RESOLUTION ACCEPTING THE RESIGNATION OF KRISTIE NELSON FROM THE CITY OF MODESTO CITIZENS’ HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, The Citizens’ Housing and Community Development Committee was established to make policy and funding recommendations regarding the Community Development Block Grant, Emergency Solutions Grant, and HOME Investment Partnership Grant programs, and

WHEREAS, May 2, 2017, by Resolution No. 2017-163, Kristie Nelson was appointed to the City of Modesto Citizens’ Housing and Community Development Committee, and

WHEREAS, due to employment conditions, Kristie Nelson is no longer able to serve on the committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto it hereby accepts the resignation of Kristie Nelson from the City of Modesto Citizens’ Housing and Community Development Committee.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, 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
RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR ROSE VILLAS ONE SUBDIVISION AND ROSE VILLAS TWO SUBDIVISION, LOCATED AT 2101 MABLE AVENUE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER’S OFFICE, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, Modesto Mable, LLC, a California limited liability company ("SUBDIVIDER"), is the subdivider of a tract of land situated in the City of Modesto, consisting of 22.57 acres, known as the ROSE VILLAS ONE SUBDIVISION and ROSE VILLAS TWO SUBDIVISION ("SUBDIVISION"), and

WHEREAS, the Public Works Department has verified that all required PUBLIC IMPROVEMENTS for this project have been satisfactorily completed and all inspection fees have been paid, and

WHEREAS, the Public Works Department will assume maintenance responsibilities upon acceptance of the PUBLIC IMPROVEMENTS, which includes the water main, the sewer main, City street trees, sidewalk and ADA ramps along Rose Avenue, and

WHEREAS, pursuant to the Subdivision Agreement, SUBDIVIDER has filed Faithful Performance Bonds in the amount of $2,177,425 for ROSE VILLAS ONE and $740,400 for ROSE VILLAS TWO, and

WHEREAS, pursuant to the Subdivision Agreement, SUBDIVIDER has filed Payment Bonds in the amount of $1,088,712 for ROSE VILLAS ONE and $370,200 for ROSE VILLAS TWO, and
WHEREAS, pursuant to the Subdivision Agreement, SUBDIVIDER has filed a Warranty Bonds in the amount of $217,724 for ROSE VILLAS ONE and $74,040 for ROSE VILLAS TWO, and

WHEREAS, the developer has requested that the improvements be accepted and the Bonds be released, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept said PUBLIC IMPROVEMENTS as complete and has certified that the work covered has been satisfactorily completed.

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

1. The said PUBLIC IMPROVEMENTS constructed by the SUBDIVIDER are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion.

2. The City Clerk is hereby authorized to release the Subdivision Faithful Performance Bonds in the amount of $2,177,425 for ROSE VILLAS ONE and $740,400 for ROSE VILLAS TWO, upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the Payment Bonds in the amount of $1,088,712 for ROSE VILLAS ONE and $370,200 for ROSE VILLAS TWO, sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the Warranty Bonds in the amount of $217,724 for ROSE VILLAS ONE and $74,040 for ROSE
VILLAS TWO one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, 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
RESOLUTION ADDING SECTION 15 (RESIDENTIAL SEWER AND WATER INFRASTRUCTURE CONNECTION PROGRAM POLICIES) TO 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, on September 14, 2017, the City of Modesto’s Citizen’s Housing and Community Development Committee reviewed, approved and forwarded Section 15 (Residential Sewer and Water Infrastructure Connection Program Policies) to the Housing and Urban Development Policies & Procedures Manual to the HUD Policies & Procedures Manual, to the City Council for review and approval, and

WHEREAS, the Residential Sewer and Water Infrastructure Connection Program Policies are governed by a reasonableness standard that focuses on addressing urgent needs, considering extenuating conditions, and/or prohibitive financial circumstances that cause a homeowner to be unable to fund sewer and/or improvements on their own.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adds Section 15 (Residential Sewer and Water Infrastructure Connection Program Policies) to the Housing and Urban Development Policies & Procedures Manual to the HUD 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 10th day of October, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, 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
RESOLUTION ACCEPTING THE 2016-17 CITY LAW ENFORCEMENT GRANT, FROM THE STATE OF CALIFORNIA BOARD OF STATE AND COMMUNITY CORRECTIONS, FOR A JOINT AWARD WITH THE CITY OF CERES AND THE CITY OF MODESTO IN THE AMOUNT OF $272,475; AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, on April 1, 2017, the State of California Board of State and Community Corrections awarded the 2016-17 City Law Enforcement Grant, in the amount of $272,475, and

WHEREAS, the grant awards are based on a combination of factors, including the size of the departments in each county, mental health and homeless population data, and requires that a minimum of 60% of the total funding must go to agencies employing fewer than 100 officers, and

WHEREAS, the City of Ceres has been listed as the fiduciary of the grant, and is responsible for dispersing 66.88% of the grant funds throughout smaller agencies in Stanislaus County, and

WHEREAS, the City of Modesto will receive 33.12% of the grant as the largest city agency, an award of $90,254, and

WHEREAS, the City of Modesto will use their award of the grant funds to focus on helping the City’s homeless population, at-risk youth, and gang and violence prevention programs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2016-17 City Law Enforcement Grant, for a joint award with the City of Ceres and the City of Modesto in the amount of $272,475.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, 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
RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO AMEND THE MULTI-YEAR 2017/2018 OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF $90,254 FOR THE CITY OF MODESTO’S ALLOCATION FROM THE STATE OF CALIFORNIA, BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC) 2016-17 CITY LAW ENFORCEMENT GRANT AND IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the California Budget Act of 2016, Chapter 23, Statutes of 2016, allocates $20 million to cities to increase positive outcomes between municipal law enforcement and high-risk populations, and

WHEREAS, the State Controller’s Office has authorized the disbursement of these funds according to a schedule provided by the Department of Finance, and

WHEREAS, the Budget Act of 2016 determines awards based on a combination of factors including size of police departments in each county and mental health and homeless population data, and

WHEREAS, the Budget Act of 2016 requires that a minimum of 60% of the total funding must go to police departments employing less than 100 officers, and

WHEREAS, the City of Modesto received an allocation of $90,254 to supplement programs and services related to homeless outreach, Crisis Intervention Training, high-risk youth outreach and youth diversion programs, gang and violence prevention programs, and

WHEREAS, these funds result in increased revenue and offsetting expenses to the City for $90,254 and these funds will reside in Multi-Year Operating Account 1342-19998-42131-101027.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Interim City Manager, or his designee, to amend the Multi-Year 2017/2018 Operating Budget to appropriate revenues and expenditures of $90,254 for the State of California, Board of State and Community Corrections (BSCC) 2016-17 City Law Enforcement Grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDREN, City Attorney
RESOLUTION APPROVING ANGLED PARKING ALONG THE SOUTH SIDE OF J STREET BETWEEN 6TH STREET AND 7TH STREET, AND RESCINDING RESOLUTION NO. 2017-245

WHEREAS, Article 10 of Chapter 2 of Title 3 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish angled parking in the City of Modesto, and

WHEREAS, staff is requesting that Resolution No. 2017-245, which established the prior approved angled parking list in the City of Modesto, be rescinded, and

WHEREAS, City staff received a request from St. Paul’s Baptist Church to install angled parking along the south side of J Street between 6th Street and 7th Street to provide additional parking spaces along J Street, and

WHEREAS, staff evaluated the traffic volumes and the speeds for this section of roadway and concluded that angled parking can be accommodated on the south side of J Street between 6th Street and 7th Street without creating a hazard and without impeding traffic flow, and

WHEREAS, on September 13, 2017, the Healthy Economy Committee reviewed and considered the additional angled parking on J Street and supported staff’s recommendation to forward to Council for approval.

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

1. ANGLED PARKING. Angled parking in the City of Modesto is hereby approved and established at the following locations:

   • 4th Street, between E Street and G Street (west side)
6th Street, Sierra Drive to north property line of New Bethany Missionary Baptist Church (west side)

8th Street, between J Street and K Street (east side)

8th Street, between H Street and I Street (west side)

8th Street, between L Street and Jefferson Street (east side)

10th Street, between F Street and G Street (east side)

10th Street, between G Street and H Street (east side)

10th Street, between I Street and J Street (both sides)

13th Street, between H Street and L Street (east side)

13th Street, between F Street and G Street (east side)

15th Street, between F Street and G Street (west side)

15th Street, between H Street and K Street (east side)

16th Street, between I Street and J Street (east side)

18th Street, between G Street and H Street (west side)

F Street, between 9th Street and 10th Street (north side)

F Street, between 10th Street and 11th Street (both sides)

I Street, between 9th Street and 12th Street (both sides)

J Street, between 6th Street and 7th Street (south side)

J Street, between 7th Street and 8th Street (north side)

K Street between 415 K Street and 6th Street (north side)

Coldwell Avenue, between Tully Road and College Avenue

Elm Street, between Jefferson Street and Washington Street

Jefferson Street, between Elm Street and Laurel Street
- Sierra Drive, between F Street and 4th Street (north side)
- Sierra Drive, between 5th Street and 6th Street (both sides)

2. The Public Works Director, or his designee, is hereby directed to implement the installation of angled parking along the south side of J Street between 6th Street and 7th Street.

3. Resolution No. 2017-245 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, 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

10/10/2017/PW/JBarnes/Item 8 3 2017-400
WHEREAS, a verified application for an amendment to Section 19-3-9 of the Zoning Map was filed by Juan Torres on May 3, 2017, to reclassify from Highway Commercial (C-3) Zone, to Planned Development Zone, P-D(603) to allow Light Industrial (M-1) Uses, for property located 1240 N. 9th Street, described as follows:

C-3 to P-D:

A portion of these certain parcels of land described in deeds to the State of California, recorded February 23, 1957, in Book 1413, Page 322, and January 16, 1957, in Book 1405, Page 263, thence in official records, of Stanislaus County, situate in Section 19, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

Beginning at the Northwest corner of said parcel recorded February 28, 1957; thence along the north line of last said parcel, north 89° 35' east, 294.24 feet; thence from a tangent that bears south 15° 37' 55" east, along a curve to the right having a radius 1,500 feet, through an angle of 12° 56' 20", a distance of 338.74 feet; thence south 2° 41' 35" east, 38.66 feet to the southwesterly line of said parcel recorded January 16, 1957; thence along 1957, north 43° 23' west, 509.35 feet to the point of beginning.

WHEREAS, after a public hearing held on August 21, 2017, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2017-20, that rezoning of the property as requested will not be detrimental to the public health, safety or welfare because the rezoning to Planned Development would provide for a Light Industrial development that is compatible with surrounding high density residential, commercial and industrial uses, and
WHEREAS, the requested zone change will result in an orderly planned use of land because the design features of the project and the conditions of approval will ensure that the project is compatible with the adjacent uses, and

WHEREAS, the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the General Plan designates the site as Redevelopment Planning District (RPD), and

WHEREAS, the General Plan states, “Residential and employment opportunities shall be distributed throughout the Planning District, in accordance with the ‘Land Use Strategies’ diagram on page 35 of the ‘Modesto Redevelopment Master Plan’, adopted by the Redevelopment Agency in October, 2007”. According to the diagram, this property is located within Area 1 “North Carpenter Road”. The stated vision for Area 1 promotes the intensification of the existing auto-intensive land uses (i.e warehousing, home improvement businesses and corporation yards) and supporting them with more efficient infrastructure, and

WHEREAS, the proposed development plan would therefore conform to the General Plan because the development of a contractor office and warehouse building would align with the vision of the Redevelopment Master Plan, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on October 10, 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, and
WHEREAS, after said public hearing the Council found and determined that the application of Juan Torres for a Planned Development Zone will not be detrimental to the public health, safety or welfare, will result in an orderly planned use of land, and is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) for the reasons set forth in Planning Commission Resolution No. 2017-20 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3679-C.S. on the 10th day of October, reclassifying the above-described property from Highway Commercial (C-3) Zone, to Planned Development Zone, P-D(603),

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

1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(603), is hereby approved subject to the following conditions:

   PLANNING

   1. All development shall conform to the revised development plan, building elevations, design guidelines, and sign program stamped approved by the Community and Economic Development Director or designee.

   2. The landscaping provided in front of the west side of the building shall be designed to soften the building. Prior to issuance of a building permit, landscape and irrigation plans shall be reviewed by the Community and Economic Development Director or designee.

   3. Prior to issuance of a building permit, trash enclosures shall be designed using building materials, colors and finishes which are consistent or compatible with those used in the major buildings of the development, as approved by the Community and Economic Development Director.

   4. Prior to issuance of a building permit, the developer shall submit a lighting plan that includes the location and design of proposed lighting
fixtures for review and approval by the Community and Economic Development Director.

5. All signs shall conform to the City of Modesto Zoning Ordinance for signs located in the M-1 Zone.

6. Prior to issuance of a sign permit the developer shall submit plans for review and approval to the satisfaction of the Community and Economic Development Director or designee. The sign shall be reviewed for conformance with the City’s Zoning Code.

7. Prior to issuance of building permit, the applicant shall submit a cross-section drawing, showing how all rooftop equipment is to be screened from view (including dimensions, materials, colors, etc.) to the satisfaction of the Director of Community and Economic Development or designee. Roof-mounted equipment, including but not limited to air conditioners, fans, vents, antennas, and dishes should be set back from the roof edge and placed behind a parapet wall or in an enclosure, so they are not visible to motorists or pedestrians. Screening for equipment should be integrated into the building and roof design by the use of compatible materials, colors and forms. Wood lattice and fence-like coverings are not allowed for screening.

8. Prior to Certificate of Occupancy of any structure, all ground mounted utility structures such as transformers and HVAC equipment shall be located out of view from a public street to the satisfaction of the Director of Community and Economic Development or designee. Equipment shall be placed underground or adequately screened through the use of landscaping or masonry walls.

9. Prior to issuance of building permit the developer shall submit updated building elevations to the Planning Division for review and approval to the satisfaction of the Community and Economic Development Director or designee. The plans shall be reviewed for conformance with the City’s Commercial and Industrial Guidelines.

10. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.

11. Construction drawings shall demonstrate that new ladders for roof access are mounted on the inside of the building to the satisfaction of the Director of Community and Economic Development or designee.

12. Where changes in a parapet height occur, a return into the building should be provided, for a distance of at least 6 feet, so that the
thickness of the wall panel cannot be observed or readily discerned by the public.

13. Areas designated for off-street parking, loading, circulation and maneuvering shall not be used for the outdoor storage of materials or equipment.

14. The driveway aisle at the rear of the building must not be gated. It will remain open for public access to the rear parking.

15. The parallel parking spaces behind the building, at the north and east boundaries of the property, must comply with Section 10-5.105 of the Zoning Code and measure at least 8 feet wide by 22 feet long.

BUILDING SAFETY

16. Prior to occupancy, the developer shall provide permanently anchored bicycle racks within 200 feet of each visitors entrance, readily visible to passers-by, for 5 percent of visitor motorized vehicle parking capacity, with a minimum of one two-bike capacity rack to the satisfaction of the Chief Building Official.

17. Prior to occupancy, the developer shall provide designated parking for any combination of low-emitting, fuel-efficient and carpool/van pool vehicles as follows:

<table>
<thead>
<tr>
<th>TOTAL NUMBER OF PARKING SPACES</th>
<th>NUMBER OF REQUIRED SPACES</th>
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<tbody>
<tr>
<td>0-9</td>
<td>0</td>
</tr>
<tr>
<td>10-25</td>
<td>1</td>
</tr>
<tr>
<td>26-50</td>
<td>3</td>
</tr>
<tr>
<td>51-75</td>
<td>6</td>
</tr>
</tbody>
</table>

Paint, in the paint used for stall striping, the following characters such that the lower edge of the last word aligns with the end of the stall striping and is visible beneath a parked vehicle:

CLEAN AIR VEHICLE

FIRE PREVENTION

18. Fire Hydrant spacing and distribution shall be 300’ feet O.C. Onsite fire hydrant(s) will be required.

19. Installation of fire mains, valves and hydrants shall be in accordance with City of Modesto Standard Specifications.
20. Buildings shall be equipped with automatic fire sprinkler system installed in accordance with 2016 NFPA 13.

21. An automatic fire sprinkler system will be required for buildings greater than 5,000 s.f. to the satisfaction of the Fire Marshal.

22. If applicable, plans for electronically controlled vehicle access gates shall be submitted to and approved by the Fire Marshal prior to installation.

23. A fire hydrant will be required within 90 feet of the Fire Department Connection (FDC) for fire sprinklers.

PARKS PLANNING

24. Applicant shall submit Landscape and Irrigation plans for review and approval by the City’s Park Planning and Development Division. L&I plans shall meet current State of California water use requirements, MMC requirements and City of Modesto standards at time of submittal.

25. Applicant shall provide a minimum ten (10') foot landscaped setback from 9th Street.

26. Applicant shall provide street trees along 9th Street spaced thirty five (35') feet on center and located within seven feet (7') of the sidewalk or curb.

27. Applicant shall install parking lot shade trees per MMC requirements; one (1) shade tree for every eight (8) parking spaces for all perpendicular parking stall locations, within seven (7') feet of stalls.

28. Applicant shall install the required three (3') foot high screening for car headlights from parking stalls potentially impacting 9th Street.

29. Applicant shall install a separate landscape water meter.

30. The landscape design can include accent landscaping to be installed at the driveways and office entries for visual connectivity to employees, visitors, delivery trucks and street traffic.

31. LID control and treatment measures shall be vegetated for erosion protection and sediment entrapment to collect/treat storm water run-off before entering the storm drain system. Storm drainage basins shall be appropriately landscaped and irrigated to address the specific type of storm water control measure.
32. Climbing vines shall be included in the landscape surrounding the trash enclosures to discourage tagging.

SOLID WASTE

33. All trash enclosures must meet the City’s size and design requirements.

LAND DEVELOPMENT ENGINEERING

Transportation:

34. Driveways on 9th Street shall be constructed per City Standards.

35. The southern driveway may allow for left turns entering and possibly exiting. A southbound left-turn lane and taper on 9th Street shall be designed and constructed to the proper length for the posted speed. Design and construction of the center median area to allow vehicles to make left turns out of the driveway may be allowed but will require review and approval of the City Engineer. This median opening is currently being used for u-turns and the median design may need to accommodate this movement.

36. Street improvements including, but not limited to curb, gutter, sidewalk, street lights and storm drainage shall be designed and constructed per City of Modesto Standards.

37. No parking shall be allowed on 9th Street.

Sewer:

38. There is an existing 6-inch water main in 9th street that is available for connection and with adequate capacity for the uses expected demand. Any new connection to the water main shall pay water connection fees and an Encroachment permit shall be issued by the City prior to any connection.

Water:

39. There is an existing 10-inch water main in 9th street that is available and adequately sized. For any new water connection, water connection fees shall be paid and an encroachment permit issued by the City prior to connection.

Storm Drain:

40. There is no positive storm drainage system in the area fronting the property on 9th street. Some sort of underground storage or rock well must be designed and constructed to accommodate street runoff. The
project shall manage the on-site storm water runoff on the property per current City of Modesto standards.

Storm Water Quality:

41. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit improvement plans conforming to design requirements of the most current edition of the City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures and the City of Modesto Municipal Code.

42. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to integrate Low Impact Development (LID) principles into the project design. The plan shall retain, treat, and infiltrate the first 0.5” of stormwater run-off on site, and incorporate pervious landscape features into the project design wherever possible.

43. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, bioretention, vegetative strip, or other approved proprietary device) to remove pollutants from the first 0.5” of stormwater run-off from site.

44. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan for trash enclosures to be sufficiently elevated to prevent stormwater run-on from parking lot and floor of enclosures shall be graded to drain into adjacent landscape areas.

45. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering, Stormwater for recording.

46. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall obtain coverage for project under the State Water Resources Control Board (SWRCB) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, as amended by 2010-0014-DWQ and 2012-0006-DWQ.

47. The Construction General Permit requires the Property Owner to develop a Stormwater Pollution Prevention Plan (SWPPP) for the project. The SWPPP shall include a description of all erosion, sediment, and pollution control BMPs to be used at the construction or demolition site to prevent sediment and other sources of pollution from entering the City storm drain system as well as a site plan showing their placement. Prior to issuance of a Grading, Demolition, or Building Permit, provide one paper copy of SWPPP to Land Development Engineering, Stormwater.
48. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys’ fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

49. Prior to issuance of a building permit, any variation from the approved site plan or building elevations on file with the City must be reviewed and approved by the Community and Economic Development Director.

50. All construction documentation shall be coordinated for consistency, including but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

51. All department Conditions of Approval for the project shall be included with building plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.

52. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

53. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.

In addition, the following Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that are applicable to the project:

MEIR Table V-8-1 (b-f):

54. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.
55. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

56. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

57. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

58. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(603):

The entire construction program be accomplished in one phase, construction to begin on or before October 10, 2019, and completion to be not later than October 10, 2021.

3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-7.108 of the Modesto Municipal Code.

4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 1 of Chapter 7 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.
5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(603), becomes effective.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on January 8, 2018, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October, 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

APPROVED AS TO LEGAL DESCRIPTION

By: Community & Economic Development Department Planning Division
RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDMENT OF SECTION 19-3-9 OF THE CITY OF MODESTO ZONING MAP TO REZONE FROM HIGHWAY COMMERCIAL (C-3) TO PLANNED DEVELOPMENT ZONE P-D(603) TO ALLOW FOR A 17,000 SQUARE FOOT BUILDING TO HOUSE BUSINESSES ALLOWED WITHIN THE LIGHT INDUSTRIAL (M-1) ZONE

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

WHEREAS, Juan Torres has proposed the rezone of property located at 1240 N. 9th Street from Highway Commercial (C-3) Zone to Planned Development Zone P-D(603) to allow Light Industrial (M-1) uses, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2017-17 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on September 20, 2017, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and
WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 10, 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 Initial Study prepared for the proposed rezone, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

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

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

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

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

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

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October, 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
EXHIBIT A

Initial Study

EA/C&ED 2017-17
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2017-17

For the proposed:

PDZ-17-003: Planned Development Zone to Allow for the Construction of a 17,000 sq.ft. Warehouse and Office Building with Light Industrial (M-1) Uses.

1240 9th Street

APN 029-005-012

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

July 24, 2017

Updated: September 2013
City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

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

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

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

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

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

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

II. PROJECT DESCRIPTION

A. Title: Planned Development Zone to Allow for the Construction of a 17,000 sq.ft. Warehouse and Office Building with Light Industrial (M-1) Uses.

B. Address or Location: 1240 9th Street (APN 029-005-012)

C. Applicant: Juan Torres
   1006 N. Carpenter Road
   Modesto, CA 95351

D. City Contact Person: Jonnie Lan, AICP, Associate Planner
   Project Manager: Jonnie Lan
   Department: Community and Economic Development, Planning Division
   Phone Number: 209-577-5267
   E-mail address: jlan@modestogov.com

E. Current General Plan Designation(s): Redevelopment Planning District (RPD)

F. Current Zoning Classification(s): Highway Commercial (C-3)
G. Surrounding Land Uses:
- North: Planned Development Zone P-D(425) C-3 uses and Sheet Metal Shop
- South: Heavy Industrial (M-2) Zone and Planned Development Zone P-D(588) 150-unit affordable Housing Development
- East: Light Industrial (M-1) Zone
- West: High Density Residential (R-3) Zone, City of Modesto Fire Station #4

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

Proposal to redevelop a site upon which 16 residential units were located, until demolished by permit in 2005. The applicant proposes to construct a 17,000 square foot industrial building shell on the 2-acre parcel. The site plan provides for 41 parking spaces and landscaping.

Project involves:
SITE PLAN FOR PLANNED DEVELOPMENT
17,000 SQ. FT. INDUSTRIAL BUILDING
PDZ-17-003
I. Other Public Agencies Whose Approval is Required: None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Currency of the Master EIR Document

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

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

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

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

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

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

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

IV. ENVIRONMENTAL ANALYSIS

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

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

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

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

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

Cumulative Impacts

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

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

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

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

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

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

Discussion:

No mitigation measures regarding traffic from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. **Project-Specific Effects**

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

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

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

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<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>
</table>

Discussion:

(1) The project consists of the development of approximately 1.3 acres within the Baseline Urbanized Area as a 17,000 square foot L-shaped industrial building with 7 tenant spaces ranging from 1,500 square feet to 7,000 square feet. The site was formerly the location of 16 small residential units, used at one time as a motel. Those units were demolished in 2005 and the property has been vacant since then. The project was referred to Land Development Engineering, Traffic, who indicated no concerns with the traffic volumes.

(2) The project would not exceed a level of service standard established by the county congestion management agency (StanCOG).

(3) There are no significant changes in the level of service or the volume-capacity ratio as a result of the project, and therefore there are no significant cumulative (long-term) traffic impacts.

(4) Police and Fire Staff have reviewed this proposal and have not indicated that there is an emergency access problem.

(5) The proposed development will provide parking in accordance with the Municipal Code.

(6) Traffic Staff have reviewed this proposal and indicated no issues with adopted plans for alternative transportation. A bus stop is located on northbound 9th Street, just south of its intersection with Coldwell. There is a Class 1 bicycle lane across the street.

(7) The proposed project would not result in a significant increase in automobile vehicle miles traveled (per capita) in excess of what was considered in the Urban Area General Plan.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM₁₀) and 2.5 microns or less in diameter (PM₂.₅) (see MEIR Table 2-8, page V-2-27).
Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

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

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

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

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>2. DEGRADATION OF AIR QUALITY</th>
<th>Potentially Significant</th>
<th>Less Than Significant with</th>
<th>Less Than Significant</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NOx, PM10, and PM2.5 by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NOx, PM10, and PM2.5.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.</td>
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<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would expose sensitive Planned Development Zone for Warehouse and Office General Plan Master EIR Finding of Conformance</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
5) The proposed project would create objectionable odors affecting a substantial number of people.

Discussion:

(1) The project consists of the development of approximately 1.3 acres as a 17,000 square foot L-shaped industrial building with 7 tenant spaces ranging from 1,500 square feet to 7,000 square feet. The subsequent development would not exceed emissions thresholds established by the SJVUAPCD, and is consistent with the development standards for a residential use as established by the General Plan.

(2) Development of the site will be required to adhere to applicable City Zoning Ordinances, Standards, and applicable best management practices during the construction process.

(3-5) The project would comply with the air quality policies in the General Plan, and would not expose sensitive receptors to pollutants or odors in excess of assumptions for residential uses.

3. **GENERATION OF NOISE**

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

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

**Direct Impacts**

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

**Effect:** Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

**Effect:** Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

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

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

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

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

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant</th>
<th>Less Than Significant</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mitigation</td>
<td>Impact</td>
<td>MITIGATION</td>
</tr>
</tbody>
</table>

3. GENERATION OF NOISE

1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.

2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.

3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.

4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.
Discussion:

(1) The project consists of the development of approximately 1.3 acres as a 17,000 square foot L-shaped industrial building with 7 tenant spaces ranging from 1,500 square feet to 7,000 square feet. The subsequent development would be required to adhere to the City’s noise ordinance.

(2-4) The development would not be inconsistent the noise policies of the General Plan, nor result in ambient noise levels above those assumed by the General Plan for a light industrial use. Any increase in ambient noise levels would be construction-related and temporary in the process of developing the industrial building.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

Cumulative Impacts

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

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

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures regarding agricultural lands from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

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

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

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

Discussion:

(1) The project is a vacant infill area within the Baseline Developed Area not in agricultural production, and is completely surrounded by urbanized area consisting of commercial and industrial uses and the House Church of Modesto. The project would therefore not be inconsistent with the General Plan’s policies related to agricultural land.

(2-4) The project site is not zoned for agricultural use, and no Williamson Act contract is in place on the property. The site is surrounded by urban area and would not cause the conversion of farmland to a non-agricultural use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

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

Planned Development Zone for Warehouse and Office
General Plan Master EIR Finding of Conformance 15
Initial Study EA No. 2017-17
July 24, 2017
Direct Impacts

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

Cumulative Impacts

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

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Water demand for the proposed project will exceed estimates for similar projects or for</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.

3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.

Discussion:

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

(2) The project was referred to Land Development Engineering Staff who indicated no concerns with water supply to the project. The proposed development will not exceed estimates or water supplies needed to serve other entitlements and resources.

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

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland caused by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

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

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

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

c. Project-Specific Effects

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

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

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

Discussion:
(1) The project consists of the development of approximately 1.3 acres as a 17,000 square foot L-shaped industrial building with 7 tenant spaces ranging from 1,500 square feet to 7,000 square feet. The project would be consistent with the General Plan’s policies relating to wastewater and conform to applicable City Zoning Codes and Standards.

(2-3) The project would not generate sewage flows greater than estimates for a project of similar residential uses. The project was referred to Land Development Engineering, who indicated no concerns with the project.
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

**Cumulative Impacts**

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

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

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

**Discussion:**

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant</td>
</tr>
<tr>
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<tr>
<td>---</td>
</tr>
<tr>
<td>2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
</tr>
<tr>
<td>3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
</tr>
<tr>
<td>4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
</tr>
<tr>
<td>6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project consists of the development of approximately 1.3 acres as a 17,000 square foot L-shaped industrial building with 7 tenant spaces ranging from 1,500 square feet to 7,000 square feet. The project would not be inconsistent with General Plan policies pertaining to wildlife and plant habitat.

(2-4) The project site is located within the Baseline Developed Area of the City and is completely surrounded by developed urban area consisting of residential uses and the House Church of Modesto. It is not a biologically sensitive site as defined by Figure V-7-1 of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(5-6) The project is not in conflict with any local policies or ordinances protecting biological resources, nor is in conflict with any adopted habitat conservation plan.
8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

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

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

**Effect:** Construction in an area of high archaeological sensitivity.

**Cumulative Impacts**

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

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

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

**Discussion:**

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

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th>Planned Development Zone for Warehouse and Office General Plan Master EIR Finding of Conformance</th>
<th>Initial Study EA No. 2017-17</th>
<th>July 24, 2017</th>
</tr>
</thead>
</table>
HISTORICAL SITES

<table>
<thead>
<tr>
<th>HISTORICAL SITES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would modify or demolish a structure more than 50 years in age.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) The project would adversely affect a Tribal Cultural Resource identified and/or defined consistent with Public Resources Code section 5024.1(c).</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project would not be inconsistent with General Plan policies pertaining to archaeological or historic resources.

(2-4) The project site is vacant infill land surrounded by urban uses. The site is not classified as being of state or federal historic status nor is eligible for listing for such status.

(5) The project does not conflict with local policies affecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

The appropriate mitigation to be applied to this project includes SD-9 from the MEIR. City Engineering staff has reviewed the project and required conditions of approval to implement General Plan Policies for development including compliance with the Storm Drain Management Plan and the utilization of low impact strategies and meet the standards contained in the “Guidance Manual for New Development–Storm Water Quality Control Measures.” No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

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

Planned Development Zone for Warehouse and Office
General Plan Master EIR Finding of Conformance 23

Initial Study EA No. 2017-17
July 24, 2017
Discussion:

(1) Construction activities will comply with the requirements of the City’s Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board’s General Permit for Discharges of Storm Water Associated with Construction Activity (MIER Policy SD-9). In addition, the City will ensure that new development complies with the City of Modesto’s Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures (MIER Policy SD-11). These policies will be implemented as conditions of project approval.

(2) The project is not located in an area that has a positive storm drainage system. The project will be required to manage stormwater impacts on-site as required in accordance to current City Standards and its amendments, as a condition of approval.

(3) The project will utilize low impact strategies and meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures.” This requirement will be implemented as a condition of project approval.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:
Discussion:
The appropriate mitigation to be applied to this project includes: FWQ-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>10. FLOODING AND WATER QUALITY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>5) The proposed project does not comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures.</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>6) The proposed project would violate water quality standards or waste discharge requirements.</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
</tr>
<tr>
<td>7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
</tr>
</tbody>
</table>
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

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

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

(3) The project site is not within a 100-year flood hazard zone as established by the Federal Emergency Management Agency (FEMA) Flood Rate Insurance Map 06099C0340E dated September 26, 2008.

(4) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures (MIER Policy SD-11). This will be implemented as a condition of project approval.

(5) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures (MIER Policy SD-11). This will be implemented as a condition of project approval.

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

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

(8) The project is not located in an area that has a positive storm drainage system. The project will be required to manage storm water impacts on-site as required in accordance to current City Standards and its amendments, as a condition of approval.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

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

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

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

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

c. Project-Specific Effects

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

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

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

Discussion:
(1) The project is consistent with the parks and open space policies in the General Plan.
The project would not eliminate an existing park or designated open space. The project is on a vacant site that was previously short term 16 residential units that were demolished in 2005.

The project would not cause an increase in use of existing local and regional parks.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

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

Discussion:

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

(2) The project was referred to Modesto City Schools who indicated no concerns with the project.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

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

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

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

Discussion:

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

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

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

Discussion:

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

c. Project-Specific Effects

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

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

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

Discussion:

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

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

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

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

c. Project-Specific Effects

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

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

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

Potential Impact | Less than significant with mitigation incorporated | Less than significant impact | No impact
--- | --- | --- | ---
development to result in cumulative impacts on the County’s disposal capacity. | |

Discussion:

1. The project is consistent with the solid waste policies in the General Plan.
2. This project was referred to the Solid Waste Division for review, who indicated no concerns over service to the project area.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

**Cumulative Impacts**

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>2</td>
<td>The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>3</td>
<td>The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>4</td>
<td>The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>

Discussion:

1. The project is consistent with the hazardous materials policies in the General Plan.
2. No hazardous materials will be involved with this project.
3. The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.
4. The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

**Direct Impacts**

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

**Cumulative Impacts**

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

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

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>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>17. GEOLOGY, SOILS, AND MINERAL RESOURCES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.
(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>18. ENERGY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

Planned Development Zone for Warehouse and Office
General Plan Master EIR Finding of Conformance

Initial Study EA No. 2017-17
July 24, 2017
<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

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

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

19. **EFFECTS ON VISUAL RESOURCES**

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

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

**Direct Impacts**

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

**Cumulative Impacts**

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

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

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

**Discussion:**

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

Section V-18.3 of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

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

<table>
<thead>
<tr>
<th></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>19. EFFECTS ON VISUAL RESOURCES</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the policies relating the visual resources in the General Plan.
(2) The project would not impact views from riverside areas and parks.
(3) The project would not impact views of riverside areas from roadways or nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

c. Project-Specific Effects

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

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

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

(1) The project is designated as Mixed Use (MU) in the General Plan, which allows for residential uses. The project is consistent with the current General Plan Land Use Designation, and therefore is consistent with land use and planning policies in the General Plan.
(2) The project would not divide an established community. The surrounding area is developed with residential uses including the House Church of Modesto to the south and east. The proposed subdivision is consistent with the surrounding uses and would not divide existing neighborhood.

(3) The project does not conflict with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.

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

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

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

c. Project-Specific Effects

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

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

(1) The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City’s contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City’s increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project is required to develop in accordance with climate change policies included in the UAGP and the MEIR.

(2) Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO₂ emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO₂ emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.
(3) A Sustainable Communities Strategy has not yet been implemented by the Air Resources Board. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.
V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

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

A. Master EIR Mitigation Measures Applied to the Project

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

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

B. New or Additional Mitigation Measures or Alternatives Required

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

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect: none.

Traffic and Circulation:

N/A

Degradation of Air Quality:

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

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

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

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

Planned Development Zone for Warehouse and Office

General Plan Master EIR Finding of Conformance

Initial Study EA No. 2017-17

July 24, 2017
AQ-46: When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

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

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

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

**Generation of Noise:**

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

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

1. A hammer, or any other device or implement used to pound or strike an object.
2. An impact wrench, or other tool or equipment powered by compressed air.
3. A hand-powered saw.
4. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
5. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
6. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile driving equipment, vibrating roller, sand blaster, grout machine, trencher, concrete truck, and hot kettle pump.
7. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
N-3: The City of Modesto shall require construction activities to comply with the City’s noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

Effects on Agricultural Lands:
N/A

Increased Demand for Long-Term Water Supplies:
N/A

Increased Demand for Sanitary Sewer Services:
N/A

Loss of Sensitive Wildlife and Plant Habitat:
N/A

Disturbance of Archaeological/Historic Sites:
N/A

Increased Demand for Storm Drainage:
SD-9: Construction activities shall comply with the requirements of the City’s Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board’s General Permit for Discharges of Storm Water Associated with Construction Activity.

Flooding and Water Quality:
FWQ-13: Construction activities shall comply with the requirements of the City’s Storm Water Management Plan under its municipal NPDES Stormwater permit, and the State Water Resources Control Board’s General Permit for Discharges of Storm Water Associated with Construction Activity.

Increased Demand for Parks and Open Space:
N/A

Increased Demand for Schools:
N/A
Increased Demand for Police Services:
N/A

Increased Demand for Fire Services:
N/A

Generation of Solid Waste:
N/A

Generation of Hazardous Materials:
N/A

Geology, Soils, and Mineral Resources:
N/A

Energy:
N/A

Effects on Visual Resources:
N/A

Land Use and Planning:
N/A

Climate Change:
N/A
RESOLUTION APPROVING MEASURE L COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND STANCYG FOR THE PLANS, SPECIFICATIONS AND ESTIMATES STAGE OF PHASE 1 OF THE STATE ROUTE 132 PROJECT AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, State Route (SR) 132 is an east-west highway that extends from I-580 in the Central Valley, south of the City of Tracy, to SR 49 in the foothills of the Sierra Mountains, terminating in the town of Coulterville, and

WHEREAS, the SR 132 corridor is a vital link through the Central Valley, serving local traffic from these communities and providing for regional traffic between the Bay Area and the mountains for the movement of traffic and goods and services, and

WHEREAS, the SR 132 West Freeway/Expressway Project developed by Caltrans (Project) proposes to construct a four lane freeway/expressway on a new alignment south of Kansas Avenue from Dakota Avenue to east of SR 99 at Needham Street, and

WHEREAS, the purpose of the Project is to improve regional and interregional circulation, relieve traffic congestion along existing SR 132, and enhance safety and operations for the existing and proposed transportation network, and

WHEREAS, Phase 1 of the Project is approximately four miles in length and will allow for construction of the ultimate multi-lane freeway. Phase 1 of the Project will replace the existing 2-lane highway segment of SR-132 along Maze Boulevard from SR-99 to Dakota Avenue, and

WHEREAS, the City will be primarily responsible for the implementation of Phase 1 of the Project and Council has approved, through Resolution No. 2017-175, the
use of $4,000,000 from its Streets Capital Facilities Fees fund to support the design
Plans, Specification and Estimates (PS&E) of Phase 1 of the Project, and

WHEREAS, Stanislaus Council of Governments (StanCOG) is the designated
Regional Transportation Planning Agency (RTPA), the designated Metropolitan Planning
Organization (MPO) and the designated Council of Governments for Stanislaus County,
and

WHEREAS, in November, 2016 Stanislaus County voters approved Measure L, a
25-year, ½ cent sales tax to maintain and improve transportation systems, and

WHEREAS, StanCOG, through Resolution 16-36, designated the Ultimate
Project a Measure L regional funding priority and designated up to $10,000,000 of the
regional project share of Measure L funds to reimburse the City of Modesto for identified
costs associated with Phase 1 of the Project, and

WHEREAS, StanCOG has agreed to provide funding for the PS&E phase of
Phase 1 of the Project in accordance with the terms and conditions set forth in the
Agreement between the City and StanCOG, attached hereto, and

WHEREAS, StanCOG’s Board of Director’s approved the Agreement on

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the Measure L Cooperative Agreement between the City of
Modesto and StanCOG for the Plans, Specifications and Estimates Stage of Phase I of the
State Route 132 Project.

BE IT FURTHER RESOLVED, that the Interim City Manager, or his designee, is
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 10th day of October, 2017, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Ah You

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MEASURE L COOPERATIVE AGREEMENT
FOR THE PLANS, SPECIFICATIONS AND ESTIMATES STAGE OF PHASE 1 OF THE
STATE ROUTE 132 PROJECT

This Cooperative Agreement (“Agreement”) is made and entered into this ______ day of, 
_________________________ 2017 by and between the CITY OF MODESTO, a municipal corporation
(“Sponsor”) and the STANISLAUS COUNCIL OF GOVERNMENTS, acting as the Local
Transportation Authority (“Authority”).

RECYTALS

WHEREAS, Authority and Sponsor desire to enter into a Cooperative Agreement for
funding of plans, specifications and estimates (PS&E) and for associated support services outlined
in Exhibit “A” to this Agreement for transportation improvements in Stanislaus County pursuant
to the authority provided by the Measure “L” Local Roads First Transportation Funding Measure
Ordinance and Expenditure Plan (“Measure L”), which was approved by the voters of Stanislaus
County on November 8, 2016; and

WHEREAS, Sponsor desires to receive funding from the Authority and Authority wishes
to provide funding for the PS&E phase of the transportation improvement project entitled SR132
West Freeway/Expressway – Phase 1 Project, the PS&E phase of which is referred to herein, and
further defined in Exhibit “A”, as the “PS&E Phase”; and

WHEREAS, the PS&E Phase is eligible as the design of Phase 1 of the State Route 132
Project of the Regional Control category of Measure L; and

WHEREAS, at the April 19, 2017 regular meeting of the Authority Board, in furtherance
of its previous designation of State Route 132 West as the Authority’s top regional transportation
project priority, the Authority Board adopted Resolution 16-36 which designated up to
$10,000,000 of the regional project share of Measure L funds to reimburse Sponsor for identified
costs associated with Phase 1 of the SR 132 West project (hereinafter Resolution 16-36”); and

WHEREAS, Resolution 16-36 identified the State Route 132 West Expressway Project as
a Measure L regional funding priority; and

WHEREAS, Resolution 16-36 designates up to $10,000,000 of the regional project share
of Measure L funds to reimburse the City of Modesto for identified costs associated with Phase 1
of the State Route 132 West Expressway project”; and

WHEREAS, at the time the City approved the professional services agreement with
Dokken Engineering, the State Route 132 West Freeway/Expressway was believed to be in the
final stages of the environmental approval process, with approval expected in Fall of 2017; and

WHEREAS, State and Federal funding earmarked for the construction phase of the
Project has been extended to its functional limit with a sunset date for construction initiation in
Fiscal Year 2018/2019; and

WHEREAS, the combination of environmental clearance delay along with the shortened
window for startup of construction has resulted in the need to accelerate the final design (PS&E)
phase of Phase 1 of State Route 132 West Freeway/Expressway to meet the construction startup
deadline of June 2019; to avoid the loss of approximately $28 Million of programmed
construction funds; and
WHEREAS, Measure L provides that funds generated for Regional Control projects can be used for planning, project development, right-of-way, and/or construction of major corridor, capital projects; and

WHEREAS, since this Agreement covers the PS&E phase of the State Route 132 Freeway/Expressway Project, Authority has requested that the Measure L funds designated for the PS&E Phase not be utilized for right of way acquisitions; and

WHEREAS, Sponsor also designated $4,000,000 to Phase 1 of the State Route 132 Project; and

WHEREAS, to avoid jeopardizing $71.5 Million of programmed construction funds, right of way acquisitions may need to commence prior to environmental approval of the project and receipt of additional funding, Sponsor and Authority agree that funds identified in Exhibit A, including Measure L regional funds, can be utilized for said purposes at this juncture until Federal funding is obtained; and

WHEREAS, Authority shall issue reimbursement payments as provided in Section 2.1 to Sponsor pursuant to a request for reimbursement submitted by the Sponsor; and

WHEREAS, Sponsor and Authority each agree to abide by the terms and conditions of the Agreement as set forth herein for the receipt of Measure L funds; and

WHEREAS, this Cooperative Agreement covers only the PS&E Phase of the SR 132 West Freeway/Expressway project; and

WHEREAS, Authority is developing its policies and procedures and once the policies and procedures are adopted or 100% of the $10,000,000 of allocated Measure L funds have been used to reimburse Sponsor for eligible expenses, the parties will negotiate and enter into another Cooperative Agreement that will define roles and responsibilities to cover the remaining elements of Phase 1 of the SR 132 West Freeway/Expressway; and

WHEREAS, Sponsor’s City Council approved this Agreement on ______________; and

WHEREAS, Authority’s Board of Directors approved this Agreement on September 20, 2017; and

NOW, THEREFORE, in consideration of the promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant and agree as follows:
AGREEMENT
SECTION I

1.1. Project Application. The Project description, anticipated amount and type of funds that will supplement Measure L funds, and the anticipated timing for release of Measure L funds shall be specified in the application, which is attached as Exhibit “A,” and incorporated herein by this reference.

1.2. Change in Project Scope. A change to or increase in the Project scope as described in Exhibit “A” may not be implemented until it has been approved by the Authority and Sponsor in writing.

1.3. Eligible Reimbursement Costs. Eligible reimbursement costs shall be costs as specified in Exhibit “A” or as may be approved from time to time by the Authority pursuant to Section 1.2.

1.4. Right of Way Costs. All right of way support costs are included as Project costs and reimbursable under this Agreement. For this PS&E Phase, the Parties agree that the Measure L funds allocated by Authority to the PS&E Phase may be utilized for right of way acquisitions if other funding sources are not available.

1.5. Invoices and Progress Reports. Sponsor shall provide monthly invoice reimbursement requests. These documents shall include the following specified information:

1.5.a Copies of Consultant Invoices. Sponsor shall provide the Authority with one (1) copy of all invoices submitted to Sponsor by every consultant, subconsultant, contractor, or subcontractor performing work related to the Project.

1.5.b Progress Reports. The monthly progress reports shall include a brief description of the status of the Project and the work completed to date. This summary may be included on the invoices submitted to the Authority or be attached to those invoices.

1.6. Project Delivery Team Meetings. Sponsor and Authority will convene regular meetings that will include representatives from the City of Modesto, Stanislaus County and StanCOG, and other parties deemed appropriate by Sponsor and Authority. An overall delivery schedule for the PS&E Phase and construction of Phase 1 of the SR 132 West Freeway/Expressway will be produced, updated regularly and reviewed at each meeting.

1.7. Use of Funds. Sponsor shall use Measure L funds consistent with the project scope of work described in Exhibit “A” or approved in writing by the Authority pursuant to Section 1.2. Authority agrees to assist Sponsor with identifying and securing funding sources, and to administer funding.

1.8. Submittal of Documents. Sponsor shall provide copies to the Authority of all executed contracts which relate to the Project as described in Exhibit “A” or approved by the Authority pursuant to Section 1.2. Sponsor shall retain records pertaining to the Project for a four (4) year period following completion of the Project.

1.9. Oversight and Completion of PS&E. Sponsor shall be responsible for the timely completion of the PS&E Phase and provide management of consultant activities, including responsibility for schedule, budget and oversight of services, consistent with the scope of work.
1.10. **Letter of PS&E Completion.** Sponsor shall provide a letter of PS&E completion which includes final costs of the PS&E Phase. This letter shall accompany the final invoice for payment from the Authority to Sponsor.

**SECTION II**

2.1. **Reimbursement Payments.** The Authority shall make reimbursement payments to Sponsor for eligible Project costs as specified in Exhibit “A” which include staff overhead. To receive monthly reimbursement payments for work completed on the Project, Sponsor shall comply with the following reimbursement procedures:

2.1.a. **Deadline to Submit Reimbursement Requests.** All invoices and progress reports shall be submitted to Authority on or before 5:00 p.m. on the tenth (10th) calendar day of the month in which the Sponsor requests reimbursement payments. Authority shall issue reimbursement payments to Sponsor on or before the last day of the month for all timely submittals.

2.1.b. **Late Submittals.** If Sponsor fails to submit documents to Authority as set forth in Section 2.1.a, above, then Authority may provide reimbursement payments for late submittals in the following calendar month.

2.1.c. **Ineligible Expenditures.** The Authority, in accordance with Section 2.1.e., reserves the right to adjust current or future reimbursement payments to Sponsor if an invoice includes ineligible expenditures.

2.1.d. **Reimbursement Amount.** The amount of Measure L reimbursement payments to Sponsor shall not exceed $10,000,000 of eligible expenditures submitted to the Authority as specified in Exhibit “A” for the PS&E Phase, unless the parties agree to otherwise in writing.

2.1.e. **Suspension of Reimbursement.** If the Authority determines that any costs in an invoice are not allowable, the Authority shall return the invoice to Sponsor, with an invoice dispute notice outlining the reason for the return and the proposed remedy, if one exists, which would make the invoice acceptable for payment. Sponsor may re-submit the invoice for payment after reviewing the invoice dispute notice and making any necessary corrections. Sponsor may also immediately submit a new invoice representing only the amounts which are not in dispute, while setting aside the disputed amounts for review in accordance with the provisions set forth in this Section 2.1.

2.1.f. (1) **Meeting.** Once a dispute has occurred, the Authority shall arrange a meeting between the Authority and the Sponsor staff to discuss and attempt to resolve the dispute. If the invoice was received on or before 5:00 p.m. on the 10th day of the month, the meeting shall be held no later than the 20th day of the same month. If the invoice was received, after this date and time, then the meeting shall be held no later than the 20th day of the following month.

2.1.g. (2) **Management and Finance Committee.** If an agreement cannot be reached at the meeting, then the Sponsor or the Authority shall have the option to take the dispute to the Authority's Management and Finance Committee, with the understanding that by doing so the reimbursement for the disputed cost item(s) will be delayed until a resolution of the matter is reached.
2.1.h. (3) **Board Decision.** If the Sponsor or the Authority disagrees with the resolution by the Management and Finance Committee then the dispute shall be submitted to the Authority's Board for resolution. If the Board determines that the disputed cost item(s) is ineligible, the Authority shall not provide reimbursement payment to the Sponsor for the disputed item(s). If the Board determines that the disputed cost item(s) is eligible, then the Authority shall provide reimbursement payment to the Sponsor for the disputed cost. The decision by the Authority Board shall be final.

2.1.i. (4) **Reservation of Rights.** By utilizing the above procedures, neither the Authority nor the Sponsor surrender any rights to pursue available legal remedies if either Party disagrees with the Board decision.

2.1.j. **Acceptance of Work Does Not Result In Waiver.** Reimbursement payments do not result in a waiver of the right of the Authority or Sponsor to require fulfillment of all terms of this Agreement.

2.2. **Right to Conduct Audit.** The Authority shall have the right to conduct an audit of all Sponsor's records pertaining to the Project at any time during the four (4) year period after completion of the Project.

2.3. **Maximum Obligation**

A. Sponsor's maximum obligation for the project shall not exceed Four Million Dollars ($4,000,000.00), unless such maximum obligation is increased by an amendment to this Agreement or by subsequent agreement. The Parties agree to use as much of the $4,000,000.00 as possible for right of way acquisitions.

B. Authority's maximum obligation for all costs under this Agreement shall not exceed Ten Million Dollars ($10,000,000.00), unless such maximum obligation is increased by an amendment to this Agreement. The parties agree that Measure L funds shall not be used for reimbursement of expenses incurred by Sponsor for the project that are not covered by this Agreement such as litigation support, construction, construction design support, and construction management, and any other phases of the SR 132 West Freeway/Expressway project not covered by this Agreement.

**SECTION III**

3.1. **Term.** This Agreement shall remain in effect until discharged or terminated as provided in Section 3.2 or Section 3.14.

3.2. **Discharge.** This Agreement shall be subject to discharge as follows:

3.2.a. **Termination by Mutual Consent.** This Agreement may be terminated at any time by mutual written consent of the parties.

3.2.b. **Discharge Upon Completion of Project.** Upon completion of the PS&E Phase, except as to any rights or obligations which survive discharge as specified in Section 3.13, this Agreement shall be discharged, and the parties shall have no further obligation to each other.

3.3. **Indemnity.** It is mutually understood and agreed, relative to the reciprocal indemnification of Authority and Sponsor:
3.3.a. Sponsor shall fully defend, indemnify and hold harmless Authority, and any officer or employee of Authority, against any damage or liability occurring by reason of anything done or omitted to be done by Sponsor under the Agreement. It is also fully understood and agreed that, pursuant to Government Code Section 895.4, Sponsor shall fully defend, indemnify and hold the Authority harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by Sponsor under this Agreement or in connection with any work, authority, or jurisdiction delegated to Sponsor under this Agreement.

3.3b. Authority shall fully defend, indemnify and hold harmless Sponsor, and any officer or employee of Sponsor, against any damage or liability occurring by reason of anything done or omitted to be done by Authority under or in connection with any work, authority or jurisdiction delegated to Authority under this Agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4, Authority shall fully defend, indemnify and hold the Sponsor harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by Authority under this Agreement or in connection with any work, authority, or jurisdiction delegated to Authority under this Agreement.

3.4. Notices. Any notice which may be required under this Agreement shall be in writing and shall be given by personal service, or by certified or registered mail, return receipt requested, to the addresses set forth below:

**TO AUTHORITY:**
1111 “I” Street
Suite 308
Modesto, CA 95354
Attention: Rose De Leon Park,
Executive Director

**TO SPONSOR:**
Vickey Dion, City Engineer
1010 Tenth Street, Suite 3100
P.O. Box 642
Modesto, CA 94353

Either party may change its address by giving notice of such change to the other party in the manner provided in this Section 3.4. All notices and other communications shall be deemed communicated as of actual receipt of certified U.S. mail.

3.5. Additional Acts and Documents. Each party agrees to do all such things and take all such actions, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purpose of the Agreement.

3.6. Integration. This Agreement represents the entire Agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.

3.7. Amendment. This Agreement may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

3.8. Independent Agency. Sponsor and Authority renders services under this Agreement each as an independent agency under the terms of the Agreement. None of the Sponsor’s agents or employees shall be agents or employees of the Authority and none of the
Authorities' agents or employees shall be agents or employees of Sponsor.

3.9. **Assignment.** The Agreement may not be assigned, transferred, hypothecated, or pledged by any party without the express written consent of the other party.

3.10. **Binding on Successors.** This Agreement shall be binding upon the successor(s), assignee(s) or transferee(s) of the Authority or as the case may be. This provision shall not be construed as an authorization to assign, transfer, hypothecate or pledge this Agreement other than as provided above.

3.11. **Severability.** Should any part of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either party to enter into or carry out, such determination shall not affect the validity of the remainder of this Agreement which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

3.12. **Counterparts.** This Agreement may be executed in one or more counterparts and shall become effective when one or more counterparts have been signed by all of the parties; each counterpart shall be deemed an original but all counterparts shall constitute a single document.

3.13. **Survival.** The following provisions in this Agreement shall survive discharge:

- **13.3.a. Sponsor.** As to Sponsor, the following sections shall survive discharge: Section 1.6 (obligation to apply funds to Project), Section 1.7 (obligation to provide copies and retain records), Section 1.8 (obligation to continue to manage Project).
- **13.3.b. Authority.** As to Authority, the following section shall survive discharge: Section 2.2 (right to conduct audit).
- **13.3.c. Both Parties.** As to both parties, the following section shall survive discharge: Section 3.3. (mutual indemnities).

3.14. **Limitation.** All obligations of Authority under the terms of this Agreement are expressly contingent upon the Authority’s continued authorization to collect and expend the sales tax proceeds provided by Measure I. If for any reason the Authority’s right or ability to collect or expend such sales tax proceeds is terminated or suspended in whole or part so that it materially affects the Authority’s ability to fund the Project, the Authority shall promptly notify Sponsor, and the parties shall consult on a course of action. If, after twenty-five (25) working days, a course of action is not agreed upon by the parties, this Agreement shall be deemed terminated by mutual or joint consent. Any future obligation to fund this Project or any other project or projects of Sponsor, not already specifically covered by separate Agreement, shall arise only upon execution of a new Agreement.

3.15. **Attorneys’ Fees.** Should any litigation commence between the parties concerning the rights and duties of any party pursuant to, related to, or arising from, this Agreement, the prevailing party in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorneys’ fees and costs of such litigation, or in a separate action brought for that purpose.

3.16. **Time.** Time is and shall be of the essence of this Agreement and each and all of its provisions in which performance is a factor.

3.17. **Remedies Cumulative.** No remedy or election of remedies provided for in this Agreement shall be deemed exclusive, but shall be cumulative with all other remedies at law or in
equity. Each remedy shall be construed to give the fullest effect allowed by law.

3.18. **Applicable Law.** This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of California.

3.19. **Captions.** The captions in this Agreement are for convenience only and are not a part of this Agreement. The captions do not in any way limit or amplify the provisions of this Agreement and shall not affect the construction or interpretation of any of its provisions.

3.20. **No Continuing Waiver.** The waiver by any party of any breach of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same, or of any other provision of this Agreement.

3.21. **No Rights in Third Parties.** Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any third party, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party to any party to this Agreement, nor shall any provision of this Agreement give any third party any right of subrogation or action over or against any party to this Agreement.

3.22. **Signator’s Warranty.** Each party warrants to each other that he or she is fully authorized and competent to enter into this Agreement in the capacity indicated by his or her signature and agrees to be bound by this Agreement as of the day and year first mentioned above upon the execution of this Agreement by each other party.

3.23. **Audit and Inspection**

Authority and Sponsor shall maintain a complete set of records in accordance with generally accepted accounting principles. Upon reasonable notice, Authority and Sponsor shall permit each Party’s authorized representatives to inspect and audit all work, materials, payroll, books, accounts, and other data and records of the other Party for a period of four (4) years after final payment, or until any on-going audit is completed. For purposes of audit, the date of completion of this Agreement shall be the date of Authority’s payment of Sponsor’s final billing (so noted on the invoice) under this Agreement. Each Party shall have the right to reproduce any such books, records, and accounts of the other Party relative to the Project. The above provision with respect to audits shall extend to and/or be included in contracts with Sponsor’s contractors.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first written above.

/ / / /
/ / / /
/ / / /
/ / / /
/ / / /
/ / / /
/ / /
CITY OF MODESTO
A municipal corporation

By: __________________________
Name: _______________________
Title: ________________________

STANISLAUS COUNTY LOCAL
TRANSPORTATION AUTHORITY

By: __________________________
Name: Bill Zoslocki
Title: Chair

ATTEST

By: __________________________
Name: _______________________
Title: ________________________

ATTEST

By: __________________________
Name: Rosa De León Park
Title: Executive Director

APPROVED AS TO FORM

By: __________________________
Name: Brenda Aguilar-Guerrero
Title: Special Counsel

APPROVED AS TO FORM

By: __________________________
Name: Monica J. Streeter
Title: Deputy General Counsel
This application is a request for reimbursement of costs.

1. **Project Names, Locations:**
   - State Route 132 West Freeway/Expressway – Plans, Specifications, and Estimates for Phase 1 Project

2. **Project Sponsor:**
   - City of Modesto

3. **Contact Person:**
   - Vickey Dion, City Engineer 1010 Tenth Street, Suite 3100 P.O. Box 642, Modesto, California, 95353 (209) 571-5542

4. **Project Scope of Work:**
   PS&E for Phase 1 of the SR 132 West Expressway which proposes to construct a two-lane highway on a new alignment in Stanislaus County from the City of Modesto at State Route 99 just south of Kansas Avenue to Dakota Avenue. Phase 1 of the Project is approximately four miles in length and will allow for construction of the ultimate multi-lane freeway.
   - Phase 1 of the Project will replace the existing 2- lane highway segment of SR-132 along Maze Boulevard from SR-99 to Dakota Avenue. Improvements include providing a portion of the ultimate freeway corridor west of SR-99; direct connection from SR-132 to Needham Avenue over SR-99 to downtown Modesto; highway grade separation structures at Emerald Avenue, Carpenter Avenue, and Rosemore Avenue; one-way direct connection of 6th Street to Needham Avenue; and direct roadway connection to 5th Street from east bound SR 132.

5. **Expected Timing for Delivery of Project Design** (indicate if task is already completed, not applicable or if part of phasing of the Project):

<table>
<thead>
<tr>
<th>Phase</th>
<th>Start Date</th>
<th>Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Design/Engineering</td>
<td>Dec 1, 2009</td>
<td>August 2018</td>
</tr>
<tr>
<td>Environmental Document</td>
<td>Feb 17, 2014</td>
<td>Mar 9, 2018</td>
</tr>
<tr>
<td>Final Design</td>
<td>May 5, 2017</td>
<td>Jan 10, 2019</td>
</tr>
<tr>
<td>Phase 1 Project Construction</td>
<td>June 2019</td>
<td>December 2020</td>
</tr>
</tbody>
</table>
6. Estimated Cost of PS&E Phase 1 Project Activities:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>PS&amp;E Contract with Dokken Engineering</td>
<td>$6,400,000.00</td>
</tr>
<tr>
<td>Contingency</td>
<td>$600,000.00</td>
</tr>
<tr>
<td>PS&amp;E Support</td>
<td>$500,000.00</td>
</tr>
<tr>
<td>Right of Way Support</td>
<td>$1,000,000.00</td>
</tr>
<tr>
<td>Utility Relocation</td>
<td>$1,750,000.00</td>
</tr>
<tr>
<td>Plan Check</td>
<td>$750,000.00</td>
</tr>
<tr>
<td>Early Right of Way Acquisitions</td>
<td>$3,000,000.00</td>
</tr>
<tr>
<td><strong>TOTAL EXPENSES</strong></td>
<td><strong>$14,000,000.00</strong></td>
</tr>
</tbody>
</table>

7. Expected Timing for Reimbursement of Sponsor by Quarter:

<table>
<thead>
<tr>
<th>Quarter</th>
<th>FY 17/18</th>
<th>FY 18/19</th>
<th>FY 19/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Quarter</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Second Quarter</td>
<td>$0</td>
<td>$0</td>
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</tr>
<tr>
<td>Third Quarter</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Fourth Quarter</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

8. Source(s) and Amount of Matching Funds:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Modesto Streets Capital Facilities Fees*</td>
<td>$4,000,000.00</td>
</tr>
<tr>
<td>Measure L Regional Project Funds</td>
<td>$10,000,000.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$14,000,000.00</strong></td>
</tr>
</tbody>
</table>

*City of Modesto to commit $4,000,000 of Streets Capital Facilities Fees for the SR 132 West Project, the majority of said monies will be utilized for early right-of-way acquisitions. Right-of-Way Acquisition is anticipated to commence concurrently with PS&E.

9. Project Map (see attached):
Project Scope and Activities:

Below are the various project activities to be supported with corresponding definitions:

**PS&E- Plans Specifications and Estimates.** This is the primary contract with Dokken Engineering. It includes all the work requested in the Sponsor scope of work included in the contract for services.

**$600,000 Contingency.** This activity and amount is reserved for unknown issues at the time of the contract initiation. In Sponsor’s development of the design there are certain processes that are not completely known or understood. The contingency money allows the project design to progress unfettered to account for minor (up to 10% of original contract) incidental work. It also accounts for additional work requested by Sponsor oversight, Caltrans, and added scope that could be anything that is approved by one of the project stakeholders. Project stakeholders are Stanislaus County, StanCOG, Caltrans, and City of Modesto for this project.

**PS&E Support.** This amount and activity is to account for staff and attorney time engaged on the project for this PS&E stage. It includes staff time to coordinate consultants, attend meetings, review work product, and ensure adequate progress. It includes drafting of numerous contracts and cooperative agreements, as well as providing legal opinions as to various project issues including potential early acquisitions. It does not include any litigation support or services.

**Right of Way Support.** This activity is the engagement of the right of way team. At the time of this Agreement the scope of work is not completely known or understood. This is because the prime design team (Dokken) is refining/changing the design. This activity could add right of way takes or TCE’s (Temporary Construction Easements). The project right of way is environmentally cleared for a 4-lane facility, but the phase 1, 2-lane facility was originally contemplated in a location different than as progressed in the final design. This means that additional parcels not assumed impacted in the first phase could now be impacted with the prime design. All of this is allowed and within the footprint of the Environmental Document. The resultant ROW activity could result in more or less parcels to be engaged with the initial project. TCE’s will not be known completely until the 65% plans have been developed.

**Utility Relocation.** This amount is reserved to capture costs associated with clearing right of way prior to construction. Early utility relocation is necessary to ensure a clear right of way for the construction contractor to build the project. If the right of way is not clear at the project construction start, contractor could suffer right of way delay and not be able to complete the project on time. This amount and activity helps ensure that the project will be completed as anticipated in Dec 2020. It was recently discovered that a 54 inch SS line at the westerly end of the project needs to be religned and a second crossing installed. The estimated cost for this repair is in the $1M range. Sponsor is seeking ways to lower this projected cost.
Plan Check: This amount and activity is reserved to provide plan check engineering of the PS&E. The SR132 project is a regional project and a project that requires highly developed skills to design. These skills are not available amongst City staff as well as the scope and scale of the project would require significant staff involvement of time such that other on-going City commitments could suffer. Additionally, investment in plan check engineering helps to control cost overruns in the construction phase due to inconsistencies and uncertainties in the plans and specifications.
RESOLUTION APPROVING A LAND EXCHANGE AGREEMENT BETWEEN CITY OF MODESTO AND STANISLAUS FOOD PRODUCTS, MODESTO, CA, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto (City) is the fee owner of certain real property (the “City Property”), known as 11th Street between D Street and Morton Blvd., 12th Street between B Street and Morton Blvd., and B Street between 12th Street and 10th Street, located in the City, and

WHEREAS, Stanislaus Food Products (SFP) is the fee owner of certain real property (the “Stanislaus Property,”) located in the City, formerly known as a portion of 10th Street between B Street and D Street, and strips of land bordering 10th Street between B Street and Morton Blvd., and a strip of land from 11th Street to Morton Blvd. on both sides of 11th Street, and a strip of land along 9th and B Streets, and

WHEREAS, SFP owns the property adjacent to the City Property and desires to acquire ownership of the City Property with no restrictions in order to close 11th Street between D Street and Morton Blvd, 12th Street between B Street and Morton Blvd., and B Street between 12th Street and 10th Street, and to make permanent improvements that will benefit SFP, and

WHEREAS, the City desires to purchase the SFP Property for future public purposes, and

WHEREAS, the City and SFP have negotiated a land exchange agreement (the “Land Exchange Agreement”) substantially in the form on file with the City Clerk, and
WHEREAS, the City hereby finds that the transactions contemplated under this Resolution further the health, safety and welfare of the City’s residents and are in conformity with the City’s economic development plans and Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Council hereby approves the Land Exchange Agreement between the City and Stanislaus Food Products, substantially in the form on file with the City Clerk.

BE IT FURTHER RESOLVED, that the Interim City Manager, or his designee, is hereby authorized to execute the Land Exchange Agreement, in a form approved by the City Attorney, and to take all other actions and execute all other documents that are necessary to carry out the intent of this Resolution and to exchange the properties, as set forth in the Land Exchange Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October, 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:  

(SEAL)

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
RESOLUTION ACCEPTING A REPORT ON A DRAFT RECORD OF VIOLATION FROM THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD AND PAYING THE MANDATORY MINIMUM PENALTIES OF $165,000 AND WAIVING THE RIGHT TO A HEARING RELATING TO AN UNALLOWABLE DISCHARGE INTO THE SAN JOAQUIN RIVER IN MARCH 2017, AND APPROPRIATING $165,000 FROM WASTEWATER FUND RESERVES TO PAY THE MANDATORY MINIMUM PENALTY

WHEREAS, on March 2, 2017, staff notified the Central Valley Regional Water Quality Control Board (CVRWQCB) that influent flows to the treatment facilities had increased significantly due to recent Tuolumne River flooding, and

WHEREAS, excessive inflow and infiltration (I/I) was the result of a sewer trunk pipe failure that runs parallel to the Tuolumne River, which overwhelmed the City’s treatment facilities, and

WHEREAS, staff began to release undisinfected secondary treated wastewater to the San Joaquin River from March 2, 2017 through March 30, 2017, which was necessary to protect the pond levees and treatment processes infrastructure at the Jennings Road Wastewater Treatment Plant, as the ponds had reached full capacity due to the flooding event, and

WHEREAS, the Director of Utilities made a determination on March 2, 2017, to discharge undisinfected secondary treated wastewater to the San Joaquin River and Council was notified of the unanticipated event, and

WHEREAS, as of March 31, 2017, staff discharged approximately 755 million gallons of undisinfected secondary treated wastewater and triggered 59 exceedance violations, and
WHEREAS, staff is aware that Mandatory Minimum Penalties (MMPs) are required by Section 13385 of the California Water Code and the CVRWQCB must assess MMPs for violations of the effluent limitations contained in the Waste Discharge Requirements, and

WHEREAS, the Record of Violation contains a listing of effluent limitation violations that occurred due to discharges from the facility from April 1, 2013 through June 30, 2017 and the CVRWQCB assessed approximately 5 years of data to conclude staff reached the maximum allowable violations, and

WHEREAS, California Water Code section 13385(i) requires that a Mandatory Minimum Penalty (MMP) of $3,000 be assessed by the Regional Water Boards for each non-serious violation, and

WHEREAS, on September 11, 2017, staff received an Administrative Civil Liability (ACL) complaint (R5-2017-0551) regarding the MMPs, which has several options, pursuant to Water Code section 13323, including: pay the proposed administrative civil liability and waive its right to a hearing; ask that the hearing be postponed to facilitate settlement discussions or for other reasons; or contest the Complaint and/or enter into settlement discussions without signing the enclosed waiver, and

WHEREAS, due to the fact that the City self-reported the violations, staff is recommending paying the proposed administrative civil liability and waive the City’s right to a hearing, and

WHEREAS, staff has deemed the MMP of $165,000 is reasonable, and
WHEREAS, staff negotiated with the board staff and received an extension to October 31, 2017, and

WHEREAS, staff presented this item to the Effective Government Committee on September 25, 2017, where the recommendation was made to forward this item to Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a report on a draft Record of Violation from the Central Valley Regional Water Quality Control Board and authorizes payment of the Mandatory Minimum Penalties of $165,000 and waiving the right to a hearing relating to an unallowable discharge into the San Joaquin River in March 2017, and appropriating $165,000 from Wastewater Fund reserves to pay the Mandatory Minimum Penalty.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of October, 2017, by Councilmember Ridenour,
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 APPROVING TWO DAYS A WEEK OUTDOOR WATER USE FOR CITY OF MODESTO CONTIGUOUS WATER CUSTOMERS (SERVED BY SURFACE AND GROUNDWATER) FROM NOVEMBER 1, 2017 THROUGH MARCH 31, 2018 AND THREE DAYS A WEEK WATERING SCHEDULE APRIL 1, 2018 THROUGH OCTOBER 31, 2018 AND CONTINUING THESE SCHEDULES YEAR-ROUND; AND APPROVING TWO DAYS A WEEK OUTDOOR WATER USE FOR ALL CUSTOMERS SERVED BY GROUNDWATER (DEL RIO, GRAYSON, TURLOCK AND CERES - WALNUT MANOR), EFFECTIVE NOVEMBER 1, 2017, AND CONTINUING THIS SCHEDULE YEAR-ROUND, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS RELATED TO THE IMPLEMENTATION OF OUTDOOR WATER USE

WHEREAS, on May 23, 2017, Council, by Resolution No. 2017-206, approved Outdoor Water Use Regulations for June through October 2017 for water customers served by the Modesto sub-basin groundwater supply or surface water which implemented a three days a week watering schedule, and

WHEREAS, by executive order B-40-17 on April 7, 2017, Governor Brown declared an end to California’s drought, and

WHEREAS, the City is now receiving the full allotment of surface water from the Modesto Regional Water Treatment Plant, and

WHEREAS, staff will continue to monitor groundwater levels, especially in the outlying water systems, precipitation and snow pack levels to determine if further restrictions become necessary to meet State conservation goals and water supply requirements, and

WHEREAS, staff is recommending a two days a week outdoor water use for City contiguous water customers (served by surface water and groundwater), from November 1, 2017 through March 31, 2018, and
WHEREAS, since the City’s outlying water service areas are served with only groundwater, staff is recommending two days a week outdoor watering year-round for customers in those areas, and

WHEREAS, staff is also recommending return to three days a week watering schedule April 1, 2018 through October 31, 2018 for contiguous water customers and continuing these schedules year-round, and

WHEREAS, staff estimates the two-day watering schedule will keep usage at the current rate and therefore keep revenues consistent with the winter months when customers typically use less water, and

WHEREAS, this item was considered by the Finance Committee at the September 25, 2017 meeting and Committee recommended forwarding to full Council for approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves two days a week outdoor water usage for City of Modesto contiguous water customers (served by surface and groundwater) from November 1, 2017 through March 31, 2018 and three days a week watering schedule April 1, 2018 through October 31, 2018 and continuing these schedules year-round; and approving two days a week outdoor water use for customers served by groundwater (Del Rio, Grayson, Turlock and Ceres - Walnut Manor), effective November 1, 2017, and continuing this schedule year-round.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the necessary documents related to the implementation of outdoor water use.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of October, 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. LINDEGREN, City Attorney