of written notice of such breach, to perform an obligation required to be performed by City if the failure to perform such an obligation interferes with Licensee’s ability to conduct its business on Property; provided, however, that if the nature of City’s obligation is such that more than ten (10) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such ten (10) day period and thereafter diligently pursued to completion.
7.2 **Remedies for Default.** In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the applicable Supplement, this Agreement, and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the City's assets are located.

8. **DAMAGE TO CITY OPERATIONS OR PROPERTY.** Licensee shall assume all responsibility for, and promptly reimburse City, in full, for any costs associated with damages caused directly or indirectly by the Licensee, its employees, agents, and/or contractors to City Property, including but not limited to repairs, staff time and equipment replacement. Licensee shall immediately notify City upon the occurrence of any such damages.

9. **DAMAGE TO LICENSEE'S FACILITIES.** In the event of damage by fire or other casualty to the Property or Assets that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt Licensee's operations at the Premises for more than forty-five (45) days, then Licensee may, at any time following such fire or other casualty, provided City has not completed the restoration required to permit Licensee to resume its operation at the Premises, terminate the Supplement upon fifteen (15) days prior written notice to City.

10. **ASSIGNMENT.** Licensee shall have the right to assign, sell or transfer its interest under this Agreement and each Supplement without the approval or consent of City, to Licensee's principal, affiliates, or to any entity which acquires all or substantially all of the Licensee's assets in the market defined by Federal Communications Commission in which the Property is located by reason of merger, acquisition, or other business reorganization. No change of stock ownership, partnership interest or control of Licensee or transfer upon partnership or corporate dissolution of Licensee shall constitute an assignment hereunder. As to other parties, this Agreement and each Supplement may not be sold, assigned or transferred without the written consent of the City. As long as any such assignees agree to abide by the terms and conditions of this Agreement and each Supplement, such consent will not be unreasonably withheld or delayed.

11. **INDEMNIFICATION.** Licensee shall hold the City, its agents, officers, employees and volunteers harmless from and save, defend and indemnify them against any and all claims, losses liabilities, judgments or damages from every cause, including but not limited to injury to person or property or wrongful death, including reasonable costs and expenses of defense of any judicial or administrative action, arising directly or indirectly out of or in connection with Licensee's use of Property and the installation, operation, maintenance or repair of Licensee's Facilities or failure by Licensee, its agents, contractors, or employees to comply with the obligations contained in this Agreement or any violation of its agents, officers, employees, or volunteers relating to or during the performance of its obligations under this Agreement.

Licensee's obligation to defend, indemnify, and hold the City, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Licensee to procure and maintain a policy of insurance.

12. **DISCLAIMER AND WAIVER.** In no event shall the City, its elected officials, officers, employees, agents or representatives be liable for any lost profits, consequential, special, exemplary, indirect, punitive or incidental losses or damages, including loss of use, loss of goodwill, lost revenues, loss of profits or loss of contracts even if advised of the possibility of such damages. Licensee waives all such claims and releases the City from any such liability.
13. **CALIFORNIA CIVIL CODE SECTION 1542.** California Civil Code section 1542 provides that "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." The Parties hereby waive the provisions of Section 1542, or other similar provisions of law, and intend that the waiver and release provided in Article 5.1.6 shall be fully enforceable despite its reference to future or unknown claims.

14. **INSURANCE.** Licensee shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

14.1 **Worker’s Compensation** - in compliance with the statutes of the State of California, plus employer’s liability with a minimum limit of liability of $1,000,000.

14.2 **General Liability insurance** with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location or the general aggregate limit shall be twice the required occurrence limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent Licensees and subcontractors; products and completed operations as applicable.

14.3 **Automobile Liability insurance** with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. This insurance shall cover any automobile for bodily injury and property damage.

14.4 If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, Licensee shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Licensee to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended or terminated. Failure of the Licensee to obtain and/or maintain any required insurance shall not relieve the Licensee from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Licensee concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers’ Compensation and Professional Liability. The Workers’ Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by Licensee for the City. The Licensee’s insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best’s rating of A:VII or with approval of the Risk Manager. The Licensee must deliver certificates evidencing existence of the insurance listed above to the City prior to the time the contract is signed.

14.5 Licensee shall provide City with separate endorsements evidencing proof of the City’s additional insured status as to both the general liability and automobile liability insurance policies. In addition,
Licensee shall provide City with a Workers Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.

14.6 For any claims related to this Agreement, Licensee’s insurance coverage shall be primary insurance with respect to City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of the Licensee’s insurance and shall not contribute with it.

15. NOTICES. Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (a) upon actual delivery, if delivery is by hand; or (b) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

CITY: City of Modesto
Attn: City Manager
1010 10th Street
Modesto, CA 95353

Copy to: City of Modesto
Chief Information Officer
1010 10th Street
Modesto, CA 95353

LICENSEE: ________________________
_______________________________
_______________________________

16. APPLICABLE LICENSES. Licensee shall submit proof of City Business License and all applicable licenses as required by City prior to execution of this Agreement.

17. MISCELLANEOUS.

17.1 Entire Agreement. This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between City and Licensee and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

17.2 Amendments. This Agreement may not be amended or varied except in a writing signed by all Parties.

17.3 Governing Law and Venue. This Agreement shall be governed according to the laws of the State of California. In the event that either Party brings any action to enforce or interpret this Agreement, venue shall be vested exclusively in the state courts of California in the County of Stanislaus.

17.4 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
17.5 **Compliance with Applicable Laws.** Licensee shall fully comply with all applicable federal, state and local laws, ordinances, regulations, and permits, now in effect or which may hereafter come into effect (collectively "Laws").

17.6 **Waiver.** The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

17.7 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

17.8 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Licensee shall survive the termination of this Agreement.

17.9 **Headings.** The headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.
Exhibit A
License Supplement

One required for each installation.
EXHIBIT A

LICENSE SUPPLEMENT

This License Supplement ("Supplement"). is made this ___ day of _______, ______, between
CITY OF MODESTO, CALIFORNIA, whose principal place of business is 1010 10th Street, Modesto, CA 95353
("CITY") and ________________________________, whose principal place of
business is ________________________________ ("LICENSEE").

1. **Master License Agreement.** This Supplement is a Supplement as referenced in that certain
Master License Agreement between City of Modesto, California and ________________________________, dated
_________ ____, 201__, (the "Agreement"). All of the terms and conditions of the Agreement are incorporated herein
by reference and made a part hereof without the necessity of repeating or attaching the Agreement. In the event of a
contradiction, modification or inconsistency between the terms of the Agreement and this Supplement, the terms of
this Supplement shall govern. Capitalized terms used in this Supplement shall have the same meaning described for
them in the Agreement unless otherwise indicated herein.

2. **License.** CITY hereby grants a license to LICENSEE that certain premises on CITY's Property located at
LOCATION/CITY IDENTIFIER as shown on Exhibit "C" attached hereto and made a part hereof.

3. **Term.** The Commencement Date and the Term of this Supplement shall be as set forth in the
Agreement.

4. **Consideration.** Consideration Rent under this Supplement shall be as set forth in Section 6 of the
Agreement, payable to
the City of Modesto, California at 1010 10th Street, Modesto, CA-95353.

5. **Site Specific Terms.** (Include any site-specific terms)

5.1. Description of Site

5.2. Signage for WiFi Providers: (dimensions and locations of signs)

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seal
the day and year first above written.

CITY:

City of Modesto, California
Date: ____________________________
By: ____________________________
Name: ____________________________

LICENSEE:

Date:
By: ____________________________
Name: ____________________________
Exhibit B

Encroachment Permit Application and Information

To be submitted with this MLA.
Exhibit C

Encroachment Permit

Attach all permits to packet for final submission and filing.
RESOLUTION ACCEPTING THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT, FOR A JOINT AWARD WITH THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO IN THE AMOUNT OF $165,937; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, on June 28, 2016, the City Council, by Resolution No. 2016-264, approved a Memorandum of Agreement between the County of Stanislaus and the City of Modesto for a joint application to the Edward Byrne Memorial Justice Assistance Grant Formula Program in the amount of $165,937, and

WHEREAS, the City of Modesto will use its allocation of $131,252 to purchase License Plate Reader (LPR) equipment and analytical software, and

WHEREAS, the County of Stanislaus will use its allocation of $30,626 for the Probation Department and the Sheriff’s Operations Division, and

WHEREAS, the Memorandum of Agreement states that the City agrees to provide the County with a quarterly financial and programmatic report no later than fifteen calendar days after the end of each quarter, and

WHEREAS, the project start period is October 1, 2015, and there is a statutory four-year period within which to spend the funds, and

WHEREAS, the Memorandum of Agreement was approved at the Board of Supervisors meeting on July 12, 2016,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Edward Byrne Memorial Justice Assistance Grant, for a joint award with the County of Stanislaus and the City of Modesto in the amount of $165,937.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: ____________

STEFANILOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE MULTI-YEAR 2016/2017 OPERATING BUDGET, ESTIMATING REVENUE OF $131,252 FROM THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM, AND APPROPRIATING FUNDS

WHEREAS, on June 28, 2016, the City Council, by Resolution No. 2016-264, approved a Memorandum of Agreement between the County of Stanislaus and the City of Modesto for a joint application to the Edward Byrne Memorial Justice Assistance Grant Formula Program in the amount of $165,937, and

WHEREAS, recommended distribution of the 2015 grant is as follows:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stanislaus County Probation</td>
<td>$7,656</td>
</tr>
<tr>
<td>Stanislaus County Sheriff</td>
<td>$22,970</td>
</tr>
<tr>
<td>Stanislaus County (Admin Fee)</td>
<td>$4,059</td>
</tr>
<tr>
<td>Modesto Police Department</td>
<td>$131,252</td>
</tr>
</tbody>
</table>

WHEREAS, the City of Modesto will use its allocation of $131,252 to purchase License Plate Reader (LPR) equipment and analytical software, and

WHEREAS, the City agrees to provide the County with a quarterly financial and programmatic report no later than fifteen calendar days after the end of each quarter, and

WHEREAS, the project start date is October 1, 2015, and there is a statutory four-year period within which to spend the funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Multi-Year 2016/2017 Operating Budget as indicated in Attachment A, which is attached hereto.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 22\textsuperscript{nd} day of November, 2016, by Councilmember
Kenoyer, who moved its adoption, which motion being duly seconded by
Councilmember Ah You, was upon roll call carried and the resolution adopted by the
following vote:

\begin{itemize}
  \item [AYES:] Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki,
       Mayor Brandvold
  \item [NOES:] Councilmembers: None
  \item [ABSENT:] Councilmembers: Grewal
\end{itemize}

\begin{flushright}
ATTEST: \underline{Stephanie Lopez}, City Clerk
\end{flushright}

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
Attachment A: Budget Adjustment for 2016 BJAG Grant

Fund 1342- Operation Grants Reimbursed:

<table>
<thead>
<tr>
<th>Expense:</th>
<th>Increase/ (Decrease)</th>
<th>Description of Account</th>
</tr>
</thead>
<tbody>
<tr>
<td>To:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MY-100978-Appr. C-IT Equip&gt;$5K</td>
<td>$ 131,252</td>
<td>Intergov – Federal – Dept. of Justice</td>
</tr>
</tbody>
</table>

Revenue:

<table>
<thead>
<tr>
<th>To:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>MY-1342-19998-42040-100978</td>
<td>$ 131,252</td>
<td>Intergov – Federal – Dept. of Justice</td>
</tr>
</tbody>
</table>
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A CYCLONE RIDING SURFACE CLEANER TO TERRY EQUIPMENT, SACRAMENTO, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $177,114

WHEREAS, the replacement surface cleaner for the Public Works Department has been subjected to a thorough evaluation and has met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB’s) for new vehicles and heavy equipment through various competitive processes, and

WHEREAS, the Purchasing Division issued RFB 1616-08 for the purchase of a Cyclone Riding Surface Cleaner on the City’s website under the commodity codes for automotive vehicles, trucks with specialized bodies, road and highway equipment, and waste water reclamation systems. Prospective bidders were notified online of the bid opportunity. Nine companies chose to download the RFB document, and

WHEREAS, on September 27, 2016, bids were formally opened in the City Clerk’s office. One company chose to respond. There are no local vendors capable of providing this type of equipment. One company provided a responsive and responsible bid, and

WHEREAS, based on providing the overall lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of a Cyclone Riding Surface Cleaner to Terry Equipment, Sacramento, CA, for a total estimated cost of $177,114, and
WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 requires all purchases which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of a Cyclone Riding Surface Cleaner to Terry Equipment, Sacramento, CA, conforms to the Modesto Municipal Code 8-3.203, and

WHEREAS, sufficient funds for a Cyclone Riding Surface Cleaner were encumbered in account 4000-53250-57003 for Fiscal Year 2015-2016, therefore making the funds available in Fiscal Year 2016-2017.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of a Cyclone Riding Surface Cleaner to Terry Equipment, Sacramento, CA, for an estimated total cost of $177,114.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to issue a purchase order.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2016-470

RESOLUTION APPROVING A GRANT AGREEMENT WITH CALIFORNIA DEPARTMENT OF WATER RESOURCES TO RECEIVE THE 2015 PROPOSITION 84 INTEGRATED REGIONAL WATER MANAGEMENT IMPLEMENTATION GRANT FOR THE AREA 2 STORMWATER TO SANITARY SEWER CROSS CONNECTION REMOVAL PROJECT – PHASE 2 ROOSEVELT PARK AND PARTIALLY FUNDING THE FINAL DESIGN OF THE NORTH VALLEY REGIONAL RECYCLED WATER PROGRAM PROJECT; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT-RELATED DOCUMENTS AND ENTER INTO AN AGREEMENT TO RECEIVE THE GRANT FUNDS, IF AWARDED; AND AUTHORIZING THE DIRECTOR OF FINANCE TO BE THE SIGNATORY OF GRANT INVOICE FORMS DURING REQUESTS FOR REIMBURSEMENTS

WHEREAS, the purpose of the Area 2 Stormwater to Sanitary Sewer Cross Connection Removal Project – Phase 2 Roosevelt Park (Roosevelt Park) project is to remove direct connections of storm drain runoff to the sanitary sewer system and provide necessary storm drain improvements resulting from the removal of the cross connections, and

WHEREAS, the City of Modesto’s Area 2 Stormwater to Sanitary Sewer Cross-Connection Removal Project proposes to capture, treat, and infiltrate stormwater runoff to augment groundwater supplies, reduce flood-related damage, and improve the quality of stormwater runoff percolating to the underlying groundwater basin, and

WHEREAS, the North Valley Regional Recycled Water Program (NVRRWP) includes construction of a regional water supply project to deliver recycled water produced by the cities of Modesto and Turlock to the Delta-Mendota Canal (DMC), a major component of the Central Valley Project owned by U.S. Bureau of Reclamation, and
WHEREAS, recycled water will be conveyed from Modesto and Turlock through pipelines from their wastewater treatment facilities, crossing under the San Joaquin River, ending at the DMC, and

WHEREAS, water in the DMC would then be conveyed directly to Del Puerto Water District (DPWD) turnouts and its customers, and

WHEREAS, Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, provides funds for grants to local public agencies, and

WHEREAS, the Integrated Regional Water Management (IRWM) Grant Programs include funding for planning, disadvantaged community involvement, implementation, and companion grant programs that support sustainable groundwater planning and water-energy programs and projects, and

WHEREAS, staff applied for the 2015 Proposition 84 Integrated Regional Water Management (IRWM) Implementation Grant to fund the final design and construction of the Phase 2 Roosevelt Park Project and partially fund the final design of the NVRRWP, and

WHEREAS, the Roosevelt Park Project encompasses all of the requirements of the IRWM grant with an emphasis on groundwater recharge, and

WHEREAS, like the completed Phase I Garrison Park project, the Phase 2 Roosevelt Park project will utilize Low Impact Development principles and components to remove and store stormwater runoff, and
WHEREAS, the project benefits a local disadvantaged neighborhood by reducing localized street flooding and restoring a local City park where the storm runoff volume will be stored underground, and

WHEREAS, the NVRRWP Project encompasses several of the requirements of the IRWM grant with an emphasis on water supply reliability and reclamation, and

WHEREAS, the project delivers recycled water produced by Modesto to DPWD for irrigation by District growers, and

WHEREAS, the NVRRWP provides immediate regional drought relief and future drought preparedness and improved supply reliability through the application of recycled water and therefore is an eligible project, and

WHEREAS, staff submitted a Prop 84 IRWM proposal application to California Department of Water Resources (DWR) in August 2015 and requested a grant amount of $6.67 million, and

WHEREAS, in January 2016, the City was notified of a grant award of $5.05 million, and

WHEREAS, although the grant award was less than the requested amount, it will fund a significant portion of the final design and estimated construction cost of the Phase 2 Roosevelt Park Project with a smaller portion appropriated for the NVRRWP Project, and

WHEREAS, the Prop 84 Grant agreement with the DWR was signed and executed on August 24, 2016,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it approves a grant agreement with California Department of Water Resources to
receive the 2015 Proposition 84 Integrated Regional Water Management Implementation Grant for the Area 2 Stormwater to Sanitary Sewer Cross Connection Removal Project – Phase 2 Roosevelt Park and partially funding the final design of the North Valley Regional Recycled Water Program Project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it agrees and authorizes the City Manager, or his designee, to execute all grant-related documents and enter into an agreement to receive the grant funds, if awarded; and authorizing the Director of Finance to be the signatory of grant invoice forms during requests for reimbursements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH RRM DESIGN GROUP, INC., SAN JUAN CAPISTRANO, CA FOR final DESIGN SERVICES FOR THE AREA 2 STORMWATER TO SANITARY SEWER CROSS CONNECTION REMOVAL PROJECT – PHASE 2 ROOSEVELT PARK PROJECT IN AN AMOUNT NOT TO EXCEED $525,273, PLUS $52,527 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $577,800, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the purpose of the Area 2 Stormwater to Sanitary Sewer Cross Connection Removal Project – Phase 2 Roosevelt Park (Roosevelt Park) project is to remove direct connections of storm drain runoff to the sanitary sewer system and provide necessary storm drain improvements resulting from the removal of the cross connections, and

WHEREAS, the City of Modesto’s Area 2 Stormwater to Sanitary Sewer Cross-Connection Removal Project proposes to capture, treat, and infiltrate stormwater runoff to augment groundwater supplies, reduce flood-related damage, and improve the quality of stormwater runoff percolating to the underlying groundwater basin, and

WHEREAS, on April 7, 2009, by Council Resolution No. 2009-151, the City Council approved an agreement with RRM Design Group, Inc. (RRM) for the preparation of a Preliminary Design Report (PDR) for the Area 2 Storm Drain Cross Connection Removal Project, and

WHEREAS, the PDR focused on utilizing four neighborhood parks for underground storage of storm runoff that is currently being diverted to the sanitary sewer system via the direct cross connections, and
WHEREAS, the PDR’s total construction cost estimate for Area 2 is $23.8 million, and
WHEREAS, due to budgetary constraints, staff determined it was necessary to break the project into four phases, one for each park, and
WHEREAS, considering RRM’s involvement in the PDR, assistance with the grant application, and familiarity with the project scope, staff is recommending approval of an agreement with RRM for final design services, and
WHEREAS, RRM will utilize the local firm of NorthStar Engineering Group, Inc. for land surveying,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with RRM Design Group, Inc., San Juan Capistrano, CA for Final Design Services for the Area 2 Stormwater to Sanitary Sewer Cross Connection Removal Project – Phase 2 Roosevelt Park, in an amount not to exceed $525,273 for the identified scope of services, plus $52,527 for additional services (if needed), for a maximum total amount of $577,800.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement in a form approved by the City Attorney.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2016-2017 CAPITAL IMPROVEMENT PROGRAM BUDGET BY INCREASING REVENUES IN THE AMOUNT OF $5,005,829, TRANSFERRING $1,362,864 FROM WASTEWATER FUND RESERVES, INCREASING EXPENDITURES IN THE AMOUNT OF $5,982,154 TO BE TRANSFERRED INTO THE AREA 2 STORMWATER TO SANITARY SEWER CROSS CONNECTION REMOVAL PROJECT – PHASE 2 ROOSEVELT PARK PROJECT ACCOUNT, AND INCREASING EXPENDITURES IN THE AMOUNT OF $386,539 TO BE TRANSFERRED INTO THE NORTH VALLEY REGIONAL RECYCLED WATER PROGRAM PROJECT ACCOUNT, AS PER THE EXECUTED GRANT AGREEMENT WITH CALIFORNIA DEPARTMENT OF WATER RESOURCES TO FUND CONSTRUCTION ACTIVITIES FOR THE PROJECTS.

WHEREAS, certain budgetary transactions are necessary to increase revenues in the amount of $5,005,829, transfer $1,362,864 from Wastewater Fund Reserves, and increase expenditures in the amount of $5,982,154 to be transferred into the Area 2 Stormwater to Sanitary Sewer Cross Connection Removal Project – Phase 2 Roosevelt Park Project account, and increasing expenditures in the amount of $386,539 to be transferred into the North Valley Regional Recycled Water Program Project account, as per the executed Grant Agreement with California Department of Water Resources to fund construction activities for the projects, and

WHEREAS, the Fiscal Year 2016-2017 Capital Improvement Program Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2016-2017 Capital Improvement Program Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
Exhibit A

As per the executed Grant Agreement with the California Department of Water Resources for a 2015 Proposition 84 Integrated Regional Water Management Implementation Grant, revenues need to be increased for CIP Account #100521-“North Valley Regional Recycled Water Program” by $386,539 and CIP Account #100793-“Roosevelt Park Cross Connection” by $4,619,290. This would be done by adjusting Intergovernmental – State Department of Water Resources by $5,005,589.

Due to the increase of estimated design and construction activity costs to fully fund the engineering/design/administration for CIP Account #100521-“North Valley Regional Recycled Water Program”, the project costs need to be increased by $386,539. This would be done by adjusting Engineering/Design/Administration (EDA) by $386,539 in CIP Account #100521-“North Valley Regional Recycled Water Program”.

Due to the increase of estimated design and construction activity costs to set up budget and fully fund the construction, construction contingency, construction administration, engineering/design/administration plus engineering construction support by City staff for CIP Account #100793-“Roosevelt Park Cross Connection”, the project costs need to be increased by $5,982,154. This would be done by adjusting Construction Administration (CA) by $462,114, Construction (CON) by $4,621,135, Contingency – CIP (CTGY) by $462,114, and Engineering/Design/Administration (EDA) by $436,791 in CIP Account #100100793-“Roosevelt Park Cross Connection”.

To fund the above accounts, $5,005,589 will be transferred from the revenue sources stated above and $1,362,865 will be transferred from Wastewater Fund Reserves into CIP Project #100793-“Roosevelt Park Cross Connection” and CIP Project #100521-“North Valley Regional Recycled Water Program” projects.
RESOLUTION APPROVING A RECYCLED WATER CONVEYANCE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CITY OF TURLOCK FOR THE NORTH VALLEY REGIONAL RECYCLED WATER PROGRAM

WHEREAS, the North Valley Regional Recycled Water Program (NVRRWP) is the planned construction of a regional water supply project that will deliver recycled water produced by the cities of Modesto and Turlock to the Delta-Mendota Canal (DMC), and

WHEREAS, on August 26, 2016, the City initiated the construction of Modesto’s component of the NVRRWP, and

WHEREAS, Turlock’s component, a new recycled water pipeline from its treatment facilities to Modesto’s new pump station, will be designed and constructed under a separate phase, and

WHEREAS, it is anticipated the Turlock component will be designed, constructed and connected to the Modesto component by January 2018, and

WHEREAS, Turlock will be responsible for their proportional share of the operation and maintenance of the Modesto component, based on Turlock’s average daily flow conveyed to Modesto’s Facilities, and

WHEREAS, Turlock will be responsible for their proportional share of any future Capital Improvement Projects for the Modesto component.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Recycled Water Conveyance Agreement between the City of Modesto and the City of Turlock for the North Valley Regional Recycled Water Program.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (STATE CLEARING HOUSE NO. 2007072023): AMENDMENT TO SECTION 8-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM LOW DENSITY RESIDENTIAL (R-1) ZONE TO PROFESSIONAL OFFICE (P-O) ZONE, PROPERTY LOCATED AT 332 AND 336 STANDIFORD AVENUE (L STREET ARCHITECTS)

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

WHEREAS, L Street Architects has proposed a rezone of properties located at 332 and 336 Standiford Avenue from Low Density Residential Zone (R-1) to Professional Office Zone (P-O), and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2016-21 ("Initial Study") which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on November 2, 2016, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and
WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 22, 2016, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2016-21
Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2016-21

For the proposed:

RZN-16-01: Rezone from Low Density Residential (R-1) Zone to Professional Office (P-O) Zone, and

DPR-16-008: Administrative Development Plan Review:
Two New Professional Office buildings
332 and 336 Standiford Avenue

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

August 29, 2016
City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

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

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

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

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

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

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

II. PROJECT DESCRIPTION

A. Title: RZN-16-001—Rezone from Low Density Residential (R-1) Zone to Professional Office (P-O) Zone; DPR-16-008—Two new Professional Office buildings

B. Address or Location: 332 and 336 Standiford Avenue (APNs 055-029-027 and -028)

C. Applicant: L Street Architects; 1414 L Street, Modesto, CA 95354

D. City Contact Person: Katharine Martin, Associate Planner

Project Manager: Katharine Martin
Department: Community and Economic Development, Planning Division
Phone Number: 209-577-5465
E-mail address: kamartin@modestogov.com

E. Current General Plan Designation(s): Mixed Use (MU)

F. Current Zoning Classification(s): Low Density Residential (R-1)
G. Surrounding Land Uses:

North: Planned Development Zone P-D(178), residential condominiums and Low Residential (R-1) Zone, residential apartment complex
South: Low Density Residential (R-1) Zone, single-family residences
East: Planned Development Zone P-D(125), residential duplexes
West: Low Density Residential (R-1) Zone, single-family residences

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

Proposal to rezone two residential properties in the Baseline Developed Area totaling 0.69 acres from Low Density Residential (R-1) Zone to Professional Office (P-O) Zone, to allow for the development of two new office buildings totaling 6,104 square feet, and associated off-street parking. Project involves the demolition of two existing residential buildings and replacement by new offices. An existing metal storage building on one property is to remain. Rezone to be by City Council Ordinance; the development of the site to be by administrative Development Plan Review and is contingent on the proposed rezoning.
I. Other Public Agencies Whose Approval is Required: None
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Project Manager

Associate Planner

Date
4. Within the Scope Analysis of this Document:

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

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

5. Currency of the Master EIR Document

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

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

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

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

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

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

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

IV. ENVIRONMENTAL ANALYSIS

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

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

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

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

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

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

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

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

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

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

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

Discussion:

The project does not require mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

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

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

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

Discussion:

(1) The project would rezone two residential properties to Professional Office (P-O) Zone uses, with development of two new office buildings. The site is within the Baseline Developed Area of the General Plan, and is within an area designated as Mixed Use (MU) in the General Plan. While the change in use from residential to professional office would create more trips than is typical of a residence, the project would not exceed traffic generation assumptions in the General Plan MEIR by 100 trips or more, and the City’s Traffic Division indicated no concerns with traffic generated by the project.

(2) The project would not exceed a level of service standard established by the county congestion management agency for designated roads or highways.

(3) The project would not cause an increase in level of service for the adjacent streets or conflict with any Congestion Management Plans, or cause an increase in vehicle miles or hours traveled. The segment of Standiford Avenue at the location is already at LOS D, and the City’s Traffic Division indicated no concerns that the project would cause the level of service to exceed that level.

(4) The project would not cause emergency response times to exceed acceptable standards. The project was referred to the City Fire Department, who indicated no concerns.

(5) The project would provide parking as required for professional office uses.

(6) The project would not conflict with adopted alternative transportation plans or programs.

(7) The project would not result in an increase in vehicle miles traveled in excess of what was considered by the General Plan MEIR.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM_{10}) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).
**Effect:** Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

**Cumulative Impacts**

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NOₓ, PM₁₀, and PM₂.₅.

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

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

**Discussion:**

The appropriate mitigation to be applied to this project includes AQ-42 through AQ-50 from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

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

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

<table>
<thead>
<tr>
<th>2. DEGRADATION OF AIR QUALITY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NOₓ, PM₁₀, and PM₂.₅ by the San Joaquin Valley Air Pollution Control District (SVJAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
</tr>
<tr>
<td>2) The proposed project does not incorporate the best management practices established by the SVJAPCD for CO, ROG, NOₓ, PM₁₀, and PM₂.₅.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
</tr>
<tr>
<td>3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
</tr>
</tbody>
</table>
3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

**Effect:** Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.
Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

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

Cumulative Impacts

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

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

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

Discussion:
The appropriate mitigation to be applied to this project includes N-1 through N-3 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Initial Study EA No. 2016-21
August 29, 2016
Discussion:

(1-3) The project is consistent with the noise policies of the General Plan. The proposed office development is not anticipated to generate noise levels that exceed the noise thresholds of the MEIR, with activities to be conducted primarily indoors.

(4) The project will not result in a substantial increase in ambient noise above levels described in the MEIR. There will be temporary construction-related noise, but implementation of the mitigation measures outlined above would reduce the impacts to a less than significant amount.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

Cumulative Impacts

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

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

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.
Discussion:
The project does not require mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The project would be consistent with the General Plan’s policies relating to agricultural land. The site is located within the Baseline Developed Area, and is designated as Mixed Use (MU) in the General Plan's Land Use Diagram.

(2) The project will not result in the development of land outside of the 2008 General Plan boundary. The site is within the Baseline Developed Area and is surrounded by urbanized area within the jurisdiction of the City.

(3) The site is not zoned for agricultural uses, is currently zoned for Low Density Residential (R-1) uses and is proposed to be rezoned to Professional Office (P-O) to allow for the development of two new office buildings. There are no Williamson Act contracts on the properties of the project site.
(4) The project will not convert existing farmland to a non-agricultural use.

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

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

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

**Direct Impacts**

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

**Cumulative Impacts**

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

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

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

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

**Discussion:**

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

c. **Project-Specific Effects**

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

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed project is consistent with the water supply policies in the General Plan.

(2) The project was referred to Land Development Engineering staff who indicated no concerns with water supply or demands of the project.

(3) The proposed project is consistent with the ground water demands assumed in the General Plan. The project would not have a significant effect on ground water recharge or depletion of long-term water supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson’s hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.
Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

**Cumulative Impacts**

**Effect:** No additional cumulative impacts were identified in the Master EIR.

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

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

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

**c. Project-Specific Effects**

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

ABD-16-001/DPR-16-008: Rezone for New Offices
General Plan Master EIR

Initial Study EA No. 2016-21
August 29, 2016
(1) The project is consistent with the wastewater policies in the General Plan.

(2-3) The project was referred to Land Development Engineering staff, who indicated no concerns with generation of sewer flows or capacity generated by the project.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City’s contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The project does not require mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
<table>
<thead>
<tr>
<th>7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

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

(2) The project site is not within a biologically sensitive area as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.
(4) The site is not within a biologically sensitive area as defined by Figures V-7-1a through V-7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly affected by the project.

(5) The project would not conflict with any local policies or ordinances protecting biological resources.

(6) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

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

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

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

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

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

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would modify or demolish a structure more than 50 years in age.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project would be consistent with the archeological and historical resource policies in the General Plan.

(2-4) The project proposes the rezone of two properties from Low Density Residential (R-1) to the Professional Office (P-O) Zone, and the removal of two existing residences with replacement by two new professional office buildings. While the residences were built in 1952 and 1954, respectively, and therefore are older than 50-years in age, the residences are not designated as landmarks in the City's General Plan. Additionally, they are not listed on the National Register of Historic Places, nor are listed as eligible for inclusion (as of July 2015), and are not listed on the California Register of Historical Resources.

(5) The project would not conflict with a local policy or ordinance protecting biological resources. The City of Modesto does not have a tree preservation policy or ordinance.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

ABD-16-001/DPR-16-008: Rezone for New Offices
Initial Study EA No. 2016-21
General Plan Master EIR 22
August 29, 2016
Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

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

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: SD-7 and SD-9 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>9. INCREASED DEMAND FOR STORM DRAINAGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.

3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.

Discussion:

(1) The project would not be inconsistent with the storm drainage policies of the General Plan.

(2-3) The project will be required to handle and treat storm water runoff on-site in accordance to City Standards.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:
Discussion:

The appropriate mitigation to be applied to this project includes: FWQ-12 and FWQ-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

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

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant</th>
<th>Less Than Significant</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>FLOODING AND WATER QUALITY</td>
<td>Mitigation Incorporated</td>
<td>Impact</td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.</td>
<td>☑️</td>
<td>☑️</td>
<td>☑️</td>
</tr>
<tr>
<td>2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>☑️</td>
<td>☑️</td>
<td>☑️</td>
</tr>
<tr>
<td>3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.</td>
<td>☑️</td>
<td>☑️</td>
<td>☑️</td>
</tr>
<tr>
<td>4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.</td>
<td>☑️</td>
<td>☑️</td>
<td>☑️</td>
</tr>
<tr>
<td>5) The proposed project does not comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures.</td>
<td>☑️</td>
<td>☑️</td>
<td>☑️</td>
</tr>
<tr>
<td>6) The proposed project would violate water quality standards or waste discharge requirements.</td>
<td>☑️</td>
<td>☑️</td>
<td>☑️</td>
</tr>
<tr>
<td>7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</td>
<td>☑️</td>
<td>☑️</td>
<td>☑️</td>
</tr>
</tbody>
</table>
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.

Discussion:

1) The proposed project is consistent with the flooding and water quality policies in the Urban Area General Plan.

2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

3-4) The project site is not within a 100-year flood hazard zone as established by the Federal Emergency Management Agency (FEMA).

5) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

6) The project will not violate water quality standards or waste discharge requirements.

7) The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.

8) The project will be required to treat and store on-site storm water drainage. The project was referred to Land Development Engineering who indicated no concerns with the project creating or contributing to runoff in excess of what is expected as part of the General Plan's implementation.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

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

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>11. INCREASED DEMAND FOR PARKS AND OPEN SPACE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would eliminate parks or open space.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the parks and open space policies in the General Plan.

(2-3) The project will not impact parks or open space, or cause an increase in the use of existing parks. The project involves rezoning property from Low Density Residential (R-1) uses to Professional Office (P-O) uses, which would not impact parks.
12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

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

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

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

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project involves rezoning property from Low Density Residential (R-1) uses to Professional Office (P-O) uses, which would not conflict with policies related to schools in the General Plan.

(2) The project would not conflict with SB50/Proposition 1A funding provisions, or succeeding measures.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

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

c. Project-Specific Effects

ABD-16-001/DPR-16-008: Rezone for New Offices
General Plan Master EIR 29
Initial Study EA No. 2016-21
August 29, 2016
Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>13. INCREASED DEMAND FOR POLICE SERVICES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project is consistent with the policies relating to police services in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project was referred to the City Police Department, who indicated no concerns.

**14. INCREASED DEMAND FOR FIRE SERVICES**

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

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

**Direct Impacts**

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

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**
Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>14. INCREASED DEMAND FOR FIRE SERVICES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The proposed abandonment is consistent with the fire service policies in the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

(3) The project would not cause the erosion or elimination of fire protection services. Development of professional office buildings as a result of the rezone will meet City Standards for emergency services access.
15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Solid waste mitigation measures pertinent to the proposed project are found on pages V-1S-4 through V-1S-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

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

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>15. GENERATION OF SOLID WASTE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:
(1) The project is consistent with the solid waste policies in the General Plan.

(2) The project would not cause an impact to the disposal capacity of solid waste facilities in the County.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

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

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

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

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>16. GENERATION OF HAZARDOUS MATERIALS</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the hazardous</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>
materials policies in the Urban Area General Plan.

<table>
<thead>
<tr>
<th>Impact Description</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the hazardous materials policies in the General Plan.

(2) The project will comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

(4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>17. GEOLOGY, SOILS, AND MINERAL RESOURCES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:
(1) The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.

(2) The project site is not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.
18. ENERGY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

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

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

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

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>18. ENERGY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Impact Level</td>
<td>Potential Impact</td>
<td>Less Than Significant with Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
</tr>
<tr>
<td>--------------</td>
<td>------------------</td>
<td>-----------------------------------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the energy policies in the General Plan.

(2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

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

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

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

c. Project-Specific Effects
Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

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

19. **EFFECTS ON VISUAL RESOURCES**

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

2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.

3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.

**Discussion:**

1) The project is consistent with the policies relating the visual resources in the General Plan.

2-3) The project would not impact views from riverside areas and parks, nor would degrade views of riverside areas and parks from public roadways.

20. **LAND USE AND PLANNING**

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

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

**Direct Impacts**

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

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

b. **Master EIR and/or New Mitigation Measures Applied to the Project**
The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:
There are no applicable mitigation measures from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>20. LAND USE AND PLANNING</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the Redevelopment Planning District (RPD) land use designation in the General Plan.

(2) The project would not divide an established community. The proposal is to rezone two existing residential properties on an arterial street to Professional Office uses, in an area that is transitioning from residential uses to office uses.
(3) The project is consistent with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

(4) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

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

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

Discussion:

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

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

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

ABD-16-001/DPR-16-008: Rezone for New Offices

General Plan Master EIR

Initial Study EA No. 2016-21

August 29, 2016
## CLIMATE CHANGE

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

**Discussion:**

1. The project is consistent with the policies relating to climate change in the Urban Area General Plan. The project would not have a significance effect on climate change.

2. The project would not affect automobile trip lengths or CO₂ emissions.

3. A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.
V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

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

A. Master EIR Mitigation Measures Applied to the Project

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

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

N/A

Degradation of Air Quality:

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

AQ-43: All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

AQ-46: When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.
AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

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

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

**Generation of Noise:**

N-1: The City has also established a noise ordinance to control noise within the City. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

N-2: Additionally, the noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and state or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

A hammer, or any other device or implement used to pound or strike an object.
1. An impact wrench, or other tool or equipment powered by compressed air.
3. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
4. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
5. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
6. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

N-3: The project shall comply with the City's noise ordinance. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers'
recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

**Effects on Agricultural Lands:**

N/A

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

N/A

**Increased Demand for Sanitary Sewer Services:**

N/A

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

N/A

**Disturbance of Archaeological/Historic Sites:**

N/A

**Increased Demand for Storm Drainage:**

SD-7: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of Stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

SD-9: Construction activities shall comply with the requirements of the City’s Storm Water Management Plan under its municipal NPDES Stormwater permit, and the State Water Resources Control Board’s General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V.E.3[h])

**Flooding and Water Quality:**

FWQ-12: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of Stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

FWQ-13: Construction activities shall comply with the requirements of the City’s Storm Water Management Plan under its municipal NPDES Stormwater permit, and the State Water Resources Control Board’s General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V.E.3[h])

**Increased Demand for Parks and Open Space:**
Increased Demand for Schools:
N/A

Increased Demand for Police Services:
N/A

Increased Demand for Fire Services:
N/A

Generation of Solid Waste:
N/A

Generation of Hazardous Materials:
N/A

Geology, Soils, and Mineral Resources:
N/A

Energy:
N/A

Effects on Visual Resources:
N/A

Land Use and Planning:
N/A

Climate Change:
N/A