RESOLUTION APPROVING THE REAPPOINTMENT OF MICAH RAPIER, CITIZEN-AT-LARGE, TO CITY OF MODESTO HOUSING REHABILITATION LOAN COMMITTEE WITH A TERM EXPIRATION DATE OF DECEMBER 31, 2020

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

WHEREAS, on January 14, 2013, by Resolution No. 2013-39, MICAH RAPIER was appointed to the Housing Rehabilitation Loan Committee with an initial term of January 1, 2013 through January 1, 2015, and

WHEREAS, on October 25, 2016, through the adoption of the new bylaws, Resolution No. 2016-424, MICAH RAPIER’s term was extended to January 1, 2017, and

WHEREAS, MICAH RAPIER has expressed interest in and is eligible to serve an additional four year term, and

WHEREAS, on April 13, 2017, the City of Modesto Appointments Committee recommended that MICAH RAPIER be reappointed to the HRLC, and

WHEREAS, MICAH RAPIER will serve in the seat designation of Citizen-At-Large for the time period January 1, 2017 to December 31, 2020.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that MICAH RAPIER is hereby reappointed to the Housing Rehabilitation and Loan Committee and will serve in the seat designation of Citizen-At-Large for the time period January 1, 2017 through December 31, 2020.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2\textsuperscript{nd} day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

\textbf{AYES:} Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

\textbf{NOES:} Councilmembers: None

\textbf{ABSENT:} Councilmembers: None

\begin{center}
\underline{ATTEST:} \hfill \underline{SEAL} \\
STEPHANIE LOPEZ, City Clerk
\end{center}

\textbf{(SEAL)}

\textbf{APPROVED AS TO FORM:}

\begin{center}
\underline{By:} ADAM U. LINDGREN, City Attorney
\end{center}
RESOLUTION APPROVING THE REAPPOINTMENT OF FRANK PLOOF AND RHODA YARE AND THE APPOINTMENT OF KRISTIE NELSON AND RICHARD DANIELS, CITIZENS-AT-LARGE, TO THE CITIZENS’ HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE WITH TERM EXPIRATION DATES OF DECEMBER 31, 2020

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

WHEREAS, on December 4, 2012, by Resolution No. 2012-481, RHODA YARE was appointed to the Citizens’ Housing and Community Development Committee (CH&CDC) with an initial term from January 1, 2013 through January 1, 2015, and

WHEREAS, on January 22, 2013, by Resolution No. 2013-38, FRANK PLOOF was appointed to CH&CDC with an initial term from January 22, 2013 through January 1, 2015, and

WHEREAS, on November 24, 2015, through the adoption of the new bylaws, Resolution No. 2015-456, both RHODA YARE and FRANK PLOOF’s terms were extended to January 1, 2017, and

WHEREAS, both RHODA YARE and FRANK PLOOF have expressed interest in and are eligible to serve additional four-year terms, and

WHEREAS, both KRISTIE NELSON and RICHARD DANIELS have expressed an interested in serving on the Citizen’s Housing and Community Development Committee (CH&CDC), and

WHEREAS, on April 13, 2017, the City of Modesto Appointments Committee recommended that RHODA YARE be reappointed to the CH&CDC, and

WHEREAS, RHODA YARE will serve in the seat designation of Citizen-At-Large for
the time period January 1, 2017 to December 31, 2020, and

WHEREAS, on April 13, 2017, the City of Modesto Appointments Committee recommended that FRANK PLOOF be reappointed to the CH&CDC, and

WHEREAS, FRANK PLOOF will serve in the seat designation of Citizen-At-Large for the time period January 1, 2017 to December 31, 2020, and

WHEREAS, on April 13, 2017, the City of Modesto Appointments Committee reviewed applications and recommended that KRISTIE NELSON be appointed to the CH&CDC, and

WHEREAS, KRISTIE NELSON will serve in the seat designation of Citizen-at-Large for the time period May 2, 2017 to December 31, 2020, and

WHEREAS, on April 13, 2017, the City of Modesto Appointments Committee reviewed applications and recommended that RICHARD DANIELS be appointed to the CH&CDC, and

WHEREAS, RICHARD DANIELS will serve in the seat designation of Citizen-at-Large for the time period May 2, 2017 to December 31, 2020.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that RHODA YARE is hereby reappointed to the Citizens’ Housing and Community Development Committee and will serve in the seat designation of Citizen-at-Large for the time period January 1, 2017 through December 31, 2020.

BE IT FURTHER RESOLVED, by the Council of the City of Modesto that FRANK PLOOF is hereby reappointed to the Citizens’ Housing and Community Development Committee and will serve in the seat designation of Citizen-at-Large for the time period January 1, 2017 through December 31, 2020.
BE IT FURTHER RESOLVED that KRISTIE NELSON is hereby appointed to the Citizens’ Housing and Community Development Committee and will serve in the seat designation of Citizen-at-Large for the time period May 2, 2017 through December 31, 2020.

BE IT FURTHER RESOLVED that RICHARD DANIELA is hereby appointed to the Citizens’ Housing and Community Development Committee and will serve in the seat designation of Citizen-at-Large for the time period May 2, 2017 through December 31, 2020.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: __________________________

STEFHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE SALARY AND BENEFITS FOR ACTING CITY MANAGER JOSEPH P. LOPEZ EFFECTIVE APRIL 1, 2017

WHEREAS, Joseph P. "Joe" Lopez started his employment with the City of Modesto on January 31, 2012 as Human Resources Director; and

WHEREAS, Joe Lopez has received numerous promotions and assumed additional, progressively responsible duties. He was appointed Interim Information Technology Director on January 28, 2014, Director of Administrative Services on July 1, 2014, Acting Deputy City Manager on February 24, 2015 and Deputy City Manager on February 9, 2016; and

WHEREAS, when City Manager Holgersson resigned on March 31, 2017, the City Council named Joe Lopez Acting City Manager; and

WHEREAS, the City has adopted benefits for unrepresented management executives and Charter officers; and

WHEREAS, the City Council now desires, for the period that Joe Lopez serves as Acting City Manager: (i) to approve an increase in his total salary, plus education incentive pay, of approximately 12.5% to a total of $198,000/ year, (ii) to authorize him to receive the benefits approved for Charter officers, and (iii) to allow him to resume his service as Deputy City Manager at such time as the City appoints a permanent City Manager or at the discretion of the City Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:
1. Joe Lopez’s assignment as Acting City Manager is subject to the complete discretion of the City Council, and such assignment may be terminated by the City Council at any time for any or no reason. At such time that the City Council terminates such assignment, Joe Lopez shall return to his Deputy City Manager position at the salary and benefits previously set.

2. During such time as he is serving as Acting City Manager, Joe Lopez shall receive a salary plus 1.5% education incentive pay in the total annual amount of $198,000, and the maximum benefits of a Charter officer as set forth in the attached “Summary of Benefits Unrepresented Management Executives and Charter Officers (Non-Sworn)".

3. Effective June 27, 2017, the above salary and incentive pay shall be increased by the same 2% cost of living increase that was approved for all non-sworn unrepresented management and confidential employees, including charter officers and executives on July 12, 2016 by City Council Resolution 2016-310, rescinded and updated by Resolutions 2016-377 and 2017-06.

4. The salary and benefits approved in this Resolution shall be effective and payable commencing April 1, 2017.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being was duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

STEFHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
CITY OF MODESTO
SUMMARY OF BENEFITS
UNREPRESENTED MANAGEMENT, EXECUTIVES and CHARTER OFFICERS (Non-Sworn)

Retirement benefits are provided by contract with the Public Employees’ Retirement System (CalPERS). Formula is determined by hire date and member status with CalPERS. The City does not participate in Social Security except for the required 1.45% Medicare contribution by both the City and the employee (applies to employees hired after 4-1-86).

Holidays observed are 10 paid holidays per year plus 8 hours of holiday credit. Holiday credit may be accrued up to a maximum of 40 hours. Accrual in excess of 40 hours shall be cashed out on a quarterly basis.

Vacation accrual begins at a rate of two weeks per year, with incremental increases to five weeks at 21 years of service. Employees may accumulate up to two times their annual accrual.

Sick leave with pay is accumulated at 8 hours per month, 96 hours per year. Employees may accumulate up to 2,200 hours.

Health, dental and vision coverage is provided. The City’s monthly contribution to health, dental and vision benefits are based on a three-tier system as follows:

- $1,214 Employee + Family (2 or more dependents)
- $ 858 Employee + 1 Dependent
- $ 621 Employee Only
- $ 450 Opt Out of Medical

The employee pays the balance. An employee who opts out of health coverage receives the opt out amount above minus dental and vision premium as an in-lieu contribution into deferred compensation account.

Life Insurance in the amount of $120,000 is provided by the City. Supplemental coverage is available at employee cost.

Long term disability insurance coverage is provided by the City at City cost. This benefit pays 66 2/3% of the first $12,000 per month in salary.

An annual physical exam is provided at City expense.

Deferred Compensation (457 Plan) is a voluntary program by the City. The City will contribute 1.5% of salary, (increasing to 2.5% following completion of 9 years of service) with a matching contribution by the employee. For Unrepresented Management employees, the City also contributes 2% to a mandatory 401(a) Money Purchase Plan requiring a 2% employee contribution; for Executives, the City contributes 3% to a mandatory 401(a) Money Purchase Plan with a mandatory 3% employee contribution; for Charter Officers, the City contributes 5% to a mandatory 401(a) Money Purchase Plan with a mandatory 5% employee contribution.

Management Leave is provided annually for employees in exempt regular positions. The City shall advance 80 hours of Management Leave January of each year.

Section 125 Plan providing for pre-tax deductions for employee-paid health premiums, unreimbursed medical expenses and for dependent care costs.

Employee Assistance Program is available to employees and dependents. Plan provides up to three counseling visits per incident at City expense.

Educational Incentive Pay in the amount of 1.5% of salary is available to employees with one year of service who possess a Master’s Degree or Juris Doctor from an accredited institution.

City car or vehicle allowance of $400 per month is provided for Executives (up to $500 per month for Charter Officers).

Employee Benefits are subject to change and are not guaranteed. For a detailed explanation of benefits currently in effect please see Human Resources.
RESOLUTION AMENDING SECTION 3 (COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM) OF THE HOUSING AND URBAN DEVELOPMENT POLICIES & PROCEDURES MANUAL

WHEREAS, on October 25, 2016, by Resolution No. 2016-425, the City Council consolidated all Housing and Urban Development policies & procedures into one comprehensive manual entitled Housing and Urban Development Policies & Procedures Manual (HUD Policies & Procedures Manual), and

WHEREAS, an amendment to Section 3 (Community Development Block Grant Program) of the HUD Policies & Procedures Manual is proposed to reflect updated policies, and

WHEREAS, on April 13, 2017, the City of Modesto’s Citizen’s Housing and Community Development Committee reviewed, approved and forwarded an amended Section 3 (Community Development Block Grant Program) of the HUD Policies & Procedures Manual, to the City Council for review and approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto hereby amends Section 3 (Community Development Block Grant Program) of the Housing and Urban Development Policies & Procedures Manual, as set forth in Exhibit A, which is attached hereto and incorporated by reference.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, 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, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
Section 3

City of Modesto
Community Development
Block Grant (CDBG)
For HUD Programs

City Of Modesto
Community and Economic Development Department
1010 10th Street, Suite 3100
Modesto, CA 95354
www.cityofmodesto.com
housing@modestogov.com

These policies supersede any previously adopted policies and are subject to review and revision by the City of Modesto's Citizens Housing and Community Development Committee.
1. Introduction

1.1. The City of Modesto has been a participating jurisdiction in the Community Development Block Grant (CDBG) Program of the U.S. Department of Housing and Urban Development (HUD) since the program was established by Congress in 1974.

1.1.1. HUD distributes federal CDBG funds to states, counties and urban cities to fulfill the goals of the program to:

1.1.1.1. Provide decent, safe, and sanitary housing
1.1.1.2. Provide a suitable living environment, and to
1.1.1.3. Expand economic opportunities principally for low and moderate-income persons.

1.2. Minimum requirements applicable to any CDBG funded activity are set forth in CDBG Program Regulations 24 CFR 570. CDBG regulations allow for local discretion as to the use and management of the CDBG program. Local community needs, resources, priorities and procedures for managing the CDBG program are approved by the City Council as part of the City's five-year Consolidated Plan (CP) process. In addition, each year the Modesto City Council reviews and considers approval of an Annual Action Plan (AAP) which includes objectives and outcomes, an evaluation of past performance, and activities to be undertaken in the next program year.

1.3. This document is intended to satisfy the requirement for a concise policy and procedures administrative manual in the administration and implementation of CDBG funded activities.

2. Background

2.1. U.S. Department of Housing and Urban Development and Office of Community Planning and Development

2.1.1. The mission of the U.S. Department of Housing and Urban Development (HUD) is "to create strong, sustainable, inclusive communities and quality, affordable homes for all."

2.1.2. The HUD Office of Community Planning and Development (CPD) seeks to develop viable communities by promoting integrated approaches that provide decent housing, a suitable living environment, and expanded economic opportunities for low- and moderate-income persons. These goals come out of the mission of HUD to "create strong, sustainable, inclusive communities and quality, affordable homes for all." The primary means towards this end is the development of partnerships between all levels of government and the private sector, including for-profit and non-profit organizations.
2.2. City of Modesto Entitlement Programs

2.2.1. The City of Modesto is a participating jurisdiction in three (3) Community Planning and Development (CPD) entitlement programs:

2.2.1.1. The Community Development Block Grant (CDBG) program supports public services and improvements that benefit low- and moderate-income individuals, families and neighborhoods. Federal regulations governing the CDBG program are in Title 24 of the Code of Federal Regulations Part 570 (24 CFR 570).

2.2.1.2. The Emergency Solutions Grants Program provides funding to (1) engage homeless individuals and families living on the street; (2) improve the number and quality of emergency shelters for homeless individuals and families; (3) help operate these shelters; (4) provide essential services to shelter residents, (5) rapidly re-house homeless individuals and families, and (6) prevent families/individuals from becoming homeless.

2.2.1.3. The HOME Investment Partnership (HOME) program supports affordable access to homeownership and development of affordable rental housing for low- and moderate-income families. Federal regulations governing the HOME program are in Title 24 of the Code of Federal Regulations Part 92 (24 CFR 92).

2.3. Federal Regulations (24 CFR Part 570)

2.3.1. The City of Modesto will follow the regulations governing the CDBG program which are found in Title 24 of the Code of Federal Regulations (CFR) Part 570, Community Development Block Grants.

2.4. Subpart C – Basic Eligible Activities (24 CFR 570.201)

2.4.1. 24 CFR 570 Subpart C

2.4.1.1. The City of Modesto may assist an activity in whole or in part with CDBG funds for activities which include, but are not limited to the following (all CDBG funded activities shall comply with 24 CFR Subpart C Eligible Activities requirements):

2.4.1.1.1. Acquisition of real property;
2.4.1.1.2. Disposition of real property acquired with CDBG funds
2.4.1.1.3. Construction of public facilities and improvements, such as water and sewer facilities, streets, neighborhood centers, and the conversion of school buildings for eligible purposes.

2.4.1.1.4. Clearance and remediation of buildings and improvements;

2.4.1.1.5. Public Services within certain limits:
   2.4.1.1.5.1. Housing Services: Privately owned utilities
   2.4.1.1.5.2. Construction of affordable housing
   2.4.1.1.5.3. Homeownership assistance within certain limits
   2.4.1.1.5.4. Technical Assistance
   2.4.1.1.5.5. Rehabilitation of residential and non-residential structures
   2.4.1.1.5.6. Special economic development activities

2.5. Ineligible Activities (24 CFR 570.207)

2.5.1. The general rule is that the City of Modesto’s CDBG funds shall not be used for any activity that is not authorized under the provisions of 24 CFR Parts 570.201–570.206.

2.5.2. Generally, the following types of activities are ineligible:
   2.5.2.1. Acquisition, construction, or reconstruction of buildings for the general conduct of government
   2.5.2.2. General government expenses
   2.5.2.3. Political activities
   2.5.2.4. Purchase of equipment
   2.5.2.5. Construction equipment
   2.5.2.6. Furnishings and personal property
   2.5.2.7. Operating and maintenance expenses associated with public facilities
   2.5.2.8. New housing construction
   2.5.2.9. Subsistence payments made directly to an individual or family

2.6. Criteria for National Objectives – CDBG

2.6.1. In compliance with CDBG regulations, the City of Modesto strives to utilize the majority of funding in a manner that serves low- and moderate-income persons during each program year, but not less than fifty-one percent (51%) of CDBG funds shall be used for activities that benefit low- and moderate-income persons. When considering funding activities, the City of Modesto will ensure that each activity must meet one of the following National Objectives for the CDBG program.

2.6.1.1. Benefit low and moderate income individuals, families, or neighborhoods;
2.6.1.2. Prevention or elimination of slums or blight; or
2.6.1.3. Address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available.

2.7. Selecting Activities that Comply

2.7.1. While there are many aspects that must be considered in selecting activities to assist under the CDBG program, there are six (6) key steps that City of Modesto Community Development Division (CDD) staff will take into consideration during the early stages of the process of determining if CDBG funds may be used to assist a proposed activity:

2.7.1.1. Determine if the activity falls within a category of explicitly authorized activities in the CDBG statute. Generally, if an activity does not fall within a category of explicitly authorized activities in the statute, the activity is considered ineligible. HUD’s Guide to National Objectives and Eligible Activities describes all categories of basic eligibility that were authorized at the time of publication:


2.7.1.2. Determine if a proposed activity does not appear to be included in the statute’s list of eligible activities, but there is precedent indicating it has been interpreted as eligible under the statute by the CDBG Eligible Activity regulations.

2.7.1.3. Most importantly, determine if the proposed activity can meet one of the national objectives of the program as outlined in 24 CFR 570.208. If an activity cannot meet one of the national objectives, the activity shall be found to be ineligible.

2.7.1.4. Ensure that carrying out the activity with CDBG funds will not result in the City violating its certification that at least 51 percent of CDBG expenditures will be for activities that are considered to benefit Low/Moderate income persons over the one, two, or three consecutive program years specified by the City of Modesto.
2.7.1.5. Review proposed costs of the activity to determine if they appear to be necessary and reasonable and will otherwise conform with the requirements of the following:

2.7.1.5.1. OMB Circulars A-87, “Cost Principles for State, Local, and Indian Tribal Governments,”
2.7.1.5.2. A-122, “Cost Principles for Non-Profit Organizations,”
2.7.1.5.3. A-21, “Cost Principles for Educational Institutions,”
2.7.1.5.4. 24 CFR Part 84, “Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;” or
2.7.1.5.5. 24 CFR Part 85, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” as applicable.

2.7.1.6. Complete the environmental review and clearance procedures for the project of which the activity is a part as required by 24 CFR Part 58. Federal law prohibits HUD from releasing funds for a CDBG activity until certification is made with respect to environmental review completion.

3. Subpart J – Grant Administration (24 CFR Part 570.501)

3.1. 24 CFR 570 Subpart J

3.2. Responsibility for Grant Administration

3.2.1. The City of Modesto Community and Economic Development Department (CEDD) has been designated to administer the activities assisted under the CDBG program. The City of Modesto CEDD is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The City of Modesto will adhere to all administrative requirements covered by Subpart J (24 CFR 570.500-570.513), which includes general responsibilities for grant administration, including uniform administrative requirements, provisions of subrecipient agreements, program income, use of real property, recordkeeping and reporting, and closeout procedures.

3.2.2. Applicability of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards §570.502

3.2.3. The City of Modesto and its subrecipients shall follow Office of Management and Budget’s (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (also known as the Super Circular) codified at 2

3.2.4. The City will ensure that all subrecipients (agencies and organizations that receive grant funds from the City) are in compliance with OMB Super Circular requirements.

3.3. **Agreements with Sub-recipients § 570.503**

3.3.1. Before disbursing any CDBG funds to a sub-recipient, the City of Modesto will sign a written agreement with the sub-recipient. The agreement will remain in effect during any period that the sub-recipient has control over CDBG funds, including program income.

3.3.2. At a minimum, the written agreement with the sub-recipient will include provisions concerning the following:

3.3.2.1. **Statement of Work**: The agreement will include a description of the work to be performed, a schedule for completing the work, and a budget. These items will be in sufficient detail to provide a sound basis for the City of Modesto to effectively monitor performance under the agreement.

3.3.2.2. **Records and Reports**: The City of Modesto will specify in the agreement the particular records the sub-recipient must maintain and the particular reports the sub-recipient must submit in order to assist the City of Modesto in meeting its recordkeeping and reporting requirements.

3.3.2.3. **Program Income (PI)**: The agreement will include the PI requirements set forth in §570.504(c). The agreement will also specify that, at the end of the calendar year, the City of Modesto may require remittance of all or part of any PI balances (including investments thereof) held by the sub-recipient (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs).

3.3.2.4. **Uniform Administrative Requirements**: The agreement will require the sub-recipient to comply with applicable uniform administrative requirements, as described in §570.502.

3.3.2.5. **Other Program Requirements**: The agreement will require the sub-recipient to carry out each activity in compliance with all Federal laws and
regulations described in 24 CFR 570 Subpart K of the regulations, except that:

3.3.2.5.1. The sub-recipient does not assume the City of Modesto’s environmental review (ER) responsibilities described at §570.604; and

3.3.2.5.2. The sub-recipient does not assume the City of Modesto’s responsibility for initiating the review process under the provisions of 24 CFR part 52.

3.3.2.6. **Suspension and Termination:** The agreement will specify that, in accordance with 24 CFR 85.43, suspension or termination may occur if the sub-recipient materially fails to comply with any term of the award, and that the award may be terminated for convenience in accordance with 24 CFR 85.44.

3.3.2.7. **Reversion of Assets:** The agreement will specify that upon its expiration the sub-recipient shall transfer to the City of Modesto any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. It will also include provisions designed to ensure that any real property under the sub-recipient’s control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the sub-recipient in the form of a loan) in excess of $25,000 is either:

3.3.2.7.1. Used to meet one of the national objectives in §570.208 (formerly §570.901) until five (5) years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the City of Modesto; or

3.3.2.7.2. not used in accordance with paragraph (b)(7)(i) of this section, in which event the subrecipient shall pay to the City of Modesto an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City of Modesto.
4. Program Income

4.1. Treatment of Program Income and Revolving Loan Funds (RLFs) Per the 24 CFR 570.500 definitions.

4.2. § 570.500 Definitions.

4.2.1. For the purposes of this subpart, the following terms shall apply:

4.2.1.1. (a) Program income means gross income received by the recipient or a subrecipient directly generated from the use of CDBG funds,

4.2.1.2. (b) Revolving fund means a separate fund (with a set of accounts that are independent of other program accounts) established for the purpose of carrying out specific activities which, in turn, generate payments to the fund for use in carrying out the same activities. Each revolving loan fund’s cash balance must be held in an interest-bearing account, and any interest paid on CDBG funds held in this account shall be considered interest earned on grant advances and must be remitted to HUD for transmittal to the U.S. Treasury no less frequently than annually. Interest paid by borrowers on eligible loans (e.g. Homeowner Rehabilitation Loan interest portion payments made from the revolving loan fund) shall be program income and treated accordingly. Receipted as program income, not as RLF.

4.2.2. Beginning with FY 2015 formula allocations, it has been determined that First-In-First-Out (FIFO) accounting does not comply with federal financial standards (May 9 2014 – Memorandum – System and Regulatory Changes to Eliminate First-In-First-Out Accounting in the Integrated Disbursement and Information System (IDIS)). Funding is now tied to a grant specific year, and the related activities described within the respective Annual Action Plan (AAP) (e.g. Year 1 – 7/1/2015 – 6/30/2016; Year 2 – 7/1/2016 – 6/30/2017; Year 3 – 7/1/2017 – 6/30/2018).

4.2.3. Under the provision of this rule the City of Modesto Community Development Division (CDD) will accumulate program income, including interest paid by borrowers on eligible loans made from the Revolving Loan Fund, repaid funds, and recaptured funds it receives during the program year, rather than expending them for the next eligible draw.
4.2.4. Moving forward, at the conclusion of each calendar year (e.g. – Program Income accumulated through 12/31/2016; will be reflected in the next Annual Action Plan (AAP)). The City of Modesto will calculate any accumulated uncommitted program income to include interest paid by borrowers on eligible loans made from the Revolving Loan Fund(s), repaid funds, and recaptured funds incorporating all into the upcoming AAP. This funding received during the previous program year(s) will be described as resources and assigned to eligible activities in the upcoming AAP (e.g. – AAP FY 2017-2018). Emergency Solutions Grants (ESG) is currently excluded from this requirement.

4.2.5. In prior years, this was not required, as the amounts in revolving loan funds (RLFs) were excluded from calculations related to the City of Modesto timeliness standards described in 24 CFR Part 570.902. On February, 22, 2017, HUD Headquarters clarified that with all formula grantees that this will no longer be allowable.

4.2.6. Program Income still needs to be remitted to the U.S. treasury, if the calculation at the end of each program year (June 30th) is in access of the guidelines as outlined in the CDBG Manual (Chapter 11: Financial Management – page 11:13).

4.2.7. The receipt and expenditure of program income as defined in §570.500(a) will be recorded as part of the financial transactions of the City of Modesto CDBG grant program.

4.2.8. Program income (PI) received before grant closeout may be retained by the City of Modesto. PI will be treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds.

4.2.9. Program income retained by the City of Modesto will be disposed as follows:

4.2.10. Program income in the form of repayments to, or interest earned on, a revolving fund as defined in §570.500(b) tied to that specific grant year AAP shall be substantially disbursed from the fund before additional cash withdrawals are made from the U.S. Treasury for the same activity. (This rule does not prevent a lump sum disbursement to finance the rehabilitation of privately owned properties as provided for in §570.513.)
4.2.11. Substantially all other AAP program year program income shall be disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury. If the calculation at the end of each program year (June 30th) is in access of the guidelines as outlined in the CDBG Manual (Chapter 11: Financial Management – page 11-13).

4.2.12. At the end of each program year, the aggregate amount of program income cash balances and any investment thereof (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump-sum drawdown, or cash or investments held for section 108 loan guarantee security needs) that, as of the last day of the program year, exceeds one-twelfth of the most recent grant made pursuant to §570.304 shall be remitted to HUD as soon as practicable thereafter, to be placed in the City of Modesto’s line of credit. This provision applies to program income cash balances and investments thereof held by the City of Modesto and its sub-recipients.

4.2.13. CDBG and HOME PI balance as of December 31 of each year will be budgeted for use in the following Fiscal Year Annual Action Plan. Program Income received after December 31, will be kept in account until the end of the following year to be budgeted for the following fiscal year; The City of Modesto may elect to use program income received after December 31 by conducting a substantial amendment to the respective year Annual Action Plan.

4.2.14. Under the provision of this rule the City of Modesto Community Development Division (CDD) will accumulate program income, including interest paid by borrowers on eligible loans made from the Revolving Loan Fund, repaid funds, and recaptured funds it receives during the program year, rather than expending them for the next eligible draw.

4.2.15. The City of Modesto will calculate any accumulated uncommitted program income to include interest paid by borrowers on eligible loans made from the Revolving Loan Fund(s), repaid funds, and recaptured funds incorporating all into the upcoming AAP. This funding received during the previous program year(s) will be described as resources and assigned to eligible activities in the upcoming AAP (e.g. – AAP FY 2017-2018). Emergency Solutions Grants (ESG) is currently excluded from this requirement.
4.2.16. In prior years, this was not required, as the amounts in revolving loan funds (RLFs) were excluded from calculations related to the City of Modesto timeliness standards described in 24 CFR Part 570.902. On February, 22, 2017, HUD Headquarters clarified that with all formula grantees that this will no longer be allowable.

5. Use of real property
   5.1. Section 570.505
      5.1.1. The City of Modesto will comply the standards described 24 CFR 570.505 with relation to the use of real property within the City of Modesto’s control acquired or improved in whole or in part using CDBG funds in excess of $25,000.

6. Records to be maintained
   6.1. Section 570.560
      6.1.1. The City of Modesto will establish and maintain sufficient records to enable HUD to determine whether the City of Modesto has met the CDBG program requirements for activities administered by the City of Modesto under the CDBG program. At a minimum, the following records will be maintained:
      6.1.2. Records providing a full description of each activity assisted (or being assisted) with CDBG funds, including its location (if the activity has a geographical locus), the amount of CDBG funds budgeted, obligated and expended for the activity, and the provision in subpart C under which it is eligible.
      6.1.3. Records demonstrating that each activity undertaken meets one of the criteria set forth in §570.208 (Criteria for National Objectives).
      6.1.4. Records that demonstrate that the City of Modesto has made the determinations required as a condition of eligibility of certain activities, as prescribed in §570.201(f)-interim assistance, 570.201(i)(2) - emergency, 570.201(p) - technical assistance, 570.201(q) - higher education institutions, 570.202(b)(3) - rehabilitation loans, 570.206(f) - Submission of applications for federal programs, 570.209 - economic development, 570.210 - prohibition employee relocation, and 570.309 - restriction on location.
      6.1.5. Records which demonstrate compliance with §570.505 - regarding any change of use of real property acquired or improved with CDBG assistance.
6.1.6. Records that demonstrate compliance with the citizen participation requirements prescribed in 24 CFR part 91, subpart B, for entitlement recipients.

6.1.7. Records that demonstrate compliance with the requirements in §570.606 regarding acquisition, displacement, relocation, and replacement housing.

6.1.8. Fair housing and equal opportunity records containing:

6.1.8.1. Documentation of the analysis of impediments and the actions the City of Modesto has carried out with its housing and community development and other resources to remedy or ameliorate any impediments to fair housing choice in the City of Modesto's community.

6.1.8.2. Data on the extent to which each racial and ethnic group and single headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. The City of Modesto is not required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

6.1.8.3. Data on employment in each of the City of Modesto's operating units funded in whole or in part with CDBG funds, with such data maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEO-4 form; and documentation of any actions undertaken to assure equal employment opportunities to all persons regardless of race, color, national origin, sex or handicap in operating units funded in whole or in part under this part.

6.1.8.4. Data indicating the race and ethnicity of households (and gender of single heads of households) displaced as a result of CDBG funded activities, together with the address and census tract of the housing units to which each displaced household relocated. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. The City of Modesto is not required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

6.1.8.5. Documentation of actions undertaken to meet the requirements of §570.607(b) which implements Section 3 of the Housing Development Act.
of 1968, as amended (12 U.S.C. 1701U) relative to the hiring and training of low and moderate income persons and the use of local businesses.

6.1.8.6. Data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of $25,000 or more paid, or to be paid, with CDBG funds, data indicating which of those entities are women's business enterprises as defined in Executive Order 12138, the amount of the contract or subcontract, and documentation of recipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. Such affirmative steps may include, but are not limited to, technical assistance open to all businesses but designed to enhance opportunities for these enterprises and special outreach efforts to inform them of contract opportunities. Such steps shall not include preferring any business in the award of any contract or subcontract solely or in part on the basis of race or gender.

6.1.8.7. Documentation of the affirmative action measures the City of Modesto has taken to overcome prior discrimination, where the courts or HUD have found that the City of Modesto has previously discriminated against persons on the ground of race, color, national origin or sex in administering a program or activity funded in whole or in part with CDBG funds.

6.1.8.8. Financial records, in accordance with the applicable requirements listed in §570.502 - uniform administrative requirements - including source documentation for entities not subject to parts 84 and 85 of the regulation. The City of Modesto will maintain evidence to support how the CDBG funds provided to such entities are expended. Such documentation will include, to the extent applicable, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by appropriate parties (e.g., general contractor and/or a project architect), and/or other documentation appropriate to the nature of the activity.

6.1.9. Records required to be maintained in accordance with other applicable laws and regulations set forth in subpart K of 24 CFR Part 570.

6.1.10. Subrecipient record retention requirements will be established within subrecipient agreements.
7. Required Annual Reports

7.1. § 570.507

7.2. Preparation of Annual Action Plan

7.2.1. CDBG regulations at 24 CFR 91.15(a)(1) requires entitlement jurisdictions (City of Modesto) to submit its Consolidated Plan or Action Plan at least 45 days before the start of its program year. The City of Modesto will begin to plan for the development of the Annual Action Plan (AAP) as early as October of the year prior to the beginning of its next fiscal year – July 1. For purposes of planning the Annual Action Plan, an Annual Action Plan schedule may be developed in the month of October outlining all pertinent deadlines related to the development and adoption of the Annual Action Plan.

7.2.2. The following will be general milestone targets of the City of Modesto’s Annual Action Plan tentative schedule (efforts will be made to follow the outlined schedule as close as possible, however, variables outside the City’s control may contribute to changes on the actual schedule):

7.2.2.1. Oct./Nov: Develop AAP schedule

7.2.2.2. December: Release CDBG/ESG Public Services Notice of Funding Availability (NOFA)

7.2.2.2.1. Host Mandatory Technical Workshop and Open Public Service Application Period

7.2.2.2.2. Begin Draft AAP

7.2.2.3. January: Continue Draft AAP

7.2.2.3.1. CDBG/ESG Public Services Application Deadline

7.2.2.3.2. Application Technical Review Notifications (for ineligible applications)

7.2.2.3.3. Deadline for Appeals of Technical Review Determination

7.2.2.4. February: RFP Presentations to CH&CDC and Application Evaluation

7.2.2.5. March/April: Finalize Draft AAP.
7.2.2.5.1. If official entitlement amounts are not known, a Draft Annual Action Plan using projected entitlement award amounts will be prepared.

7.2.2.5.2. Draft AAP with funding recommendations to CH&CDC

7.2.2.5.3. Draft AAP to CH&CDC; Open 30 day public comment period –

7.2.2.5.4. Conduct Citizen Participation outreach in compliance with Citizen Participation Plan

7.2.2.5.5. Update AAP with official HUD entitlement allocations for CDBG, ESG, and HOME programs.

7.2.2.5.6. Update Draft AAP during 30 day comment period as needed. Insert comments received during public comment period/citizen participation process.

7.2.2.6. Draft subrecipient agreements per activities identified in the Draft AAP. The City Attorney shall annually review the draft CDBG sub recipient and capital projects agreements to ensure compliance with federal, state and City codes and regulations, including non-discrimination clauses and City insurance requirements.

7.2.2.7. May/June: Final AAP to City Council.

7.2.2.7.1. Following the Citizen Participation process, the City of Modesto will submit the Annual Action Plan to the San Francisco Field Office no later than May 15 of each year (45 days prior to the start of the program year) if HUD has announced official program allocations.

7.2.2.7.2. Per HUD CPD Notice CPD-16-18, HUD has directed entitlement communities to not submit the Annual Action Plan until after the fiscal year allocations have been announced. Entitlement communities may delay submission of its action plan to HUD until 60 days after the date allocations are announced, or until August 16 of the respective fiscal year, whichever comes first. This delay will give the entitlement communities time to revise its Annual Action Plan to incorporate actual allocation amounts, and to conduct any additional citizen participation, if necessary.

7.2.2.7.3. For example, if HUD were to announce the FY allocation amounts to grantees on April 28: For grantees with July 1 and August 1 program year start dates, their normal plan
submission date would be less than 60 days after HUD's announcement of allocation amounts. These grantees would also be able to postpone submission of their consolidated plan/action plan until June 26.

7.2.2.7.4. Once HUD informs grantees of their fiscal year funding allocation amounts, the City of Modesto, prior to submission, will ensure that the fiscal year funding allocation amounts are reflected in the form SF-424, in the description of resources and objectives, and in the description of activities to be undertaken.

7.2.2.7.5. Upon City Council adoption, contracts will be prepared and executed.

7.2.2.8. July 1 Beginning of Program Year

7.2.2.9. In no case may a Consolidated Plan/Action Plan be submitted to HUD later than August 16 of the respective fiscal year.

7.2.2.10. Throughout the development of the Annual Action Plan, the City of Modesto will comply with all Citizen Participation plan requirements to ensure proper public noticing, citizen participation, and public hearings are conducted. The City of Modesto's Citizen Participation Plan may be found at https://www.modestogov.com/1848/Publications-Reports.


8.1. CDBG regulations at 24 CFR 91.520 requires entitlement jurisdictions (City of Modesto) to submit an Annual Performance Report within 90 days of the close of the entitlement jurisdiction’s program year. This is in accordance with the Consolidated Plan regulations at 24 CFR Part 91.

8.2. The City of Modesto will begin to plan for the development of the Consolidated Annual Performance Evaluation Report (CAPER) in June of the year after the end of its next fiscal year – June 30. For purposes of planning the CAPER, a CAPER schedule may be developed in the month of June outlining all pertinent deadlines related to the development and adoption of the CAPER.

8.3. The following will be general milestone targets of the City of Modesto's CAPER tentative schedule (efforts will be made to follow the outlined schedule as close as possible, however, variables outside the City’s control may contribute to changes on the actual schedule):
8.3.1. June - Develop AAP schedule

8.3.2. July - Compile Data for Draft CAPER
  8.3.2.1. Begin Draft CAPER

8.3.3. August - Present Draft CAPER to CH&CDC
  8.3.3.1.1. Open 15 day Public Comment Period
  8.3.3.1.2. Conduct Citizen Participation Process

8.3.4. September - Present CAPER to City Council
  8.3.4.1.1. Submit CAPER to HUD

8.4. Throughout the development of the CAPER, the City of Modesto will comply with all Citizens’ Participation Plan requirements to ensure proper public noticing, citizen participation, and public hearings are conducted. The City of Modesto’s Citizen Participation Plan may be found at https://www.modestogov.com/1848/Publications-Reports.

9. Program and Financial Reporting

9.1. Throughout the fiscal year, the City of Modesto will comply with all reporting requirements. All attempts will be made to submit each report by the respective deadline. The following is a list of reports that the City of Modesto is required to submit as a recipient of HUD funds:
  9.1.2. HUD-92010 Equal Employment Opportunity Certification - if applicable (HUD/EEO-4)
  9.1.3. HUD-60002-Section 3 Summary Report – Due with CAPER
  9.1.4. HUD-2516 Contract and Subcontract Activity (MBE Report) – Due to HUD by April 30 and October 31.
  9.1.5. HUD-4710 Semi-Annual Labor Standards Enforcement Report – Due to HUD by April 15 and October 15
  9.1.6. All other reports/information HUD determines necessary

9.2. The City of Modesto will work with all subrecipients to ensure that they understand reporting requirements, with the understanding that the City and subrecipients share joint responsibility for carrying out permitted activities in conformance with federal requirements.
9.3. Subrecipients shall provide documentation that demonstrates the achievement of program goals and the completion of activities on quarterly basis at a minimum. All requests for reimbursement shall have adequate documentation, as determined by the City of Modesto, of how federal funds were used and that funds were used only for eligible activities. Complete records, and accurate and timely reporting, are essential to successful CDBG programs for the City and all subrecipients.

9.4. The City of Modesto Housing and Urban Development subdivision will ensure that expenditures of CDBG funds shall be drawn down using the Integrated Disbursement and Information System (IDIS) on a regular basis and not less than monthly.

10. Sub-recipient Application & Award Process

10.1. Public Services Application Release and Schedule

10.1.1. HUD allows the City of Modesto to procure, select, and fund activities in accordance with local community development goals and objectives. With respect to CDBG and ESG Public Services, the City of Modesto will annually release a Notice of Funding Availability (NOFA) to solicit public service program proposals that align with Consolidated Plan needs and objectives. The CDBG/ESG Public Services NOFA schedule will align with the development of each year’s Annual Action Plan (see Section 7.2 above for information about each year’s NOFA schedule).

10.1.2. With respect to Public Service funding, the City of Modesto will make available up to fifteen percent (15%) of the total CDBG allocation for the program year for Public Services.

10.1.3. For ESG award purposes, the City of Modesto will competitively award 82.5% of the ESG allocation for the program year to Homeless Service Providers and 10% to HMIS eligible activities. The remaining 7.5% of the ESG allocation will be used for ESG City of Modesto administrative purposes in accordance with ESG regulations.

10.2. Solicitation of Applications for CDBG Funds

10.2.1. In order to ensure maximum participation, the City of Modesto will issue a Notice of Funding Availability (NOFA) and distribute via email to established email groups, mail, and/or the City of Modesto’s website. Whenever necessary, the City of Modesto may publish notices in the local newspaper (The Modesto Bee/Vida en el Valle) and/or issue a press release to the local media.

10.2.2. Prospective applicants shall pay close attention to the NOFA Guidelines when preparing their project proposal/application. The NOFA Guidelines will include key information including but not limited to eligible activities, eligible applicants, organizational capacity, consistency with Consolidated Plan, and Evaluation Criteria.
Further, the NOFA Guidelines will provide a calendar of events that will include the following information: Application Period, Mandatory Technical Workshop, Application Deadline, Proposal Presentations, Public Comment Period Opening, Public Comment Period Closing, and Annual Action Plan Submittal to HUD.

10.3. Application Requirements

10.3.1. Applicants must apply for funds during the open application period using a web-based application program (e.g. - ZoomGrants™) as indicated by the City of Modesto. All applicants must submit a Master application detailing the proposed program, goals, measurable objectives and agency/program finances.

10.3.2. As part of the application packet, all applicants must submit sufficient documentation within the various required exhibits to substantiate the applicant’s ability to comply with the stringent CDBG requirements if an award is granted.

10.3.3. All applicants must submit all requested documents within the web-based system including but not limited to the documents listed in this section. Any application lacking the following documentation and/or the criteria described for each will be considered incomplete and may be disqualified from the application process:

10.3.3.1. Completed Web-Based Application: All questions must be completed in their entirety.

10.3.3.2. Executive Summary: Executive summary of project proposal. Must include detailed information about the project purpose, target population, service area, proposed objectives, performance indicators, proposed outcomes. The executive summary must discuss the level of involvement and agency’s role within the Focus on Prevention efforts as well as the level of coordination with other service providers to reduce duplication of services.

10.3.3.3. Board of Directors Agenda and Minutes: Board of Directors minutes must specifically authorize applicant to submit an application to the City of Modesto and specify application type (i.e. CDBG/ESG/HOME). In compliance with internal control requirements per 24 CFR 85.20(b)(3)to(b)(6) and 84.21(a)(3), Board of Directors must not include members acting as staff or in any other capacity that may be perceived as a conflict of interest.

10.3.3.4. Articles of Incorporation: Articles of Incorporation Stamped by the Secretary of State of the State of California.
10.3.3.5. **Organization By-Laws:** Organization By-Laws (with Secretary's Certificate/Signature).

10.3.3.6. **California Franchise Tax Board Tax Exempt Status Letter**

10.3.3.7. **Internal Revenue Service (IRS) Federal Tax-Exempt Status Letter**

10.3.3.8. **Certified Audit and/or Financial Statement (most recent):** Must be prepared by a Certified Public Accountant/Independent Auditor.

10.3.3.9. **IRS 990:** IRS 990 Tax Return for the most recently ended fiscal year. If the 990 Tax Return has not been completed by the time of the open Application Period, applicant can submit a copy of their extension form.

10.3.3.10. **City of Modesto Business License:** Business License must be current and its use must comply with City of Modesto Municipal Code of Ordinances.

10.3.3.11. **Organization Chart:** Most recent/updated organizational chart.

10.3.3.12. **Board of Directors Roster:** Most recent/updated Board of Directors roster.

10.3.3.13. **Certifications/Fingerprinting Clearance:** All CDBG/ESG funded staff working with children must be fingerprinted. Provide copies of applicable licenses, evidence of fingerprinting clearance, if applicable, and/or certifications pertaining to the project or component that will use CDBG/ESG funds.

10.3.3.14. **NEPA Environmental Review Form:** Completed NEPA environmental review form with original signature.

10.3.3.15. **Fee Schedule (if applicable):** Charging fees is generally discouraged when program is funded by CDBG/ESG. If fees are charged, provide a copy of fee schedule. Failure to submit the fee schedule for a fee-based project will render application as disqualified.

10.3.3.16. **Site Control Documentation:** Documentation/evidence of site control (i.e. lease, MOU, or other form of legal agreement). Evidence of site control must be current and meet the current City business permitting guidelines.

10.3.3.17. **Service Area Map:** If the project provides service on an area basis, attach a map showing the area to be served that includes the eligible Census Tracts and Block Groups being served.
10.3.3.18. **Staff Resumes:** Copies of resumes for program staff who will be involved in operating/implementing the CDBG/ESG program.

10.3.3.19. **Proof of Insurance:** Copy of evidence of insurance as required by the City of Modesto. If awarded, insurance requirements must be met as outlined on the templates provided.

10.3.3.20. **Disclosure of City Relationships:** List any employees or board members of the applicant agency who are elected official, appointed members of a City of Modesto Commission/Committee, or a City employee if applicable. If not applicable, upload a note on company letterhead indicating “Not Applicable”.

10.3.3.21. **Professional References:** Provide contact information of three (3) partner agencies, non-profits, service providers, or public/private agencies. Any letters of support must be dated within the last 30 days.

10.3.3.22. **Budget Detail and Support:** If needed, provide additional budget detail and supporting documentation for costs and sources of funds. This may be used to further support/explain the proposed program budget. If not applicable, upload a note on company letterhead indicating “Not Applicable”.

10.4. **Technical Assistance to Applicants**

10.4.1. A mandatory Application Orientation/Technical Assistance workshop is held for all prospective applicants each year. The purpose of the workshop is to explain the NOFA Guidelines, any program changes, the application process, and answer any questions relating to funding requirements, criteria, and priorities.

10.4.2. Community Development Programs staff will present and answer questions on program guidelines, applicant and activity eligibility requirements, the National Objectives for the programs, local objectives and priority activities in the City's five-year Consolidated Plan, and application requirements.

10.4.3. Staff will be available for technical assistance from the beginning of the application period until 4:00 p.m. on the deadline date for submission.

10.5. **Technical Review of Applications by City Staff**

10.5.1. City of Modesto staff will conduct a technical review of all applications upon submission to ensure that:

10.5.1.1. Applications are complete;
10.5.1.2. Program proposal meets one of the CDBG National Objectives; and
10.5.1.3. Consistency with City of Modesto Consolidated Plan

10.5.2. The technical review will include a review of the applicant organization to ensure that the applicant is an eligible nonprofit organization. This will generally be determined by

10.5.2.1. Reviewing the documentation within the various required exhibits to substantiate the applicant’s ability to comply with the stringent CDBG requirements if an award is granted.

10.5.2.2. Ensuring that the applicant is not excluded from conducting business with any federal agency by conducting a search on the federal System for Award Management website at www.sam.gov.

10.5.3. Upon technical review completion, City of Modesto staff will notify the applicant and provide an opportunity correct any errors or omissions on their application. Applicants will be given a specific timeframe to make corrections and finalize application. After the final deadline, further access to the application by the applicant will be blocked.

10.5.4. City staff will provide a technical review summary to the Application Review Committee that will reflect applicant responsiveness to application requirements.

10.6. Application Review Committee: Citizens Housing and Community Development Sub-Committee (CHCDC)

10.6.1. A subcommittee composed of five (5) members of the Citizens Housing and Community Development Committee (CHCDC) will act as the Application Review Committee. The Application Review Committee will review and score all application submissions.

10.6.2. CHCDC members may volunteer or be appointed by the Chairperson of the CHCDC to the Application Review Committee.

10.6.3. The Application Review Committee shall review applications thoroughly and shall evaluate the proposals on the basis of:

10.6.4. Past Performance, if funded in previous years. City Staff will provide past performance reports to the Application Review Committee which will include but will not be limited to:

10.6.4.1. The amount of CDBG/ESG funds received by an applicant organization from the City in the past three (3) years, if any;
10.6.4.2. The extent to which previously-funded organizations have met program objectives, satisfied contract obligations, and expended allocated funds in an efficient, appropriate and timely manner;

10.6.4.3. Information provided in the application;

10.6.4.4. Information provided in the applicant presentation/interview;

10.6.4.5. Rating Criteria;

10.6.5. Application Review Committee members judge applications solely on the merits of the application and the objective criteria. Members should not be influenced by their personal convictions or viewpoints. If a member feels that she/he cannot judge an application fairly and impartially, conflict of interest provisions as discussed in this manual shall apply.

10.7. Conflict of Interest Declarations

10.7.1. Before discussion of applicant organizations and agencies, Application Review Committee members shall declare relationships, if any, with applicant organizations or persons associated with the applicants.

10.7.2. This may include:

10.7.2.1. Serving as a Board member of or volunteer in an applicant agency or organization;

10.7.2.2. Membership or participant in activities of an applicant agency or organization;

10.7.2.3. Direct contributor to an applicant agency or program;

10.7.2.4. Beneficiary of the activities or services of an application agency or program; and

10.7.2.5. Any connection with the applicant that would constitute or that could be perceived to constitute a conflict of interest.

10.7.3. When a member has a perceived or real conflict of interest with an applicant organization, the member shall refrain from ranking the application and shall withdraw from the interview with the applicant and any discussion of the merits of the application.

10.7.4. Members shall also declare any personal interest in an organization that is in direct competition with an applicant organization that may cause them to rank the application other than strictly on the merits of the application.

10.7.5. Committee members who have been involved with the preparation of an application shall withdraw from consideration of that application.
10.8. Applicant Presentation/Interviews

10.8.1. Applicants will have the opportunity to provide a 10-minute presentation before the Application Review Committee to explain their proposed program and funding request.

10.8.2. Following the applicant presentation, there will be a five (5) minute question and answer period. While questions will be primarily driven by the Application Review Committee, City program staff may also ask clarifying questions relevant to the application proposal to further assist the Application Review Committee in the proposal evaluation.

10.8.3. Following the five (5) minute question and answer period, the Application Review Committee will have 5 minutes to score the proposal and prepare for the following presentation.

10.8.4. Time will be strictly enforced as feasibly possible to be fair to all participants and to stay on schedule.

10.9. Rating Criteria

10.9.1. Upon reviewing and conducting application presentation and interview, the Application Review Committee will use an application scoring sheet prepared by CEDD staff that include the following rating factors to objectively evaluate and score each application proposal:

10.9.1.1. URGENCY/PERSISTENCE OF NEED
10.9.1.2. DESIGN
10.9.1.3. BUDGET/FINANCIAL MANAGEMENT CAPACITY
10.9.1.4. FUND DEVELOPMENT
10.9.1.5. COLLABORATION

10.9.2. Specific criteria definitions will be provided within the Notice of Funding Availability Guidelines released annually.

10.9.3. From time to time, there may be a need to incorporate additional application scoring criteria corresponding to local initiatives or special programs (i.e. bonus points for applicant willingness to carry out special program components). In every case, the NOFA Guidelines will specify if additional criteria applies and will be disclosed during the Mandatory Technical Workshop.
10.10. Application Review Committee Funding Recommendations

10.10.1. At the conclusion of Application Review Committee’s rating of all applications, City staff will compile scoring results and will share scoring results with the Application Review Committee on the same day.

10.10.2. All applications with a score of 70 points or greater will be funded by multiplying the amount requested times the application score, as a percent [i.e. Amount requested = $30,000; Score = 92.2 ($30,000 x 92.2% = $27,660)]. This method will be applied beginning with the highest score down to the 70 point mark or until funds are exhausted.

10.10.3. Any remaining funds after the 70 point score threshold will be used to fund Community Based Public Service needs identified by community groups and relayed to City staff during community meetings/Citizen Participation outreach process.

10.10.4. Draft scoring and funding results will be presented to the CHCDC at the monthly meeting following the Applicant Presentations/Interviews.

10.10.5. The CHCDC will deliberate on the Subcommittee’s recommendations. Final recommendations will be approved by majority vote. City staff will present these CHCDC recommendations to Modesto City Council, which will ultimately determine funding awards.

10.10.6. In years when CDBG entitlement amount is not known, an estimated amount will be used. The amount of funds awarded may be adjusted per City Council-approved contingency plan. This plan will be utilized when the CDBG entitlement differs from the estimate. The plan ensures the City does not exceed the fifteen percent (15%) public services cap.

10.11. CDBG/ESG Public Service Award and Denial Notification and Appeal Process

10.11.1. CDBG/ESG applicants will be notified in writing of the Application Review Committee funding recommendations upon release of the Draft Annual Action Plan. The written notification will provide each applicant application rank and score information and whether or not application will be recommended for funding.

10.11.2. Appeal Process

10.11.2.1. Any applicant that maintains its proposal has been wrongly determined to be ineligible may submit a written response to the Community Development
Manager within seven (7) business days of notification. The written response must include specific details that address/cure the ineligibility determination(s) issued.

10.11.2.2. City Staff will schedule an in person meeting (Technical Assistance) with applicant representatives to discuss the factors/compliance issues that have deemed the application in the view of the Application Review Committee. City Staff will use this opportunity to provide technical assistance to be considered by the applicant in future funding cycles. After meeting with the applicant, staff will confirm the discussion in writing by sending a follow up letter outlining the Technical Assistance points of discussion.

10.11.2.3. This appeal process does not provide an opportunity to revise proposals, nor does it guarantee that determinations will be overturned.

10.12. Public Participation and City Council Action
10.12.1. Responsibility for the appropriation of all CDBG/ESG funds resides with the City Council, which considers the advisory input of the CHCDC, however HUD regulations require a certain level of public participation. Public participation will be accomplished through a series of public meetings and an opportunity for public comment on the annual Action Plan prior to the submission of the plan to HUD. The City will follow its Citizen Participation Plan to comply with HUD Citizen Participation requirements.

11. Subpart K – Other Program Requirements
11.1. Subpart K sets forth certain additional program requirements which are determined to be applicable to CDBG grants provided as a matter of administrative discretion. The Community Development Programs Staff shall incorporate the following additional program requirements as per § 570.600 through § 570.614 as applicable.

11.2. Affirmatively Furthering Fair Housing/Non-discrimination
11.2.1. § 570.601
11.2.2. The City as a recipient of CDBG funds shall ensure that subrecipients comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination including language access for limited English proficient persons), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in
education and training programs), the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services), and a variety of program-specific statutes with nondiscrimination requirements.

11.2.3. Programs may target particular groups for services without violating guidelines regarding equal access to services, so long as any member of the particular group—e.g., any senior for a senior services program, any school-age child for a neighborhood-based afterschool program—is able to participate in the program.

11.2.4. The City shall ensure that provisions of Executive Order No. 11246 of September 24, 1965, as amended, regarding Equal Employment Opportunity are carried out on all CDBG funded projects or activities, and that subrecipients agree to and abide by federal (FHEO) and state (CA DFEH) fair housing and equal opportunity requirements for non-discrimination with regard to access to services or housing provided by a subrecipient.

11.2.5. The City will further ensure that provisions of Executive Order 13166, "Improving Access to Services by Persons with Limited English Proficiency," are carried out by subrecipients to improve access to CPD programs and activities by eligible persons with limited English proficiency (LEP).

11.3. Section 109 - Prohibitions against Discrimination

11.3.1. § 570.602

11.3.2. The City and all subrecipients shall adhere to Section 109 of the Act which requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs.

11.4. Labor Standards

11.4.1. § 570.603

11.4.2. Whenever CDBG funds in excess of $2,000 are allocated for construction projects (excluding homeowner occupied residential rehabilitation and first-time homebuyer activities), the City, subrecipient and any contractor(s) shall abide by requirements of Davis Bacon and Related Acts (DBRA) for prevailing wages and of Section 3 economic opportunities for low and very low-income persons. The City shall provide appropriate guidance to both subrecipient and contractor regarding DBRA
requirements, including wage determinations, and Section 3 requirements as applicable to all CDBG-funded projects.

11.4.3. Labor Standards Enforcement

11.4.3.1. The City of Modesto Community Development Division has developed Federal Labor Standards Enforcement Guidelines. These guidelines will be provided to the respective City Department, subrecipient, or contractor responsible for contract oversight. The Federal Labor Standards Enforcement Guidelines will be enforced throughout the implementation of any applicable HUD funded activities by City of Modesto Community Development Division staff.

11.5. Environmental Review

11.5.1. 24 CFR part 58 § 570.605 § 570.604

11.5.1.1. The environmental review procedures set forth at 24 CFR part 58 must be completed for each activity (or project as defined in 24 CFR part 58), as applicable. Contracts will not be executed with subrecipients and expenditures for City-managed projects will not be approved until environmental review is complete. State (CEQA) environmental regulations requirements will also be considered. Environmental review forms and documents must be signed by the appropriate staff preparing the environmental review and the Certifying Officer.

11.5.1.2. The City will ensure that all Finding of No Significant Impact (FONSI) and Request for Release of Funds (RROF) requirements are completed for capital improvement projects and housing rehabilitation projects prior to initiation of project activities.

11.6. Citizen Participation

11.6.1. Throughout the implementation of HUD grant programs, the City of Modesto will comply with all Citizen Participation plan requirements to ensure proper public noticing, citizen participation, and public hearings are conducted. The City of Modesto’s Citizen Participation Plan may be found at https://www.modestogov.com/1848/Publications-Reports.

11.7. Relocation

11.7.1. §570.606

11.7.1.1. In the event of any temporary or permanent relocation of residents or businesses as a result of CDBG-funded activity, the City will follow § 570.606 - Displacement, relocation, acquisition, and replacement of...
housing as applicable and/or its Relocation Plan as set forth in the Citizen Participation Plan. The Plan shall be updated as needed to adhere to HUD Handbook 1378, *Real Estate Acquisition and Relocation Policy and Guidance*.

11.8. **ADA Requirements**

11.8.1. The City will abide by HUD regulations in Section 504, HUD's implementation of the American with Disabilities Act, to ensure that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving CDBG funds. The City will include monitoring for Section 504 compliance as part of the annual monitoring of HUD Entitlement funded programs/projects. Monitoring will include inspection of facilities in which CDBG-funded program are offered to ensure that the facilities are accessible to persons with disabilities.

11.9. **Financial Management**

11.9.1. Subrecipients will be paid on a reimbursement basis upon receipt of a Request for Funds reimbursement form with all supporting documentation.

11.9.2. Reimbursement of funds to contractors for capital projects will be paid directly to the contractor or vendor.

11.9.3. Reimbursement payments will be made only upon presentation of invoices from the contractor or vendor and approved for payment by the Community Development Program Staff responsible for Labor Standards review.

11.9.4. Final payments to subrecipients will be made only upon submission of final program reports that document the achievement of program goals and satisfactory completion of the CDBG-funded activity.

11.9.5. Each request for payment must have adequate documentation for the costs incurred such as payroll records, purchase orders, copies of canceled checks, timesheets reflecting time spent directly on CDBG activities, etc. Requests must be only for costs directly related to the approved activity and included in the approved budget attached to the contract.

11.9.6. Subrecipients may not use CDBG funds for general administrative costs or "overhead" costs, unless the subrecipient has established a cost allocation for such costs, applicable to all subrecipient activities regardless of funding source.
11.9.7. Subrecipients will be required to submit requests for reimbursement on a quarterly basis, unless otherwise approved by Community Development Division staff.

11.9.8. The City will not request CDBG funds in advance or as "float" funds from the U.S. Treasury.

11.10. **HMIS Participation**

11.10.1. CDBG/ESG-funded projects designed to assist persons experiencing homelessness or designed to prevent homelessness are required to participate in the Homeless Management Information System (HMIS) of the Stanislaus County Continuum of Care (CoC) and regularly attend CoC meetings and participate in CoC related matters. Furthermore, subrecipients are required to execute an HMIS Data Sharing Agreement to share HMIS Universal Data Elements to more effectively utilize and enhance HMIS data quality.

11.11. **CDBG Sponsored Identification Requirement**

11.11.1. Sub-recipients and subcontractors receiving CDBG funds from the City of Modesto, shall ensure that all CDBG-funded programs and activities are clearly identified to participants and the public as those of the CDBG program, and that these programs and activities do not appear to be an extension of the programs and activities of any private organization or public institution. To comply with this requirement, a notification to be worded as follows shall be clearly posted or otherwise displayed: "This project is funded in whole or in part with Community Development Block Grant (CDBG) Program funds provided by the U.S. Department of Housing and Urban Development (HUD)."

11.12. **Section 3 Compliance**

11.12.1. The requirements for Section 3 of the Housing and Urban Development Act of 1968, as amended (Section 3) applies to capital projects and housing development projects that exceed $200,000 in HUD funding. Subcontractors receiving an excess of $100,000 from projects required to comply with Section 3 shall also be required to comply with Section 3 requirements. These requirements are listed in the CDBG Agreement.

12. **Monitoring of Subrecipients**

12.1. The City of Modesto (the recipient) and its subrecipients must have written policies and procedures to ensure that CDBG, HOME, and ESG funds are used in accordance with HUD requirements and sufficient records to enable HUD, and the recipient to determine whether
ESG requirements are being met. [24 CFR 576.500(a)]

12.2. As the lead agency for HUD Entitlement funds, the City of Modesto will monitor all subrecipients on a regular basis through written contacts, phone conversations, electronic information transfers, face-to-face monitoring visits (at least once annually), and project file review, pursuant to applicable regulation.

12.3. Monitoring will be conducted to ensure statutory and regulatory requirements are being met and that information submitted to City of Modesto is accurate and complete.

12.4. Monitoring will normally be conducted utilizing a three (3) tiered approach, depending upon the risk involved:

12.4.1. Limited Review
12.4.1.1. A limited review will be conducted of all subrecipients and projects on an annual basis. The timing of this monitoring will be in alignment with an organization’s submittal of a Quarterly Performance Report and an Invoice for Payment for expenses incurred against their City grant over the previous 90 days.
12.4.1.2. At least one quarter review will focus on the year-end financial statement or audit, and where applicable, the Single Audit. If the Single Audit contains audit findings or contains a management letter, the subrecipient will be selected for an in-depth review. The goal of a Limited Review is to provide clarification to a specific unknown submission that cannot be determined from the subrecipient reports, and to identify areas of technical assistance needed by each subrecipient.

12.4.2. On-Site Monitoring Review
12.4.2.1. An on-site monitoring review will be a site visit to a subrecipient program assisted with HUD funds and will achieve a balance between programmatic and fiscal reviews, and much documentation review can be done prior to the on-site visit. The on-site monitoring includes a tour of the program facilities as appropriate, an explanation of the services provided, discussions with program and administrative staff, and introduction to one or more actual beneficiaries, if possible. As a result of this visit, staff will determine whether an in-depth review is needed for further clarification of one or more issues identified during the on-site visit.
12.4.2.2. **A Program review** will focus on the specific subrecipient program activities. Program staff may be asked to define the strategic plans for the related programs and, as applicable, how those plans are used to help clients in those programs.

12.4.2.3. **A Financial review** will make the connections between the program budget, expenditures and actual beneficiaries assisted, including evidence of case managers time in client files, reviewing payroll documents for the period clients are reported, determining eligibility of clients based on income documentation in client files, the general relationship between the contents of client files (excluding Attorney Client or HIPAA confidential data) and benefit data reported by the subrecipient on the same clients.

12.4.2.4. **The number of case files** to be reviewed will reflect approximately 10% of the total clients served in the program, or more if there appear to be any systemic issues that need to be addressed.

12.4.2.5. **Invoices** may be randomly selected for review and traced back from City reimbursement to the original organization's advance expenditure and client assisted (if appropriate). For example, exact dollars billed for housing accessibility modifications can be traced directly to one client. Conversely, a different review model is required when dollars billed provided case management for multiple homeless individuals. It is expected that staff will review original invoices, cancelled checks, and other such documentation evidencing the expenditure, the relationship to the CDBG program objective, the appropriate proportion of CDBG expenditure in comparison to other funding, and accounting receipt of the federal grant funds.

12.4.3. **In-Depth Review**

12.4.4. An in-depth review will be a concentrated and focused review around a particular activity or program area. This will typically be a concentrated review of a known high-risk area or critical function, such as but not limited to:

12.4.4.1.1. Financial review for expenditures for ineligible activities,

12.4.4.1.2. Financial review for expenditures that cannot be traced through supporting documentation,

12.4.4.1.3. A program which requires donations as a condition of receiving service,

12.4.4.1.4. Management practices in affordable housing,
12.4.4.1.5. Section 504 and ADA compliance reviews upon receipt of a complaint from a person with disabilities,

12.4.4.1.6. A fair housing complaint from a home seeker treated differently while trying to obtain housing from the subrecipient,

12.4.4.1.7. Denial of services for no valid reason, or

12.4.4.1.8. Failure to meet prevailing wage requirements in construction activities subject to Davis Bacon, etc.

12.5. Administrative Process for Monitoring

12.5.1. Monitoring will be conducted in two phases. File review will generally confirm compliance with reporting requirements, financial submittals, and contract provisions and much of it will be completed prior to the onsite visit. On-site reviews will focus more on the beneficiary documentation and services provided, including quantitative performance outcomes to local and federal objectives, and financial processes and documentation only available at the program site.

12.5.2. Staff will use the risk analysis criteria identified in Section 12.4 to determine the type of monitoring approach for each subrecipient. Upon the arrangement of mutual date and time with the subrecipient, staff will send letters at least two (2) weeks in advance of the date the monitoring is to be held. The monitoring policies and checklist may be provided to the subrecipient and the letter may emphasize any specific areas of compliance to be reviewed and how files will be selected for review, as applicable.

12.5.3. At the conclusion of the monitoring visit, staff will send each subrecipient written documentation of the site visit, summarizing what was reviewed, and indicating any findings of regulatory non-compliance or concerns of program weaknesses. Additionally, staff will provide technical assistance to correct any deficiencies noted, and will acknowledge the performance level of the program, and whether they will either meet or fall short of contract goals.

12.6. Findings, Concerns & Noncompliance

12.6.1. Findings

12.6.1.1. Where an identified deficiency results in a finding of non-compliance with CDBG/ESG rules, the finding will be communicated to the subrecipient citing the finding/violation, regulatory or statutory requirement not met, and the corrective action with a deadline.
12.6.1.2. The monitoring letter should also provide timelines for response and corrections, as well as actions the City may take if the subrecipient fails to make corrections in a timely manner.

12.6.2. Concerns
12.6.2.1. Monitoring concerns will be brought to the subrecipient's attention. City staff will suggest or recommend actions that the subrecipient may take to address a concern, based on sound management principles or other guidelines. Corrective actions are not required for concerns; however City staff may offer specific recommendations and/or requests for improvement. Non-responsiveness to these concerns may impact current and future funding recommendations.

12.6.3. Actions for Non-Compliance
12.6.3.1. Subrecipients who are found to be in non-compliance and receive a finding as a result of their monitoring will be provided with technical assistance towards resolution, and actions taken by the City to achieve compliance may include, but not be limited to, withholding further disbursements of CDBG funds until satisfactory compliance with applicable regulations are achieved.

12.6.3.2. City staff will offer technical assistance to subrecipients when monitoring indicates less than complete compliance with CDBG regulations or contract requirements. Such assistance may include, but is not limited to, providing applicable copies of Office of Management and Budget (OMB) circulars, in particular OMB Circular No. A-122 Cost Principles for Nonprofit Organizations. In addition, the latest edition of Playing by the Rules guidance for CDBG subrecipients may be provided.

13. CDBG Timeliness
13.1. Entitlement jurisdictions that receive CDBG funds, such as the City of Modesto, are required to use CDBG funds in a timely manner. Per 24 CFR 570.902, the HUD standard requires that entitlement jurisdictions not have more than 1.5 of its annual grant in its line of credit 60 days prior to the close of the program year. That date is April 30th for the City of Modesto.

13.2. The penalty for noncompliance may include sanctions, such as the loss of future CDBG funding. As such, CDBG funds are subject to reprogramming by the City if a City Project or
sub-recipient activity is no longer feasible and/or there is lack of activity and expenses within the first six months of the date of the allocation.


14.1. Sub-recipients receiving CDBG funds shall adhere to all other requirements set forth in the Playing by Rules Handbook, as provided through the City of Modesto’s CDBG Program: https://www.hudexchange.info/resource/687/playing-by-the-rules-a-handbook-for-cdbg-subrecipients-on-administrative-systems/
RESOLUTION APPROVING THE RENEWAL OF THE MICROSOFT ENTERPRISE AGREEMENT (MSEA) FOR THE MICROSOFT ENTERPRISE PRODUCTS THROUGH THE COUNTY OF RIVERSIDE COOPERATIVE AGREEMENT NO. RIVCO-20800-009-12/19 WITH INSIGHT PUBLIC SECTOR FOR AN ESTIMATED COST OF $80,000 ANNUALLY OR $240,000 OVER THREE YEARS, AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE TO SIGN THE AGREEMENT

WHEREAS, the City of Modesto has standardized on Microsoft products for its desktop, email, server operating systems and office applications, and

WHEREAS, the Microsoft Enterprise Agreement is a comprehensive volume licensing program that offers substantial cost savings over standard license pricing and,

WHEREAS, the Microsoft Enterprise Agreement requires renewal and,

WHEREAS, the County of Riverside has completed a recent formal Request for Quotation process for Microsoft Enterprise Agreement licensing and selected Insight Public Sector as the company with the most responsive and responsible bid and,

WHEREAS, the County of Riverside Cooperative Agreement (No. RIVCO-20800-009-12/19) is intended to be available and leveraged by government agencies throughout the State of California as a cooperative agreement and,

WHEREAS, based on the availability of the cooperative agreement, staff finds that the justification meets the City’s purchase criteria as identified under the Modesto Municipal Code 8-3.202(h) and

WHEREAS, on February 28, 2017, the Council approved Resolution No. 2017-86 implementing a spending freeze in order to maintain fiscal sustainability of the City. As allowed by this resolution, the City Manager’s Office approved an exception to this
freeze for this procurement. Justification for this exception is based upon the City's use of Microsoft products to conduct business.

WHEREAS, funds are budgeted in Fiscal Year 2016-17, in Appropriation Unit: 5230-17810-53100 (Information Technology Fund).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the renewal of the Microsoft Enterprise Agreement by accessing the terms of the Riverside County cooperative agreement with Insight Public Sector, Inc. Tempe, AZ, for an estimated cost of $240,000;

BE IT FURTHER RESOLVED that the Acting City Manager or his designee is authorized to sign the agreement.

BE IT FURTHER RESOLVED that the Finance Director or her 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 2nd day of May, 2017, 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, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE PURCHASE OF AN UPGRADE TO THE RECORDS MANAGEMENT SYSTEM AT THE MODESTO POLICE DEPARTMENT FROM TRITECH SOFTWARE SOLUTIONS, SAN DIEGO, CA, AND AUTHORIZING THE ACTING CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT FOR A ONE-YEAR TERM, FOR A TOTAL OF $582,202

WHEREAS, the Modesto Police Department’s current Records Management System, called IQ/RMS, has limited in-house functionality, has no viable in-field functionality for patrol personnel, and creates redundant steps for personnel to create and process police reports, and

WHEREAS, the current system is not Windows 10 compatible, and

WHEREAS, a multi-disciplinary team consisting of sworn and non-sworn Modesto Police Department and Information Technology staff was formed to research and provide a recommendation for a replacement RMS product, and

WHEREAS, staff researched various RMS products and vendors, and determined the viability of third party solutions in relation to their price and integration complexity was not a cost effective solution for the Department, and

WHEREAS, the team found the direct replacement of the current IQ/RMS system, Inform RMS, a system upgrade to the existing product, would immediately improve operational efficiency and lend ample opportunities for further enhancements to the Departments processes and how it distributes information, and

WHEREAS, Modesto Municipal Code section 8-3.204(c) is available where the Purchasing Manager, in his/her discretion, determines that calling for bids on a competitive basis is undesirable due to pressing (exigent) circumstances or that a process
other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with desired quality, and

WHEREAS, in this case, the Purchasing Manager has approved the purchase pursuant to Modesto Municipal Code section 8-3.204(c) because Inform RMS is the direct replacement to the IQ/RMS system, and is a system upgrade to an existing product used at the Police Department, and

WHEREAS, the current vendor, TriTech Software Solutions, in an effort to retain the Modesto Police Department as a customer, offered an upgrade credit of nearly $366,000, and

WHEREAS, the Chief Information Officer was involved in the overall selection process and approved of staff’s recommendation to purchase the Inform RMS product.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of an upgrade to the Records Management System at the Modesto Police Department from TriTech Software Solutions, San Diego, CA.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute the one-year agreement, in a form approved by the City Attorney, in the amount of $582,202.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, 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, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO AMEND THE FISCAL YEAR 2016/2017 OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO APPROPRIATE EXPENDITURES OF APPROXIMATELY $582,202 FOR THE MODESTO POLICE DEPARTMENT'S PURCHASE OF AN UPGRADE TO THE RECORDS MANAGEMENT SYSTEM

WHEREAS, the Modesto Police Department's current Records Management System, called IQ/RMS, has limited in-house functionality, has no viable in-field functionality for patrol personnel, and creates redundant steps for personnel to create and process police reports, as well as not being Windows 10 compatible, and

WHEREAS, a multi-disciplinary team consisting of sworn and non-sworn Modesto Police Department and Information Technology staff was formed to research and provide a recommendation for a replacement RMS product, and

WHEREAS, the team found the direct replacement of the current IQ/RMS system, Inform RMS, a system upgrade to the existing product, would immediately improve operational efficiency and lend ample opportunities for further enhancements to the Department's processes and how it distributes information, and

WHEREAS, the current vendor, TriTech Software Solutions, in an effort to retain the Modesto Police Department as a customer, offered an upgrade credit of nearly $366,000, and

WHEREAS, the expenses for the initial purchase of the Inform RMS upgrade ($582,202) will come from 2015-16 State Law Enforcement Supplemental Funding ($210,038); MPD Asset Forfeiture Funds ($180,000); and existing appropriations in the Police Department's Operating Budget for FY2016-17 in cost center 19210 – 53505 –
Intergovernmental Services – Other ($82,763) and cost center 19320-57005 – Information Technology Equipment >$5k ($109,401) for a total of $192,164 funded from the General Fund, and

WHEREAS, included in the agreement is an annual maintenance fee for one year for costs of approximately $72,371, and each additional year will be incorporated into the Police Department’s annual budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2016/2017 Operating and Capital Improvement Budgets to appropriate expenditures for the first year of approximately $582,202 for the Modesto Police Department’s purchase of an upgrade to the Records Management System.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to amend the Fiscal Year 2016/2017 Operating and Capital Improvement Budgets in conformance with this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, 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, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH PROVOST & PRITCHARD CONSULTING GROUP, INC., MODESTO, CA, FOR DESIGN SERVICES FOR THE STRENGTHEN AND REPLACE LA LOMA NEIGHBORHOOD – EL VISTA AVENUE TO RIVERSIDE DRIVE PHASE 1 PROJECT, IN AN AMOUNT NOT TO EXCEED $97,918 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $9,792 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $107,710, AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, this project will replace and upgrade deficient water mains, associated valves, and fire hydrants to improve system reliability, flows and pressure, and

WHEREAS, the project area is bounded by Encina Avenue on the north, Trask Lane on the east, El Vista Avenue to the west and Yosemite Boulevard to the south, and

WHEREAS, existing water mains in the project area are aged, undersized steel mains, which are prone to leaking and low pressure, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, a Request for Proposal (RFP) was sent to four pre-qualified local consultants for Civil Engineering Services for Capital Improvement Program Projects, and

WHEREAS, on March 8, 2017, staff received and distributed three proposals to a selection committee consisting of Utilities engineering staff, and

WHEREAS, the selection committee evaluated the proposals and determined Provost & Pritchard Consulting Group, Inc. (P&P), to be the most qualified and responsive, and
WHEREAS, P&P’s sealed cost proposal was opened after the selection ranking had been finalized, and

WHEREAS, P&P’s proposal cost and scope were reviewed and determined to be reasonable to provide design services, and

WHEREAS, the scope of services to be provided under the agreement includes:

1) Project Management; 2) Meetings with City & Caltrans staff; 3) Topographic Survey; and 4) Preparation of Plans, Specifications and Preliminary Cost Estimates, and

WHEREAS, the design services for Strengthen and Replace La Loma Neighborhood – El Vista Avenue to Riverside Drive Phase 1 Project falls within the scope of services of P&P’s proposal, and

WHEREAS, on February 28, 2017, by Resolution No. 2017-86, Council approved implementing a spending freeze in order to maintain fiscal sustainability of the City, and

WHEREAS, as allowed by this resolution, the City Manager’s Office approved an exception to this freeze for this procurement, and

WHEREAS, justification for this exception is that the project is already approved and adopted as part of the current FY2016-17 Capital Improvement Program, and is needed to provide safe and reliable water distribution, and

WHEREAS, there are sufficient funds available in Water Fund Reserves for the necessary budget amendment, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement, and
WHEREAS, however, staff proceeded through a RFP process pursuant to Administrative Directive 3.1, and

WHEREAS, staff recommends approval of the agreement with Provost & Pritchard Consulting Group, Inc. for design services for the Strengthen and Replace La Loma Neighborhood – El Vista Avenue to Riverside Drive Phase 1 Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Provost & Pritchard Consulting Group, Inc., Modesto, CA, for design services for the Strengthen and Replace La Loma Neighborhood – El Vista Avenue to Riverside Drive Phase 1 Project, in an amount not to exceed $97,918 for the identified scope of services, plus $9,792 for additional services (if needed), for a maximum total amount of $107,710.

BE IT FURTHER RESOLVED that the Acting 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 2nd day of May, 2017, 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, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST:  
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2017-170

RESOLUTION AMENDING THE FISCAL YEAR 2016-17 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF $115,000 TO BE TRANSFERRED INTO THE PROJECT FROM WATER FUND RESERVES IN ORDER TO FULLY FUND THE DESIGN SERVICES INCLUDING STAFF TIME FOR THE STRENGTHEN AND REPLACE LA LOMA NEIGHBORHOOD – EL VISTA AVENUE TO RIVERSIDE DRIVE PHASE 1 PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $115,000, in order to fund the consultant agreement plus City staff support for the Strengthen and Replace La Loma Neighborhood – El Vista Avenue to Riverside Drive Phase 1 Project, 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, attached hereto.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, 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, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
Exhibit A

Due to consultant agreement costs plus staff time being higher than initially budgeted for the project, line item increases/decreases are necessary for CIP Account #100953 “La Loma-El Vista to Riverside”, and the total project costs need to be increased by $115,000. This would be done by adjusting Eng/Design/Admin by $115,000.

To fund the above account, $115,000 will be transferred from Water Fund Reserves into CIP Project 100953 for the Strengthen and Replace La Loma Neighborhood – El Vista Avenue to Riverside Drive Phase 1 Project.
RESOLUTION APPROVING AMENDMENT NO. 6 TO THE KIERNAN BUSINESS PARK SPECIFIC PLAN TO FURTHER DEFINE ALLOWABLE AND CONDITIONAL USES IN THE BUSINESS PARK LAND USE DESIGNATION OF THE SPECIFIC PLAN, PARTICULARLY REGARDING ANCILLARY RETAIL USES

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt specific plans for the systematic implementation of the General Plan and to provide for a greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, on April 1, 1997, the City Council by Resolution No. 97-159 adopted the Kiernan Business Park Specific Plan, and

WHEREAS, Government Code Section 65453 permits the amendment of specific plans as often as deemed necessary by the legislative body, and

WHEREAS, on November 4, 1997, the City Council by Resolution No. 97-631 adopted Amendment No. 1 to the Kiernan Business Park Specific Plan to add language to allow for changes in utility service providers, and

WHEREAS, on April 7, 1998, the City Council by Resolution No. 98-170 adopted Amendment No. 2 to the Kiernan Business Park Specific Plan to add language to permit indoor theaters in the Regional Commercial Designation within a Planned Development Zone, and

WHEREAS, on August 10, 2004, the City Council by Resolution No. 2004-424 adopted Amendment No. 3 to modify the land use and circulation diagrams and development standards for the Kaiser Medical Center site, to revise the planned street
system in the future business park, and to incorporate design standards into the Specific Plan, and

WHEREAS, on September 1, 2009, the City Council by Resolution No. 2009-420 adopted Amendment No. 4 to re-designate 39 acres located on the east side of Dale Road between Kiernan Avenue and Bangs Avenue from Business Park to Mixed Use and Medium-High Density Residential, to modify the circulation plan, incorporate Mixed Use and Medium-High Density Residential design standards and guidelines, and establish facilities plans for the area bounded by Kiernan Avenue, Dale Road, Bangs Avenue, and American Avenue, and

WHEREAS, on December 15, 2015, the City Council by Resolution No. 2015-499 adopted Amendment No. 5 to amend storm drain provisions and to clarify and simplify land use and development standard regulations, and

WHEREAS, on April 3, 2017, at 6:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed specific plan amendment, and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2017-08, recommended to the City Council approval of the proposed Amendment No. 6 to the Kiernan Business Park Specific Plan to further define allowable and conditional uses in the Business Park land use designation of the Specific Plan, particularly regarding ancillary retail uses, and
WHEREAS, said matter was set for a public hearing of the City Council to be held on May 2, 2017, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that all recitals above are true and correct and incorporated as part of this Resolution.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

1. The proposed amendment to the Kiernan Business Park Specific Plan is consistent with the General Plan, because the project site is located within the Business Park (BP) land use designation of the City of Modesto Urban Area General Plan, with land uses as prescribed by the Kiernan Business Park Specific Plan. The Specific Plan amendment clarifies some ambiguity regarding land uses in the BP designation. The clarification will help meet the goal of high quality business and industrial center for the BP designation in conformance to the General Plan.

2. The proposed amendment is consistent with the Kiernan Business Park Specific Plan policies and standards because the clarification to the land uses will define the limits for retail and personal service uses and will preserve predominantly office and light industrial uses in the BP designation. The Specific Plan amendment also allows a gas station with convenience store as a new allowable use along Dale Road because it is an appropriate use serving the employees of the business park.

3. The proposed amendment is compatible with surrounding and existing planned uses because the proposed land use changes provide clarification of uses and not intensification of uses. The Addendum, attached to Resolution No. 2017- , prepared for this amendment analyzed the potential noise and traffic impacts of the amendment and concluded that there would be no additional impacts beyond those identified in the Kiernan Business Park Amendment No. 4 EIR.

4. The proposed amendment to will not have a visual impact because the design guidelines that will apply Kiernan Business Park Specific Plan are not being changed.

5. The proposed amendment will not have a significant traffic impact because gas stations with convenience stores being an allowable use will not result in increased trips that would require a traffic study, and would not change the Kiernan Business Park Amendment No. 4 EIR’s
conclusions regarding the intensity and location of significant traffic impacts.

6. The proposed amendment will not impact infrastructure or financing plan because no changes are proposed affecting either plan.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Kiernan Business Park Specific Plan is hereby amended to further define allowable and conditional uses in the Business Park land use designation of the Specific Plan, particularly regarding ancillary retail uses, as shown on Exhibit "A" attached hereto and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal, Mayor Brandvold

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
Exhibit A

Kiernan Business Park Specific Plan Amendment No. 6
City of Modesto

Determination:
Project within the Scope of the
Kiernan Business Park Specific Plan Amendment #4
Environmental Impact Report (SCH# 2007062071)
for:

Kiernan Business Park Specific Plan Amendment #6

Prepared by:

City of Modesto
Community & Economic Development Department
Planning Division

March 2, 2017
WRITTEN CHECKLIST

EA/C&ED No. 2017-08

I. Purpose

This written checklist is prepared pursuant to CEQA Guidelines Section 15164, which provides for a lead agency or responsible agency to prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15152 calling for the preparation of a subsequent EIR have occurred.

II. EIR Information

Program Name: Kiernan Business Park Specific Plan Amendment #4

Program Boundaries: The 153-acre area is bounded on the north by Klernan Avenue, on the west by Dale Road, on the south by Bangs Avenue, and on the east by a line extending south from American Avenue and parallel to Dale Road

Program Description: This program includes the following components, as listed on page II.2 of the EIR:

Adoption of Kiernan Business Park Specific Plan amendments. Proposed amendments would amend the Land Use Plan Diagram to show the change in land use designation from BP to MU and MHDR; would amend the Circulation Plan Diagram to reflect changes to the planned roads and to show new roads; would amend the Bike Paths Figure to reflect changes to the planned bicycle facilities and to show new bicycle facilities; would amend the Illustrative Public Facilities Diagram to reflect changes to the planned water, storm, and sanitary sewer pipeline alignments and to show new water, storm, and sanitary sewer pipelines; would introduce a Street Cross Section Diagram for Healthcare Way, The Plaza Way, and Chopra Parkway; would amend the text of the Land Use chapter of the Specific Plan to include project-specific Development Standards and Design Guidelines; and would amend the text of the Circulation and Access and Public Facilities chapters of the Specific Plan to reflect the proposed changes.

Adoption of an amendment to the Urban Area General Plan. The proposed amendment would redesignate the 39-acre area proposed to be modified in the Specific Plan of the Kiernan/Carver Comprehensive Planning District (CPD) of the General Plan from BP to MU.

Approval of a Development Agreement, if applicable.

Approval of a Tentative Subdivision Map and/or tentative parcel map, if applicable.

Adoption of a resolution initiating annexation of a 67-acre portion of the project site.

Adoption of a resolution to approve rezoning.

Adoption of a Facilities Master Plan and an Infrastructure Financing Plan.

Formation of a Community Facilities District.

Approval by the Local Agency Formation Commission (LAFCO). LAFCO will review reorganization of the amended Kiernan Business Park Specific Plan, including the

SPA-17-001: Ancillary Retail and Service Use

City of Modesto EA/C&ED No. 2017-08

Kiernan BP Specific Plan EIR Written Checklist 2 March 2, 2017
annexation of the 67-acre portion of the 153-acre project site to the City of Modesto and the Modesto Municipal Sanitary Sewer District No. 1, and simultaneously detach this portion of the project site from the Salida Fire Protection District.

Approval by MID. MID must review the proposed storm water drainage system, which proposes discharge to MID Lateral No. 6. Upon acceptance of the proposed storm water drainage system, MID would enter into a Drainage Agreement with the City.

Program Certification Date: September 1, 2009

State Clearinghouse Number: 2007062071

III. Project Information

Project Name: Kiernan Business Park Specific Plan Amendment #6

Project Location: South of Kiernan Avenue, east of Stoddard Road, and west of American Avenue extension.

Project Description: This specific plan amendment further defines the allowable and conditional uses in the Business Park land use designation of the Specific Plan, particularly as regards to ancillary retail uses.

General Plan Designation: Business Park (BP)

Zoning: Specific Plan (SP) as part of the Kiernan Business Park Specific Plan.

Lead Agency: City of Modesto, 1010 Tenth St., Modesto, CA. 95354

Contact Person: Paul Liu, Senior Planner, 209-577-5267

Project Applicant: Jivtesh Gill, 8657 Ranch Road, Tracy, CA 95304

Other Public Agencies whose Approval is Required: None

IV. Determination:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Sections 15162 the following is true for the proposed project:

1. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.

2. No substantial changes have occurred with respect to the circumstances under which the proposed project are undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.

SPA-17-001: Ancillary Retail and Service Use
Kiernan BP Specific Plan EIR Written Checklist 3

City of Modesto EA/C&ED No. 2017-08
March 2, 2017
3. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Kiernan Business Park Specific Plan Amendment #4 EIR was adopted which shows any of the following:
   a. one or more significant effects which is not discussed in the Kiernan Business Park Specific Plan Amendment #4 EIR, or
   b. significant effects which were previously examined will be substantially more severe than previously shown, or
   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or
   d. mitigation measures or alternatives which are considerably different from those analyzed in the Kiernan Business Park Specific Plan Amendment #4 EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

4. The Written Checklist, Environmental Assessment No. EA/C&ED No. 2017-08, provides the substantial evidence to support findings 1-3, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

[Signature]
Project Manager 3-13-17

Date

City of Modesto EA/C&ED No. 2017-08
March 2, 2017
V. Project Evaluation:

The following written Checklist serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15164 to determine whether the environmental effects of the operation were covered in the Kiernan Business Park Specific Plan Amendment #4 Program EIR.

<table>
<thead>
<tr>
<th>AESTHETICS</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>a.</td>
<td>Have a substantial adverse effect on a scenic vista?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td>Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td>Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Aesthetic and visual impacts are analyzed on pages 21 through 25 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that there are no identified scenic vistas or scenic resources on or within the vicinity of the project site.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area.

d. Future development within the project area would create new sources of nighttime light. The Design Guidelines of the Kiernan Business Park Specific Plan would require measures such as shielding and landscaping to reduce the impact to a less-than-significant level.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Aesthetic impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.
II. AGRICULTURAL RESOURCES. In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c. Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts on agricultural resources are analyzed on pages IV.B.6 through IV.B.10 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR found that land designated as Prime Farmland would be lost as a result of development in the project area. This impact was determined to be significant and unavoidable. The City of Modesto adopted a statement of overriding consideration for this impact. A mitigation measure was provided but would not mitigate the loss of Prime Farmland to less-than-significant level. The mitigation measure states that prior to development, the City Council would consider a farmland mitigation program for the loss of prime farmland. On April 9, 2013, the City Council, adopted Resolution 2013-129, to consider preparing an agricultural policy that would not apply to land in City limits and exempted Kiernan Business Park from any agricultural mitigation requirements.

b. The project area is zoned SP as part of the Kiernan Business Park Specific Plan. No land in the project areas is zoned for agricultural use.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified the conversion of Prime Farmland to new business park, residential, and commercial uses. The Program EIR identified the project would not hinder the continued use of the agricultural lands to the north and east of the Specific Plan area. Therefore, the project's impacts on surrounding ongoing agricultural operations would be considered less-than-significant.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Agricultural Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.
III. AIR QUALITY. When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:


<table>
<thead>
<tr>
<th>III. 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>a. Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d. Expose sensitive receptors to substantial pollutant concentrations?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>e. Create objectionable odors affecting a substantial number of people?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>f. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>g. Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts on air quality are analyzed on pages IV.D.26 through IV.D.43 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.-b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that air pollution from project-related construction and during project operation would contribute to existing violations of ambient air quality standards. The impacts were determined to be significant and unavoidable. Partial mitigation for these impacts is included in the Program EIR, and the City of Modesto adopted a statement of overriding consideration for each impact.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the project would cause a cumulatively considerable net increase of pollutants in the San Joaquin Valley is designated as nonattainment. Project related emissions would cumulatively increase mobile source activity and associated regional emissions of ROG, NOx and PM 10. The impacts were determined to be significant and unavoidable. Partial mitigation for these emissions is included in the Program EIR, and the City of Modesto made a statement of overriding consideration for each impact.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the proposed land uses would not generate substantial Toxic Air Contaminants (TAC) emissions that would affect sensitive receptors. No stationary source of TACs within a one mile radius of the project center has been found to emit TACs at a level that represents an unacceptable increased health risk to the general public.
e. The Kiernan Business Park Specific Plan Amendment #4 EIR considered the BP (Business Park) designation which allows for ancillary small-scale retail uses intended to provide services to employees of the business park. Commercial uses such as gas stations and restaurants could create odors in the vicinity but would not be significant.

f. The Kiernan Business Park Specific Plan Amendment #4 EIR determined the cumulative greenhouse gas emissions may contribute to global warming. With implementation of mitigation measures, the significant impact would be reduced to a less-than-significant level.

g. The Kiernan Business Park Specific Plan Amendment #4 EIR did not identify any conflict with any plan, policy, or regulation adopted for the purpose of reducing the emission of greenhouse gases. The Kiernan Business Park Specific Plan Amendment #4 EIR discusses the federal, state, and local greenhouse gas policies in effect that apply to the proposed project. These include the Air Quality Policies of the Urban Area General Plan analyzed in the Master Environmental Impact Report (MEIR, 2008) that apply to the project. The MEIR identifies policies in effect that have been determined to reduce, avoid or mitigate air quality and climate change environmental impacts within the existing City limits and within the Planned Urbanizing Areas.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Air Quality impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

### IV. BIOLOGICAL RESOURCES

Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a.</td>
<td>Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b.</td>
<td>Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c.</td>
<td>Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d.</td>
<td>Interfere substantially 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>X</td>
</tr>
<tr>
<td>e.</td>
<td>Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>f.</td>
<td>Conflict with the 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>X</td>
</tr>
</tbody>
</table>
Impacts on biological resources are analyzed on pages IV.G.9 through IV.G.14 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the project would result in the loss of occupied Burrowing Owl habitat. Upon development of the project site, mitigation measures are required that would reduce the Impacts on this species to less-than-significant levels.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find that any riparian habitat or other designated sensitive natural community present in the project area, and so found that the project would have a less-than-significant impact.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find any protected wetlands on the project site.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR identified migratory birds, including raptors, as nesting in the vicinity. Mitigation measures are provided to reduce the impact to less-than-significant.

e.-f. The Kiernan Business Park Specific Plan Amendment #4 EIR found no local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans that apply to the project area.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Biological Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

V. CULTURAL RESOURCES. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<table>
<thead>
<tr>
<th>a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?</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>b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Disturb any human remains, including those interred outside of formal cemeteries?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Cultural resources Impacts are analyzed on pages 36 through 41 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.-d. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that there are no known historic, archaeological, or paleontological resources in the areas of the proposed Project. However, the presence of these cultural resources cannot be conclusively ruled
out. Upon development, implementation of General Plan policies would ensure that potential cultural impacts would be less-than-significant.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Cultural Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new mitigation measures or alternatives are required.

VI. GEOLOGY AND SOILS. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would: Potentially Significant Impact | Less than Significant Impact | Less-than-Significant Impact | No Impact
---|---|---|---
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. Strong seismic ground shaking? Seismic-related ground failure, including liquefaction? Landslides? X X X
b. Result in substantial soil erosion or the loss of topsoil? X
c. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse? X
d. Be located on expansive soil, as defined in Table 18-1-8 of the Uniform Building Code (1994), creating substantial risks to life or property? X
e. Have 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? X

Impacts associated with geology and soils are analyzed on pages 41 through 44 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the areas of the project site are not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures are required.

c.- d. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that the underlying soil in the project site is not susceptible to liquefaction, landslides, or shrink/swell or expansion potential. No significant impacts were identified, and no mitigation measures are required.

e. The project site would be served by public sewers. Septic tanks or alternative wastewater disposal systems would not be introduced on the project site and existing septic tanks would have to be removed at time of development.
The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Geology and Soils Impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<table>
<thead>
<tr>
<th>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>a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c. Emit hazardous emissions or involve handling 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>X</td>
</tr>
<tr>
<td>d. Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>e. Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>f. Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts associated with hazards and hazardous materials are analyzed on pages IV.F.6 through IV.F.9 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.– c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified that the project area would not involve the routine transport, use, or disposal of hazardous materials. Construction activities could result in drainage of hazardous materials. These would be mitigated to less-than-significant levels through implementation of the adopted Guidance Manual for New Development Stormwater Quality Control Measures.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded there is the potential of exposing construction workers to hazardous substance if contaminated soil or ground water is discovered during construction activities. In the event of future
development, mitigation measures are required that would reduce this impact to a less-than-significant level.

e. The project area is located over 7.5 miles from the nearest public airport. There would be no impact. No mitigation is required.

f. The project area is located over 5 miles from the nearest private airport. There would be no impact. No mitigation is required.

g. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that development of the project area would not interfere with an adopted emergency response plan or emergency evacuation plan. No mitigation is required.

h. The Kiernan Business Park Specific Plan Amendment #4 EIR identified that the surrounding area is largely agricultural or developed. There is no expectation that new development in the project area would expose people or structures to wildland fires. No mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Hazards and Hazardous Materials impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

VIII. HYDROLOGY AND WATER QUALITY. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a.</td>
<td>Violate any water quality standards or waste discharge requirements?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing and uses or planned uses for which permits have been granted)? | | X |
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite? |
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite? | | X |
e. Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? |
f. Otherwise substantially degrade water quality? | | X |
g. Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | | X |
Impacts associated with hydrology are analyzed on pages IV.H.10 through IV.H.17 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR identified the potential for pollutants from construction sites or from future land uses that could be transported to surface waters and groundwater potentially reducing the water quality. Upon future development, mitigation measures are required that would reduce the impacts to a less-than-significant level.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the construction and operation of the required detention basin system is expected to offset the minor losses of groundwater recharge associated with the increased impervious coverage proposed by the project. Amendment #5 of the Specific Plan, adopted by the Modesto City Council on December 15, 2015 by Resolution No. 2015-499, replaced the detention basin system originally required in the Specific Plan with on-site treatment for individual properties and a combination of vegetative swales and underground storage/percolation facilities within the streets. On-site storm water treatment in accordance to the new system, which is required by the State and would increase groundwater recharge, is to be implemented at the project site.

c.– e. The Kiernan Business Park Specific Plan Amendment #4 EIR found that development could substantially alter the existing drainage pattern of the area; however, because there are mitigation measures requiring the project to incorporate an urban storm drain system, the erosion or flooding impacts will be less-than-significant.

f. The Kiernan Business Park Specific Plan Amendment #4 EIR found that existing water supply wells, if not properly managed or decommissioned, could be damaged during construction and cause water quality degradation. For any future development, a mitigation measure is required that would reduce the impact to a less-than-significant level.

g.– i. The project site is not located within any 100-year flood hazard area. The nearest river is the Stanislaus River, approximately 2 miles to the north. There would be no additional impact; and no mitigation is required.

j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Hydrology and Water Quality impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.
IX. **LAND USE AND PLANNING.** Would the project when compared to the Impacts Identified in the Program EIR, create new Impacts or increase the level of existing Impacts that would:

<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>a.</td>
<td>Physically divide an established community?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b.</td>
<td>Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c.</td>
<td>Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts associated with land use and planning are analyzed on pages IV.A.9 through IV.A.11 of the EIR certified on September 1, 2009.

**Responses to Checklist Questions**

a.-b. The proposed project would not result in any physical changes to the environment beyond those identified in the Kiernan Business Park Specific Plan Amendment #4 EIR. The City has not adopted plans and policies as thresholds for significant impacts. There would be no impact and no mitigation is required. The current BP designation allows ancillary small-scale retail and service uses intended to serve the employees in the business park but lacks specifics on the amount. The proposed project quantifies ancillary retail and service uses, allows gas station with convenience store on a property located along Dale Road, and clarifies business services and wholesale and distribution uses. These changes mostly provide clarification instead of intensification of land uses in the BP designation.

c. There are no known habitat conservation plans or natural community conservation plans associated with this project. There would be no impact. No mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Land Use and Planning impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new mitigation measures or alternatives are required.

X. **MINERAL RESOURCES.** Would the project when compared to the impacts identified in the Program EIR, create new Impacts or increase the level of existing Impacts that would:

<table>
<thead>
<tr>
<th></th>
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<th>Less than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b.</td>
<td>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>X</td>
</tr>
</tbody>
</table>

Impacts associated with mineral resources are analyzed on pages 52 through 53 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.
Responses to Checklist Questions

a.- b. No known mineral resources or important recovery sites are located in the project area.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Mineral Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

<table>
<thead>
<tr>
<th>XI. NOISE. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:</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>a. Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>b. Expose persons to or generate excessive groundborne vibration or groundborne noise levels?</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>e. Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts associated with noise are analyzed on pages IV.E.12 through IV.E.23 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- c. The Kleman Business Park Specific Plan Amendment #4 EIR identified that project related traffic would not cause substantial noise levels for sensitive receptors in the project vicinity. However, project related traffic could cause substantial noise levels for sensitive receptors within the project area. New stationary and non-stationary sources could generate noise levels incompatible with ordinances or goals for the surroundings. Any future development would be required to implement mitigation measures that would reduce the noise impacts to a less-than-significant level.

d. The Kleman Business Park Specific Plan Amendment #4 EIR found that construction of the project site could result in a substantial temporary increase in ambient noise levels. Mitigation measures are required for future development that would reduce the noise impacts to a less-than-significant level.
The Kiernan Business Park Specific Plan Amendment #4 EIR found that project area is not located in an airport land use plan area or within 2 miles of a public airport. The nearest private airport is about 5 miles away.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Noise impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

<table>
<thead>
<tr>
<th><strong>XII. POPULATION AND HOUSING.</strong> Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:</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>a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Impacts associated with population and housing are analyzed on pages 56 through 58 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that the development of the project site would induce population growth but at a less-than-significant level.

b.-c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified 13 home sites that would be demolished throughout the amendment area. The amount of persons displaced overall was determined to be less-than-significant by the Program EIR, and therefore no mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Population and Housing impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new mitigation measures or alternatives are required.
Impacts on public services are analyzed on pages IV.I.5 through IV.I.20 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a-1. The nearest City of Modesto Fire Station to the project site is Station No. 11, located approximately two miles away at Carver Road and Pelandale Avenue. The Kleman Business Park Specific Plan Amendment #4 EIR found that the existing personnel and apparatus at Station No. 11 would be adequate to meet the need of increased demand for future commercial and medium-high density residential development. Therefore, the physical impact would be at a less-than-significant level. No mitigation is required.

a-2. The Kleman Business Park Specific Plan Amendment #4 Program EIR found that development of the area would result in an increase of MPD officer hours; however, long-range financing strategies are in place that would allow the City to allocate the necessary funds to extend those police services to the project site. Therefore, the physical impact would be at a less-than-significant level. No mitigation is required.

a-3-5. The Kleman Business Park Specific Plan Amendment #4 EIR found that development of the project site that would include residential uses would result in increased use and demand on school and park facilities but not at a significant level. There would be no impact. No mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Public Services impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

XIV. RECREATION. Would the project when compared to the Impacts Identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a.</td>
<td>Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Impacts associated with recreation are analyzed on pages 61 through 62 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. No significant impacts on recreation facilities were identified in the Program EIR.

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City of Modesto EA/C&ED No. 2017-08

March 2, 2017
The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Recreation impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

### XV. TRANSPORTATION/TRAFFIC
Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Result in inadequate emergency access?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Result in inadequate parking capacity?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
<td>X</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

Impacts on transportation and traffic are analyzed on pages IV.C.37 through IV.C.85 of the EIR certified on September 1, 2009.

**Responses to Checklist Questions**

**a.-b.** The Kiernan Business Park Specific Plan Amendment #4 EIR found that development of the project site would result in significant impacts at study intersections and roadway segments. There would also be significant cumulative impacts on road way segments. Mitigation measures were identified in the Program EIR to reduce some of the traffic impacts to a less-than-significant level. Other traffic impacts were determined to be significant and unavoidable because the mitigation measures were found infeasible. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the EIR.

The proposed amendment would allow gas stations with convenience stores on Business Park-designated parcels fronting on Dale Road. Given the limited number of parcels affected by this amendment (six parcels, some of which have access limitations making it unlikely for a service station to locate on them), it is reasonable to assume the amendment would potentially result in no more than two service stations. If two service stations were to develop as a result of this amendment, this change would result in combined potential maximum net-increase of approximately 80 peak-hour vehicle trips as compared to other uses that could be developed on those parcels (net-increase of 40 peak hour trips per parcel). This net-increase is lower than the threshold of a project that generates 100 or more peak hour trips that may require a traffic study.
Additionally, based on a review of the analysis results presented in the Kiernan Business Park Specific Plan Amendment #4 EIR, this change in potential peak hour trips would not change the overall EIR conclusions regarding the location of significant impacts.

The current specific plan allows ancillary retail and service uses but does not provide any specifics. The proposed amendment would define ancillary retail and service uses as being a maximum of 20% or 2,000 square feet per building, whichever is less. This provides needed clarification of what ancillary use means. More retail and service uses may be permitted for properties located along Dale Road with a maximum of 50% or 5,000 square feet per building, whichever is less, but requires a conditional use permit approval. Any necessary traffic review would occur at time of project submittal.

c. Kiernan Business Park Specific Plan Amendment #4 EIR concluded there would not be any change to air traffic patterns or air traffic related safety. There would be no impact. No mitigation is required.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR determined there would not be a substantial increase in hazards due to a design feature. No mitigation is required.

e. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find that development of the project area would result in inadequate emergency access in the Specific Plan area. Therefore, there would be no impact on emergency service access. No mitigation is required.

f. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find that development of the project area would result in inadequate parking capacity. There would be no impact. No mitigation is required.

g. The Kiernan Business Park Specific Plan Amendment #4 includes bicycle paths and lanes. The proposed retail development does not include any changes related to alternative transportation policies, and would have no impact. No mitigation is required.

The proposed project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Transportation and Traffic impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

| XVI. UTILITIES AND SERVICE SYSTEMS. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would: |
|---------------------------------------------------------------|-------------------------------|---------------------------------|---------------------------------|---------------|
| a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | | | | X |
| b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | | X |
| c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | | X |

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Kiernan BP Specific Plan EIR Written Checklist 19
City of Modesto EA/C&ED No. 2017-08
March 2, 2017
Responses to Checklist Questions

a., e. The Kiernan Business Park Specific Plan Amendment #4 EIR identifies that development of the project area would result in an increased demand for wastewater collection, treatment, and disposal but not at a significant level.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR discusses that new project specific water facility would be needed to maintain adequate water pressure, but would not require new wastewater facilities beyond those facilities already anticipated by the Wastewater Master Plan Update. The impact to water and wastewater facilities are found to be less-than-significant.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR discusses the new storm drainage facilities that will be needed in order to accommodate build out of the project area. The EIR found that, with mitigation, there would be no significant impact on storm drainage facilities.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR found that, based on a Water Supply Assessment, there will be sufficient water supply to serve the project area and the impact on water demand would be less-than-significant. No mitigation is required.

f., g. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the Modesto and Stanislaus County Waste-to-Energy Plant has sufficient capacity to accommodate the project's solid waste disposal needs.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Utility and Services System impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.
### XVII. MANDATORY FINDINGS OF SIGNIFICANCE

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
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<tbody>
<tr>
<td>a.</td>
<td>Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?</td>
<td></td>
<td></td>
<td>✗</td>
</tr>
<tr>
<td>b.</td>
<td>Does the project have impacts that are individually limited but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)</td>
<td></td>
<td></td>
<td>✗</td>
</tr>
<tr>
<td>c.</td>
<td>Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?</td>
<td></td>
<td></td>
<td>✗</td>
</tr>
</tbody>
</table>

**Responses to Checklist Questions**

a. The proposed Project would not result in significant impacts on the environment over and above those associated with implementation of the Kiernan Business Park Specific Plan Amendment #4, as analyzed in the Program EIR. The proposed Project was contemplated by and is consistent with the Program EIR.

b. The proposed Project would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Kiernan Business Park Specific Plan Amendment #4 and as analyzed in the Program EIR.

c. The proposed Project would not result in any significant impacts affecting humans over and above those associated with implementation of the Kiernan Business Park Specific Plan Amendment #4 and as analyzed in the Program EIR.

### V. Mitigation Applied to Project

All development will be subject to the mitigation measures identified in the Program EIR applied where applicable as listed below. No new project-specific mitigation measures are necessary.

**Aesthetics Measures:** None.

**Agricultural Resources Measures:** None.

**Air Quality Measures:** Mitigation Measure D.1 (Page 4 of the Mitigation Monitoring and Reporting Program): The construction plans for each group of buildings shall...
Incorporate the following recommendations from the District to minimize emissions during construction phases:

1. The project developers shall review Regulation VIII of the SJVAPCD regulations and submit a compliance plan to the City of Modesto prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented.

2. Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. (Information is available at CARB’s website http://www.arb.ca.gov/msprog/aftermkt/aftermkt.htm.) Recently, CARB initiated a number of incentive programs to offer funds for retrofitting existing heavy-duty engines in public and private fleets to reduce PM and NOx emissions. CARB has evaluated and certified retrofit systems to be used in PM or NOx incentive programs. (Applicants who plan to participate in any of the CARB’s retrofit programs may obtain additional information by viewing the CARB’s Diesel Mobile Programs website at http://www.arb.ca.gov/diesel/mobile.htm.) The SJVAPCD should be consulted during this process.

3. Dust suppression shall be implemented on all disturbed areas, including inactive outdoor storage piles, by application of water, chemical stabilizer/suppressant, or covering with a tarp, vegetative ground cover, or other suitable cover.

4. Dust suppression shall be implemented following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles using water or chemical stabilizer/suppressant.

5. Dust suppression shall be implemented on all on-site unpaved roads, and off-site unpaved access roads used during the construction phase, using water or chemical stabilizer/suppressant.

6. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions by application of water during the activity or by presoaking.

7. 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.

8. The project developers shall limit traffic speed on unpaved roads to 15 miles per hour.

9. The project developers shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.
10. The project developers shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways.

11. The project developers shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust.

12. The project developers shall suspend excavation and grading activity when winds exceed 20 miles per hour.

13. The project developers shall limit the area subject to excavation, grading, and other construction activity at any one time.

14. The project developers shall ensure that the accumulation of mud or dirt (track-out) is expeditiously removed from adjacent public streets if it extends more than 50 feet from the construction site or at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions).

15. The project developers shall use alternative-fuel construction equipment, where feasible.

16. The project developers shall minimize idling time (e.g., to a 10-minute maximum).

17. The project developers shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.

18. The project developers shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible.

19. The project developers shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the SJVAPCD.

20. The project developers shall manage activity tasks to reduce cumulative short-term impacts.

**Biological Resources Measures:** Mitigation Measure G.1a (Page 21 of the Mitigation Monitoring and Reporting Program): Implementation of formal CDFG guidelines (Staff Report on Burrowing Owl Mitigation) to avoid and minimize impacts to Burrowing Owls. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls should be completed prior to the start of construction. Burrowing Owl habitat on the project site and within a 500-foot (150 m) buffer zone should be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted.
However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat should be mapped at an appropriate scale, and the following mitigation measures should be implemented:

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

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

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

24. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.

**Cultural Resources Measures:** Mitigation Measure AH-12 from the City of Modesto Urban Area General Plan MEIR should be applied to the project, as referenced by the Initial Study Environmental Checklist for the Kiernan Business Park FEIR prepared by Turnstone Consulting on June 15, 2007:

25. If archaeological resources are discovered at any time during construction, all activity shall cease, until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes.

**Geology and Soils Measures:** None.

**Hazard and Hazardous Materials Measures:** Mitigation Measure F.2 (Page 20 of the Mitigation Monitoring and Reporting Program):

26. Conduct Phase 1 Environmental Site Assessments, conduct site investigations, and implement remediation as necessary.

**Hydrology and Water Quality Measures:** Mitigation Measure H.1 (Page 24 of the Mitigation Monitoring and Reporting Program):

27. The project proponent shall prepare an SWPPP for each development project under the Specific Plan (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than 1 acre). The project SWPPP shall include and adequately address all elements in the State General Construction Permit (Waste Discharge Requirements for Discharges of Stormwater Runoff).
Associated with Construction Activity, State Water Resources Control Board Order Number 99-08-DWQ).

**Land Use and Planning Measures:** None.

**Mineral Resources Measures:** None.

**Noise Measures:** None.

**Population and Housing Measures:** None

**Public Services Measures:** None.

**Recreation:** None.

**Transportation/Traffic Measures:** None.

**Utility and Service System Measures:** None.
RESOLUTION APPROVING AN ADDENDUM TO THE PREVIOUSLY CERTIFIED KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT NO. 4 PROGRAM EIR (SCH NO. 2007062071) FOR KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT NO. 6 TO FURTHER DEFINE ALLOWABLE AND CONDITIONAL USES IN THE BUSINESS PARK LAND USE DESIGNATION OF THE SPECIFIC PLAN, PARTICULARLY REGARDING ANCILLARY RETAIL USES

WHEREAS, on September 1, 2009, the City Council of the City of Modesto certified the Kiernan Business Park Specific Plan Amendment No. 4 Environmental Impact Report (SCH No. 2007062071) for Amendment No. 4 to the Kiernan Business Park Specific Plan, and

WHEREAS, City of Modesto has proposed Kiernan Business Park Specific Plan Amendment No. 6 to further define allowable and conditional uses in the Business Park land use designation of the Specific Plan, particularly regarding ancillary retail uses, and

WHEREAS, the City of Modesto’s Community & Economic Development Department prepared the Addendum to the Kiernan Business Park Specific Plan Amendment No. 4 Program EIR based on Environmental Assessment No. EA/C&ED 2017-08, which concludes that no major revisions to the previously-certified Kiernan Business Park Specific Plan Amendment No. 4 Program EIR (SCH No. 2007062071) are needed as a result of the project, and that, pursuant to Section 15162 and 15164 of the CEQA Guidelines, no new environmental review is required, and

WHEREAS, the Addendum need not be circulated for public review pursuant to Section 15164, and
WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 2, 2017, 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 Addendum with Initial Study prepared for the proposed Kiernan Business Park Specific Plan Amendment No. 6, 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. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment No. 4 EIR are required.

2. No substantial changes have occurred with respect to the circumstances under which the proposed project are undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment No. 4 EIR are required.

3. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Kiernan Business Park Specific Plan Amendment No. 4 EIR was adopted which shows any of the following:

   a. One or more significant effects which is not discussed in the Kiernan Business Park Specific Plan Amendment No. 4 EIR, or
   b. Significant effects which were previously examined will be substantially more severe than previously shown, or
   c. Previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or
   d. Mitigation measures or alternatives which are considerably different from those analyzed in the Kiernan Business Park Specific Plan Amendment No. 4 EIR would substantially reduce one or more
significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

4. The Written Checklist, Environmental Assessment No. EA/C&ED No. 2017-08, provides the substantial evidence to support findings 1-3, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal, Mayor Brandvold

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
EXHIBIT A
Addendum and Initial Study
EA/C&ED 2017-08
City of Modesto

Determination:
Project within the Scope of the
Kiernan Business Park Specific Plan Amendment #4
Environmental Impact Report (SCH# 2007062071)
for:

Kiernan Business Park Specific Plan Amendment #6

Prepared by:

City of Modesto
Community & Economic Development Department
Planning Division

March 2, 2017
WRITTEN CHECKLIST

EA/C&ED No. 2017-08

I. Purpose

This written checklist is prepared pursuant to CEQA Guidelines Section 15164, which provides for a lead agency or responsible agency to prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred.

II. EIR Information

Program Name: Kiernan Business Park Specific Plan Amendment #4

Program Boundaries: The 153-acre area is bounded on the north by Kleman Avenue, on the west by Dale Road, on the south by Bangs Avenue, and on the east by a line extending south from American Avenue and parallel to Dale Road

Program Description: This program includes the following components, as listed on page II.2 of the EIR:

Adoption of Kiernan Business Park Specific Plan amendments. Proposed amendments would amend the Land Use Plan Diagram to show the change in land use designation from BP to MU and MHDR; would amend the Circulation Plan Diagram to reflect changes to the planned roads and to show new roads; would amend the Bike Paths Figure to reflect changes to the planned bicycle facilities and to show new bicycle facilities; would amend the Illustrative Public Facilities Diagram to reflect changes to the planned water, storm, and sanitary sewer pipeline alignments and to show new water, storm, and sanitary sewer pipelines; would introduce a Street Cross Section Diagram for Healthcare Way, The Plaza Way, and Chopra Parkway; would amend the text of the Land Use chapter of the Specific Plan to include project-specific Development Standards and Design Guidelines; and would amend the text of the Circulation and Access and Public Facilities chapters of the Specific Plan to reflect the proposed changes.

Adoption of an amendment to the Urban Area General Plan. The proposed amendment would redesignate the 39-acre area proposed to be modified in the Specific Plan of the Kiernan/Carver Comprehensive Planning District (CPO) of the General Plan from BP to MU.

Approval of a Development Agreement, if applicable.

Approval of a Tentative Subdivision Map and/or tentative parcel map, if applicable.

Adoption of a resolution initiating annexation of a 67-acre portion of the project site.

Adoption of a resolution to approve rezoning.

Adoption of a Facilities Master Plan and an Infrastructure Financing Plan.

Formation of a Community Facilities District.

Approval by the Local Agency Formation Commission (LAFCO). LAFCO will review reorganization of the amended Kiernan Business Park Specific Plan, including the

SPA-17-001: Ancillary Retail and Service Use
annexation of the 67-acre portion of the 153-acre project site to the City of Modesto and the Modesto Municipal Sanitary Sewer District No. 1, and simultaneously detach this portion of the project site from the Salida Fire Protection District.

Approval by MID. MID must review the proposed storm water drainage system, which proposes discharge to MID Lateral No. 6. Upon acceptance of the proposed storm water drainage system, MID would enter into a Drainage Agreement with the City.

Program Certification Date: September 1, 2009
State Clearinghouse Number: 2007062071

III. Project Information

Project Name: Kiernan Business Park Specific Plan Amendment #6

Project Location: South of Kleman Avenue, east of Stoddard Road, and west of American Avenue extension.

Project Description: This specific plan amendment further defines the allowable and conditional uses in the Business Park land use designation of the Specific Plan, particularly as regards to ancillary retail uses.

General Plan Designation: Business Park (BP)

Zoning: Specific Plan (SP) as part of the Kiernan Business Park Specific Plan.

Lead Agency: City of Modesto, 1010 Tenth St., Modesto, CA. 95354

Contact Person: Paul Liu, Senior Planner, 209-577-5267

Project Applicant: Jivtesh Gill, 8657 Ranch Road, Tracy, CA 95304

Other Public Agencies whose Approval is Required: None

IV. Determination:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Sections 15162 the following is true for the proposed project:

1. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.

2. No substantial changes have occurred with respect to the circumstances under which the proposed project are undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.
3. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Kieman Business Park Specific Plan Amendment #4 EIR was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Kieman Business Park Specific Plan Amendment #4 EIR, or

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

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

   d. mitigation measures or alternatives which are considerably different from those analyzed in the Kieman Business Park Specific Plan Amendment #4 EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

4. The Written Checklist, Environmental Assessment No. EA/C&ED No. 2017-08, provides the substantial evidence to support findings 1-3, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

   [Signature]
   Project Manager

   [Signature] 3-13-17
   Date
V. Project Evaluation:

The following written Checklist serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15164 to determine whether the environmental effects of the operation were covered in the Kiernan Business Park Specific Plan Amendment #4 Program EIR.

<table>
<thead>
<tr>
<th>I. AESTHETICS. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:</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>a. Have a substantial adverse effect on a scenic vista?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c. Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Aesthetic and visual impacts are analyzed on pages 21 through 25 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that there are no identified scenic vistas or scenic resources on or within the vicinity of the project site.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area.

d. Future development within the project area would create new sources of nighttime light. The Design Guidelines of the Kiernan Business Park Specific Plan would require measures such as shielding and landscaping to reduce the impact to a less-than-significant level.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Aesthetic impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.
II. AGRI CULTURAL RESOURCES. In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a</td>
<td>Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b</td>
<td>Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c</td>
<td>Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts on agricultural resources are analyzed on pages IV.B.6 through IV.B.10 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR found that land designated as Prime Farmland would be lost as a result of development in the project area. This impact was determined to be significant and unavoidable. The City of Modesto adopted a statement of overriding consideration for this impact. A mitigation measure was provided but would not mitigate the loss of Prime Farmland to less-than-significant level. The mitigation measure states that prior to development, the City Council would consider a farmland mitigation program for the loss of prime farmland. On April 9, 2013, the City Council, adopted Resolution 2013-129, to consider preparing an agricultural policy that would not apply to land in City limits and exempted Kiernan Business Park from any agricultural mitigation requirements.

b. The project area is zoned SP as part of the Kiernan Business Park Specific Plan. No land in the project areas is zoned for agricultural use.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified the conversion of Prime Farmland to new business park, residential, and commercial uses. The Program EIR identified the project would not hinder the continued use of the agricultural lands to the north and east of the Specific Plan area. Therefore, the project's impacts on surrounding ongoing agricultural operations would be considered less-than-significant.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Agricultural Resources Impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.
III. AIR QUALITY. When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a. Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d. Expose sensitive receptors to substantial pollutant concentrations?</td>
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<td>X</td>
</tr>
<tr>
<td>e. Create objectionable odors affecting a substantial number of people?</td>
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<td></td>
<td>X</td>
</tr>
<tr>
<td>f. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>g. Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts on air quality are analyzed on pages IV.D.26 through IV.D.43 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.-b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that air pollution from project-related construction and during project operation would contribute to existing violations of ambient air quality standards. The impacts were determined to be significant and unavoidable. Partial mitigation for these impacts is included in the Program EIR, and the City of Modesto adopted a statement of overriding consideration for each impact.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the project would cause a cumulatively considerable net increase of pollutants in the San Joaquin Valley is designated as nonattainment. Project related emissions would cumulatively increase mobile source activity and associated regional emissions of ROG, NOx and PM 10. The impacts were determined to be significant and unavoidable. Partial mitigation for these emissions is included in the Program EIR, and the City of Modesto made a statement of overriding consideration for each impact.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the proposed land uses would not generate substantial Toxic Air Contaminants (TAC) emissions that would affect sensitive receptors. No stationary source of TACs within a one mile radius of the project center has been found to emit TACs at a level that represents an unacceptable increased health risk to the general public.
e. The Kiernan Business Park Specific Plan Amendment #4 EIR considered the BP (Business Park) designation which allows for ancillary small-scale retail uses intended to provide services to employees of the business park. Commercial uses such as gas stations and restaurants could create odors in the vicinity but would not be significant.

f. The Kiernan Business Park Specific Plan Amendment #4 EIR determined the cumulative greenhouse gas emissions may contribute to global warming. With implementation of mitigation measures, the significant impact would be reduced to a less-than-significant level.

g. The Kiernan Business Park Specific Plan Amendment #4 EIR did not identify any conflict with any plan, policy, or regulation adopted for the purpose of reducing the emission of greenhouse gases. The Kiernan Business Park Specific Plan Amendment #4 EIR discusses the federal, state, and local greenhouse gas policies in effect that apply to the proposed project. These include the Air Quality Policies of the Urban Area General Plan analyzed in the Master Environmental Impact Report (MEIR, 2008) that apply to the project. The MEIR identifies policies in effect that have been determined to reduce, avoid or mitigate air quality and climate change environmental impacts within the existing City limits and within the Planned Urbanizing Areas.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Air Quality impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

### IV. BIOLOGICAL RESOURCES

Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>a.</strong> Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>b.</strong> Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>c.</strong> Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>d.</strong> Interfere substantially 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>X</td>
</tr>
<tr>
<td><strong>e.</strong> Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>f.</strong> Conflict with the 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>X</td>
</tr>
</tbody>
</table>
Impacts on biological resources are analyzed on pages IV.G.9 through IV.G.14 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the project would result in the loss of occupied Burrowing Owl habitat. Upon development of the project site, mitigation measures are required that would reduce the impacts on this species to less-than-significant levels.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find that any riparian habitat or other designated sensitive natural community present in the project area, and so found that the project would have a less-than-significant impact.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find any protected wetlands on the project site.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR identified migratory birds, including raptors, as nesting in the vicinity. Mitigation measures are provided to reduce the impact to less-than-significant.

e.-f. The Kiernan Business Park Specific Plan Amendment #4 EIR found no local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans that apply to the project area.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Biological Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

V. CULTURAL RESOURCES. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a.</td>
<td>Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b.</td>
<td>Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c.</td>
<td>Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d.</td>
<td>Disturb any human remains, including those interred outside of formal cemeteries?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Cultural resources impacts are analyzed on pages 36 through 41 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.-d. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that there are no known historic, archaeological, or paleontological resources in the areas of the proposed Project. However, the presence of these cultural resources cannot be conclusively ruled
out. Upon development, implementation of General Plan policies would ensure that potential cultural impacts would be less-than-significant.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Cultural Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new mitigation measures or alternatives are required.

VI. GEOLOGY AND SOILS. Would the project when compared to the Impacts Identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a.</td>
<td>Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.</td>
<td>Strong seismic ground shaking?</td>
<td>Seismic-related ground failure, including liquefaction?</td>
<td>Landslides?</td>
</tr>
<tr>
<td>b.</td>
<td>Result in substantial soil erosion or the loss of topsoil?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td>Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td>Be located on expansive soil, as defined in Table 18-1-8 of the Uniform Building Code (1994), creating substantial risks to life or property?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e.</td>
<td>Have 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?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Impacts associated with geology and soils are analyzed on pages 41 through 44 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.-b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the areas of the project site are not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures are required.

c.-d. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that the underlying soil in the project site is not susceptible to liquefaction, landslides, or shrink/swell or expansion potential. No significant impacts were identified, and no mitigation measures are required.

e. The project site would be served by public sewers. Septic tanks or alternative wastewater disposal systems would not be introduced on the project site and existing septic tanks would have to be removed at time of development.
The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Geology and Soils impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project when compared to the Impacts Identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<table>
<thead>
<tr>
<th>Would the project when compared to the Impacts Identified in the Program EIR, create new impacts or increase the level of existing impacts that would:</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>a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c. Emit hazardous emissions or involve handling 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>X</td>
</tr>
<tr>
<td>d. Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>e. Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>f. Be located within the vicinity of a private airport and result in a safety hazard for people residing or working in the project area?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildland are adjacent to urbanized areas or where residences are intermixed with wildlands?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts associated with hazards and hazardous materials are analyzed on pages IV.F.6 through IV.F.9 of the EIR certified on September 1, 2009

Responses to Checklist Questions

a.–c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified that the project area would not involve the routine transport, use, or disposal of hazardous materials. Construction activities could result in drainage of hazardous materials. These would be mitigated to less-than-significant levels through implementation of the adopted Guidance Manual for New Development Stormwater Quality Control Measures.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded there is the potential of exposing construction workers to hazardous substance if contaminated soil or ground water is discovered during construction activities. In the event of future
development, mitigation measures are required that would reduce this impact to a less-than-significant level.

e. The project area is located over 7.5 miles from the nearest public airport. There would be no impact. No mitigation is required.

f. The project area is located over 5 miles from the nearest private airport. There would be no impact. No mitigation is required.

g. The Kiernan Business Park Specific Plan Amendment #4 EIR concluded that development of the project area would not interfere with an adopted emergency response plan or emergency evacuation plan. No mitigation is required.

h. The Kiernan Business Park Specific Plan Amendment #4 EIR identified that the surrounding area is largely agricultural or developed. There is no expectation that new development in the project area would expose people or structures to wildland fires. No mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Hazards and Hazardous Materials impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

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**VIII. HYDROLOGY AND WATER QUALITY.** Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a.</td>
<td>Violate any water quality standards or waste discharge requirements?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td>Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td>Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e.</td>
<td>Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f.</td>
<td>Otherwise substantially degrade water quality?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g.</td>
<td>Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Impacts associated with hydrology are analyzed on pages IV.H.10 through IV.H.17 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a. The Kiernan Business Park Specific Plan Amendment #4 EIR identified the potential for pollutants from construction sites or from future land uses that could be transported to surface waters and groundwater potentially reducing the water quality. Upon future development, mitigation measures are required that would reduce the impacts to a less-than-significant level.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the construction and operation of the required detention basin system is expected to offset the minor losses of groundwater recharge associated with the increased impervious coverage proposed by the project. Amendment #5 of the Specific Plan, adopted by the Modesto City Council on December 15, 2015 by Resolution No. 2015-499, replaced the detention basin system originally required in the Specific Plan with on-site treatment for individual properties and a combination of vegetative swales and underground storage/percolation facilities within the streets. On-site storm water treatment in accordance to the new system, which is required by the State and would increase groundwater recharge, is to be implemented at the project site.

c.– e. The Kiernan Business Park Specific Plan Amendment #4 EIR found that development could substantially alter the existing drainage pattern of the area; however, because there are mitigation measures requiring the project to incorporate an urban storm drain system, the erosion or flooding impacts will be less-than-significant.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR found that existing water supply wells, if not properly managed or decommissioned, could be damaged during construction and cause water quality degradation. For any future development, a mitigation measure is required that would reduce the impact to a less-than-significant level.

g.– i. The project site is not located within any 100-year flood hazard area. The nearest river is the Stanislaus River, approximately 2 miles to the north. There would be no additional impact, and no mitigation is required.

j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Hydrology and Water Quality impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.
IX. LAND USE AND PLANNING. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Physically divide an established community?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c. Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts associated with land use and planning are analyzed on pages IV.A.9 through IV.A.11 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.-b. The proposed project would not result in any physical changes to the environment beyond those identified in the Kiernan Business Park Specific Plan Amendment #4 EIR. The City has not adopted plans and policies as thresholds for significant impacts. There would be no impact and no mitigation is required. The current BP designation allows ancillary small-scale retail and service uses intended to serve the employees in the business park but lacks specifics on the amount. The proposed project quantifies ancillary retail and service uses, allows gas station with convenience store on a property located along Dale Road, and clarifies business services and wholesale and distribution uses. These changes mostly provide clarification instead of intensification of land uses in the BP designation.

c. There are no known habitat conservation plans or natural community conservation plans associated with this project. There would be no impact. No mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Land Use and Planning impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new mitigation measures or alternatives are required.

X. MINERAL RESOURCES. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts associated with mineral resources are analyzed on pages 52 through 53 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

SPA-17-001: Ancillary Retail and Service Use
Kiernan BP Specific Plan EIR Written Checklist 14
City of Modesto EA/C&ED No. 2017-08
March 2, 2017
Responses to Checklist Questions

a.- b. No known mineral resources or important recovery sites are located in the project area.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Mineral Resources impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

XII. NOISE. Would the project when compared to the Impacts Identified in the Program EIR, create new Impacts or increase the level of existing Impacts that would:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporated</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Expose persons to or generate excessive groundborne vibration or groundborne noise levels?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Impacts associated with noise are analyzed on pages IV.E.12 through IV.E.23 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- c. The Kiernan Business Park Specific Plan Amendment #4 EIR identified that project related traffic would not cause substantial noise levels for sensitive receptors in the project vicinity. However, project related traffic could cause substantial noise levels for sensitive receptors within the project area. New stationary and non-stationary sources could generate noise levels incompatible with ordinances or goals for the surroundings. Any future development would be required to implement mitigation measures that would reduce the noise impacts to a less-than-significant level.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR found that construction of the project site could result in a substantial temporary increase in ambient noise levels. Mitigation measures are required for future development that would reduce the noise impacts to a less-than-significant level.
The Kieman Business Park Specific Plan Amendment #4 EIR found that project area is not located in an airport land use plan area or within 2 miles of a public airport. The nearest private airport is about 5 miles away.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Noise impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

### XII. POPULATION AND HOUSING

<table>
<thead>
<tr>
<th>Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:</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>a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts associated with population and housing are analyzed on pages 56 through 58 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

### Responses to Checklist Questions

a. The Kieman Business Park Specific Plan Amendment #4 EIR concluded that the development of the project site would induce population growth but at a less-than-significant level.

b.- c. The Kieman Business Park Specific Plan Amendment #4 EIR identified 13 home sites that would be demolished throughout the amendment area. The amount of persons displaced overall was determined to be less-than-significant by the Program EIR, and therefore no mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Population and Housing impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new mitigation measures or alternatives are required.

### XIII. PUBLIC SERVICES

<table>
<thead>
<tr>
<th>Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:</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>a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public:</td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

City of Modesto EA/C&ED No. 2017-08

Kieiman BP Specific Plan EIR Written Checklist 16

March 2, 2017
Impacts on public services are analyzed on pages IV.I.5 through IV.I.20 of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a-1. The nearest City of Modesto Fire Station to the project site is Station No. 11, located approximately two miles away at Carver Road and Pelandale Avenue. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the existing personnel and apparatus at Station No. 11 would be adequate to meet the need of increased demand for future commercial and medium-high density residential development. Therefore, the physical impact would be at a less-than-significant level. No mitigation is required.

a-2. The Kiernan Business Park Specific Plan Amendment #4 Program EIR found that development of the area would result in an increase of MPD officer hours; however, long-range financing strategies are in place that would allow the City to allocate the necessary funds to extend those police services to the project site. Therefore, the physical impact would be at a less-than-significant level. No mitigation is required.

a-3-5. The Kiernan Business Park Specific Plan Amendment #4 EIR found that development of the project site that would include residential uses would result in increased use and demand on school and park facilities but not at a significant level. There would be no impact. No mitigation is required.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Public Services impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

XIV. RECREATION. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporated</th>
<th>Less-than-Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts associated with recreation are analyzed on pages 61 through 62 of Appendix A, Notice of Preparation and Initial Study of the EIR certified on September 1, 2009.

Responses to Checklist Questions

a.- b. No significant impacts on recreation facilities were identified in the Program EIR.
The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Recreation impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

**XV. TRANSPORTATION/Traffic.** Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<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>a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>b. Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>e. Result in inadequate emergency access?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>f. Result in inadequate parking capacity?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Impacts on transportation and traffic are analyzed on pages IV.C.37 through IV.C.85 of the EIR certified on September 1, 2009.

**Responses to Checklist Questions**

a.- b. The Kiernan Business Park Specific Plan Amendment #4 EIR found that development of the project site would result in significant impacts at study intersections and roadway segments. There would also be significant cumulative impacts on road way segments. Mitigation measures were identified in the Program EIR to reduce some of the traffic impacts to a less-than-significant level. Other traffic impacts were determined to be significant and unavoidable because the mitigation measures were found infeasible. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the EIR.

The proposed amendment would allow gas stations with convenience stores on Business Park-designated parcels fronting on Dale Road. Given the limited number of parcels affected by this amendment (six parcels, some of which have access limitations making it unlikely for a service station to locate on them), it is reasonable to assume the amendment would potentially result in no more than two service stations. If two service stations were to develop as a result of this amendment, this change would result in combined potential maximum net-increase of approximately 80 peak-hour vehicle trips as compared to other uses that could be developed on those parcels (net-increase of 40 peak hour trips per parcel). This net-increase is lower than the threshold of a project that generates 100 or more peak hour trips that may require a traffic study.
Additionally, based on a review of the analysis results presented in the Kiernan Business Park Specific Plan Amendment #4 EIR, this change in potential peak hour trips would not change the overall EIR conclusions regarding the location of significant impacts.

The current specific plan allows ancillary retail and service uses but does not provide any specifics. The proposed amendment would define ancillary retail and service uses as being a maximum of 20% or 2,000 square feet per building, whichever is less. This provides needed clarification of what ancillary use means. More retail and service uses may be permitted for properties located along Dale Road with a maximum of 50% or 5,000 square feet per building, whichever is less, but requires a conditional use permit approval. Any necessary traffic review would occur at time of project submittal.

c. Kiernan Business Park Specific Plan Amendment #4 EIR concluded there would not be any change to air traffic patterns or air traffic related safety. There would be no impact. No mitigation is required.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR determined there would not be a substantial increase in hazards due to a design feature. No mitigation is required.

e. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find that development of the project area would result in inadequate emergency access in the Specific Plan area. Therefore, there would be no impact on emergency service access. No mitigation is required.

f. The Kiernan Business Park Specific Plan Amendment #4 EIR did not find that development of the project area would result in inadequate parking capacity. There would be no impact. No mitigation is required.

g. The Kiernan Business Park Specific Plan Amendment #4 includes bicycle paths and lanes. The proposed retail development does not include any changes related to alternative transportation policies, and would have no impact. No mitigation is required.

The proposed project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Transportation and Traffic impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.

XVI. UTILITIES AND SERVICE SYSTEMS. Would the project when compared to the impacts identified in the Program EIR, create new impacts or increase the level of existing impacts that would:

<table>
<thead>
<tr>
<th>a.</th>
<th>Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</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>b.</td>
<td>Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>Potentially Significant Impact</td>
<td>Less than Significant with Mitigation Incorporated</td>
<td>Less-than-Significant Impact</td>
<td>No Impact</td>
</tr>
<tr>
<td>c.</td>
<td>Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>Potentially Significant Impact</td>
<td>Less than Significant with Mitigation Incorporated</td>
<td>Less-than-Significant Impact</td>
<td>No Impact</td>
</tr>
</tbody>
</table>

SPA-17-001: Ancillary Retail and Service Use
Kiernan BP Specific Plan EIR Written Checklist 19
City of Modesto EA/C&ED No. 2017-08
Kiernan BP Specific Plan EIR Written Checklist 19
March 2, 2017
Impacts on utilities and service systems are analyzed on pages IV.H.10 through IV.H.17, pages IV.J.16 through IV.J.11, and pages IV.K.10 through IV.K.17 of the EIR certified September 1, 2009.

Responses to Checklist Questions

a., e. The Kiernan Business Park Specific Plan Amendment #4 EIR identifies that development of the project area would result in an increased demand for wastewater collection, treatment, and disposal but not at a significant level.

b. The Kiernan Business Park Specific Plan Amendment #4 EIR discusses that new project specific water facility would be needed to maintain adequate water pressure, but would not require new wastewater facilities beyond those facilities already anticipated by the Wastewater Master Plan Update. The impact to water and wastewater facilities are found to be less-than-significant.

c. The Kiernan Business Park Specific Plan Amendment #4 EIR discusses the new storm drainage facilities that will be needed in order to accommodate build out of the project area. The EIR found that, with mitigation, there would be no significant impact on storm drainage facilities.

d. The Kiernan Business Park Specific Plan Amendment #4 EIR found that, based on a Water Supply Assessment, there will be sufficient water supply to serve the project area and the impact on water demand would be less-than-significant. No mitigation is required.

f., g. The Kiernan Business Park Specific Plan Amendment #4 EIR found that the Modesto and Stanislaus County Waste-to-Energy Plant has sufficient capacity to accommodate the project's solid waste disposal needs.

The proposed Project is contemplated by and consistent with the Program EIR. The analysis and conclusion regarding Utility and Services System impacts would remain the same as identified in the Program EIR. There are no new significant impacts or increase in severity of previously identified impacts. No new or additional mitigation measures or alternatives are required.
XVII. MANDATORY FINDINGS OF SIGNIFICANCE.

<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>a.</td>
<td>Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b.</td>
<td>Does the project have impacts that are individually limited but cumulatively considerable? (&quot;Cumulatively considerable&quot; means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c.</td>
<td>Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Responses to Checklist Questions

a. The proposed Project would not result in significant impacts on the environment over and above those associated with implementation of the Kiernan Business Park Specific Plan Amendment #4, as analyzed in the Program EIR. The proposed Project was contemplated by and is consistent with the Program EIR.

b. The proposed Project would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Kiernan Business Park Specific Plan Amendment #4 and as analyzed in the Program EIR.

c. The proposed Project would not result in any significant impacts affecting humans over and above those associated with implementation of the Kiernan Business Park Specific Plan Amendment #4 and as analyzed in the Program EIR.

V. Mitigation Applied to Project

All development will be subject to the mitigation measures identified in the Program EIR applied where applicable as listed below. No new project-specific mitigation measures are necessary.

Aesthetics Measures: None.

Agricultural Resources Measures: None.

Air Quality Measures: Mitigation Measure D.1 (Page 4 of the Mitigation Monitoring and Reporting Program): The construction plans for each group of buildings shall
incorporate the following recommendations from the District to minimize emissions during construction phases:

1. The project developers shall review Regulation VIII of the SJVAPCD regulations and submit a compliance plan to the City of Modesto prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented.

2. Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. (Information is available at CARB's website http://www.arb.ca.gov/msprog/aftermkt/aftermkt.htm.) Recently, CARB initiated a number of incentive programs to offer funds for retrofitting existing heavy-duty engines in public and private fleets to reduce PM and NOx emissions. CARB has evaluated and certified retrofit systems to be used in PM or NOx incentive programs. (Applicants who plan to participate in any of the CARB's retrofit programs may obtain additional information by viewing the CARB's Diesel Mobile Programs website at http://www.arb.ca.gov/diesel/mobile.htm.) The SJVAPCD should be consulted during this process.

3. Dust suppression shall be implemented on all disturbed areas, including inactive outdoor storage piles, by application of water, chemical stabilizer/suppressant, or covering with a tarp, vegetative ground cover, or other suitable cover.

4. Dust suppression shall be implemented following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles using water or chemical stabilizer/suppressant.

5. Dust suppression shall be implemented on all on-site unpaved roads, and off-site unpaved access roads used during the construction phase, using water or chemical stabilizer/suppressant.

6. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions by application of water during the activity or by presoaking.

7. 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.

8. The project developers shall limit traffic speed on unpaved roads to 15 miles per hour.

9. The project developers shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.
10. The project developers shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways.

11. The project developers shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust.

12. The project developers shall suspend excavation and grading activity when winds exceed 20 miles per hour.

13. The project developers shall limit the area subject to excavation, grading, and other construction activity at any one time.

14. The project developers shall ensure that the accumulation of mud or dirt (track-out) is expeditiously removed from adjacent public streets if it extends more than 50 feet from the construction site or at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions).

15. The project developers shall use alternative-fuel construction equipment, where feasible.

16. The project developers shall minimize idling time (e.g., to a 10-minute maximum).

17. The project developers shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.

18. The project developers shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible.

19. The project developers shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the SJVAPCD.

20. The project developers shall manage activity tasks to reduce cumulative short-term impacts.

**Biological Resources Measures:** Mitigation Measure G.1a (Page 21 of the Mitigation Monitoring and Reporting Program): Implementation of formal CDFG guidelines (Staff Report on Burrowing Owl Mitigation) to avoid and minimize impacts to Burrowing Owls. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls should be completed prior to the start of construction. Burrowing Owl habitat on the project site and within a 500-foot (150 m) buffer zone should be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted.
However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat should be mapped at an appropriate scale, and the following mitigation measures should be implemented:

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

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

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

24. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.

**Cultural Resources Measures:** Mitigation Measure AH-12 from the City of Modesto Urban Area General Plan MEIR should be applied to the project, as referenced by the Initial Study Environmental Checklist for the Kiernan Business Park FEIR prepared by Turnstone Consulting on June 15, 2007:

25. If archaeological resources are discovered at any time during construction, all activity shall cease, until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes.

**Geology and Soils Measures:** None.

**Hazard and Hazardous Materials Measures:** Mitigation Measure F.2 (Page 20 of the Mitigation Monitoring and Reporting Program):

26. Conduct Phase 1 Environmental Site Assessments, conduct site investigations, and implement remediation as necessary.

**Hydrology and Water Quality Measures:** Mitigation Measure H.1 (Page 24 of the Mitigation Monitoring and Reporting Program):

27. The project proponent shall prepare an SWPPP for each development project under the Specific Plan (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than 1 acre). The project SWPPP shall include and adequately address all elements in the State General Construction Permit (Waste Discharge Requirements for Discharges of Stormwater Runoff).
Associated with Construction Activity, State Water Resources Control Board Order Number 99-08-DWQ).

**Land Use and Planning Measures:** None.

**Mineral Resources Measures:** None.

**Noise Measures:** None.

**Population and Housing Measures:** None.

**Public Services Measures:** None.

**Recreation:** None.

**Transportation/Traffic Measures:** None.

**Utility and Service System Measures:** None.
RESOLUTION APPROVING THE SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $1,092,489 IN FTA SECTION 5339 FUNDS AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AND FILE THE ANNUAL CERTIFICATIONS AND ASSURANCES, AND ALL OTHER NECESSARY DOCUMENTS WITH THE FTA

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances required by the FTA to be eligible for funding under 49 U.S.C Section 5339, and

WHEREAS, the projects for the City of Modesto shown in the attached Program of Projects are eligible to receive federally reimbursable expenses from Section 5339 funds, and

WHEREAS, the projects shown in the attached Program of Projects are included in the 2017 Federal Transportation Improvement Program (FTIP) adopted by the Stanislaus Council of Governments (StanCOG), and

WHEREAS, Modesto is eligible to use federally approved Transportation Development Funds, known as Toll Credits, in lieu of a local match, and

WHEREAS, these Section 5339 funds will be used to purchase replacement commuter buses that operate bus routes to the BART station in Pleasanton and the ACE station in Lathrop.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application to the FTA for $1,092,489 in Section 5339 funds.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________

ADAM U. LINDGREN, City Attorney
## 2016-2017 Federal Transit Administration

### FTA Section 5339 Program of Projects

#### FTA Fund Availability

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>5339 Apportionment for 2013/14</td>
<td>$540,553</td>
</tr>
<tr>
<td>5339 Apportionment for 2014/15</td>
<td>$551,936</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,092,489</strong></td>
</tr>
</tbody>
</table>

#### City of Modesto Projects

<table>
<thead>
<tr>
<th>Description</th>
<th>Federal</th>
<th>Local</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase Two Replacement Commuter Buses</td>
<td>$1,092,489</td>
<td>$0</td>
<td>$1,092,489</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$1,092,489</td>
<td>$0</td>
<td>$1,092,489</td>
</tr>
</tbody>
</table>
RESOLUTION APPROVING AN AGREEMENT WITH DOKKEN ENGINEERING OF FOLSOM, CA FOR CONSULTANT SERVICES FOR THE PREPARATION OF PLANS, SPECIFICATIONS AND ESTIMATES (PS&E) FOR THE SR-132 WEST FREEWAY/EXPRESSWAY – PHASE 1 PROJECT IN AN AMOUNT NOT TO EXCEED $6,400,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $600,000 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A TOTAL AMOUNT OF $7,000,000; AND AUTHORIZING THE ACTING CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE CONTRACT IN A FORM APPROVED BY THE CITY ATTORNEY

WHEREAS, Stanislaus Council of Governments (StanCOG), City of Modesto, Stanislaus County and the California Department of Transportation (Caltrans) are completing the formal studies for the Project Approval and Environmental Document (PA&ED) Phase for the State Route 132 West Freeway/Expressway Project (Ultimate Project), and

WHEREAS, The Ultimate Project is presently in the final stage of the environmental approval process, with approval expected in the Fall of 2017, and

WHEREAS, The SR132 West Freeway/Expressway – Phase 1 Project (Phase 1 Project) proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue, and

WHEREAS, Delivery of the PA&ED phase of the Ultimate Project has been slowed due to problems with gaining environmental clearance of contaminated soils stockpiles, and Project construction must commence on or before June 30, 2019, and

WHEREAS, The combination of environmental clearance delay along with a shortened window for startup of construction has resulted in the need to accelerate the
final design (PS&E) phase of the Phase 1 Project to meet the construction startup deadline of June 2019, and

WHEREAS, This acceleration must be performed so that approximately $71.5M of programmed construction funds will not be lost, and

WHEREAS, it is anticipated that Caltrans will complete CEQA and NEPA review in late 2017 as part of the current PA&ED Phase and select a Project alternative at that time. It is anticipated that Caltrans will select one of the two build alternatives, but there is potential risk that Caltrans will select the no-build alternative, which would mean no Project would go forward, and

WHEREAS, The design phase must proceed “at risk” to progress the final design concurrently with the Final Environmental Document approval, and

WHEREAS, In accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement, and

WHEREAS, Staff proceeded through a RFP process pursuant to Administrative Directive 3.1 and the City solicited for proposals for final design of the Phase 1 Project on November 28, 2016 in compliance with Modesto Municipal Code section 8-3.401 – 8-3.404, and

WHEREAS, Proposals were received, evaluated and ranked, and

WHEREAS, City entered into negotiations with the top ranked firm, Dokken Engineering on January 27, 2017, and

WHEREAS, Dokken has agreed to a contract for professional services in the amount of $6,500,000 to provide the final PS&E design for the Phase 1 Project, and
WHEREAS, Staff recommends approval of the agreement with Dokken Engineering for the SR132 West Freeway/Expressway-Phase 1 Project, and

WHEREAS, City of Modesto previously committed $4M from its Capital Improvement Program (CIP) for the construction phase of the Phase 1 Project, and

WHEREAS, it is proposed to re-direct these funds to support the design PS&E phase of the Phase 1 Project, and

WHEREAS, City staff has worked diligently in coordination with Stanislaus County and StanCOG to agree to a financing strategy to support the remainder of funding required to support the PS&E design phase, and

WHEREAS, City will provide $4,000,000 of CFF money and StanCOG will provide $6,000,000 of Measure L Regional Account money to support the PS&E design phase.

WHEREAS, City, County, and StanCOG agree to expend all of the available Measure L Regional Account revenues necessary to fund the design phase commencing in July 2017 through completion in June 2019, and

WHEREAS, on April 19, 2017 StanCOG Policy Board approved Resolution 16-36 designating the State Route 132 West Freeway/Expressway Project as the top regional project to receive Measure L Regional funding up to $10,000,000 to be used to support the total PS&E project cost, and

WHEREAS, the Director of Community and Economic Development and the Acting City Manager have recommended that the bid of $6,400,000 received from Dokken Engineering be accepted as fair and reasonable and the contract be awarded to Dokken Engineering of Folsom, CA, and
WHEREAS, on February 28, 2017, Council approved Resolution No. 2017-86 implementing a spending freeze in order to maintain fiscal sustainability of the City. The City Manager’s Office approved an exception to this freeze for this procurement based upon the fact that this project is the number one priority project in the region and this phase of the project is fully funded by CFF and Measure L funding and if the project is delayed, $71.5 Million of programmed construction funds could be lost.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Dokken Engineering of Folsom, CA for consultant services for the preparation of plans, specifications and estimates (PS&E) for the State Route 132 West Freeway/Expressway - Phase 1 Project in an amount not to exceed $6,400,000 for the identified scope of services, plus $600,000 for additional services (if needed) for a total amount of $7,000,000.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute the contract, 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 2nd day of May, 2017, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

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 IN THE AMOUNT OF $10 MILLION AS SHOWN IN EXHIBIT A IN ORDER TO FULLY FUND THE AGREEMENT WITH DOKKEN ENGINEERING FOR THE PREPARATION OF PLANS, SPECIFICATIONS AND ESTIMATES AND FOR ASSOCIATED SUPPORT SERVICES FOR THE SR-132 WEST FREEWAY/EXPRESSWAY – PHASE 1 PROJECT

WHEREAS, certain budgetary transactions are necessary in the amounts shown in Exhibit A, in order to fund the agreement with Dokken Engineering for preparation of plans, specifications and estimates (PS&E) for the SR-132 West Freeway/Expressway – Phase 1 Project and for associated support costs, and

WHEREAS, $4,000,000 of Streets Capital Facility Fees will fund a portion of the PS&E phase of the project and the remainder will be funded with Regional Measure L funds, and

WHEREAS, the Fiscal Year 2016-2017 Capital Improvement Program Budget must be amended as shown in Exhibit A, attached hereto,

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 in order to transfer $4,000,000 from Capital Facility Fee Streets Fund and $6,000,000 from Regional Measure L funds to the SR132West Freeway/Expressway – Phase 1 Project, Capital Improvement Project #100614.

BE IT FURTHER RESOLVED that the Acting City Manager, 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 2\textsuperscript{nd} day of May, 2017, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

\[signature\]

Attest: \[signature\]

SEAL

APPROVED AS TO FORM:

\[signature\]

By: ADAM U. LINDGREN, City Attorney

\[signature\]
Move $4,000,000 from Streets CFF Reserves to CIP 100614.

Accept $6,000,000 in Regional Measure L funds from StanCOG.

StanCOG Policy Board Resolution 16-36 made SR-132 the number one regional project to be funded with Regional Measure L money. The sales tax measure went into effect on April 1, 2017. The City and StanCOG are drafting an MOU that will describe the details of the reimbursement. The current understanding with StanCOG is that the City will receive monthly invoices from Dokken. The City will review and pay the invoice and then send proof of payment to StanCOG for reimbursement. StanCOG will begin receiving Measure L funds in July, 2017. The City estimates that monthly bills from Dokken will not exceed $500,000. A conservative estimate for the monthly Regional Measure L revenue is $784,000.