



**City of Modesto**

# **Kiernan Business Park Specific Plan Amendment #4 Project**

## **EIR Volume II**

**State Clearinghouse No. 2007062071  
Draft EIR Publication Date: December 17, 2008**

**Draft EIR Public Comment Period:  
December 17, 2008 to February 2, 2009**

**Final EIR Certification Date:  
September 1, 2009**

**City Council Resolution No. 2009-418**





**Kiernan Business Park Specific Plan  
Amendment #4 Project**

**EIR Volume II**

**State Clearinghouse No. 2007062071  
Draft EIR Publication Date: December 17, 2008**

**Draft EIR Public Comment Period:  
December 17, 2008 to February 2, 2009**

**Final EIR Certification Date:  
September 1, 2009**

**City Council Resolution No. 2009-418**



# I. INTRODUCTION

---

The Draft Master Environmental Impact Report (EIR) for the Kiernan Business Park Specific Plan Amendment #4 was circulated for public review from December 17, 2008 through February 2, 2009 to provide the public and responsible agencies with an opportunity to submit written comments on the Draft EIR.

The California Environmental Quality Act (CEQA) requires that a list of agencies and persons commenting on the Draft EIR be included in the Final EIR, and that written responses be prepared for all substantive comments received that raise environmental issues. In compliance with this requirement, Chapter II of this Proposed Final Master EIR presents a list of agencies and persons commenting, and Chapter III presents the letters received, with responses to environmental issues.

Each comment letter is designated alphabetically, and issues in each letter are identified by the letter designation and a sequential number (e.g., Letter A includes Comments A-1 and A-2). Immediately following each comment letter are responses to the comments in that letter. Each response is identified by the letter/number designation that corresponds to the comment it addresses (e.g., Comment A-1 is addressed in Response A-1). Items discussed in comment letters that do not raise environmental issues do not require responses, although responses are provided for most..

Chapter IV lists revisions made to the Draft EIR, either in response to comments received during the public review period or to address administrative issues identified following publication of the Draft EIR. New text is shown as **underlined bold** type and deleted text is shown as ~~strikethrough~~.

Chapter V of this Final Master EIR contains the Mitigation Monitoring and Reporting Program required in CEQA Section 21081.6. It identifies all mitigation measures proposed to be adopted in the approval action, the responsible entity, and timing.

## **II. LIST OF COMMENTORS ON THE DRAFT EIR**

---

The following persons submitted written comments on the Draft EIR for Amendment No. 4 to the Kiernan Business Park Specific Plan Project:

### **STATE AGENCIES**

- California Department of Transportation – Tom Dumas, Chief of Metropolitan Planning, February 9, 2009 (Letter G)
- California Office of Planning and Research – Terry Roberts, Director, State Clearinghouse and Planning Unit, February 3, 2009 (Letter M)
- California Public Utilities Commission – Moses Stites, Rail Corridor Safety Specialist, Consumer Protection and Safety Division, Rail Transit and Crossings Branch, January 26, 2009 (Letter A)

### **LOCAL AGENCIES**

- Modesto Irrigation District – Celia Aceves, Risk & Property Analyst, January 27, 2009 (Letter D)
- Modesto High School District – Dana McGarry, Director of Planning and Research, January 14, 2009 (Letter F)
- Salida Fire Protection District – Dale Skiles, Fire Chief, January 28, 2009 (Letter B)
- San Joaquin Valley Air Pollution Control District – Arnaud Marjollet, Permit Services Manager, January 5, 2009 and February 2, 2009 (Letters C and O)
- Stanislaus Council of Governments – Charles Turner, Associate Planner, February 5, 2009 (Letter L)
- Stanislaus County Environmental Review Committee – Raul Mendez, Senior Management Consultant, February 13, 2009 (Letter N)
- Stanislaus LAFCO – Sara Lytle-Pinhey, Assistant Executive Officer, February 2, 2009 (Letter E)

### **PRIVATE GROUPS**

- Fleur de Ville Improvement Association – Randall Jalli, Vikram Brar, Francis Ip, Giordonna Levatino, Anne Bobson, Board of Directors, January 30, 2009 (Letter K)
- Gianna Family Trust – Marino Giannini, January 30, 2009 (Letter J)
- Mana Development and Hans Wagner – Michael C Normoyle, Esq., February 2, 2009 (Letter H)

### **INDIVIDUALS**

- Martin David, December 15, 2009 (Letter I)

### **III. COMMENTS AND RESPONSES**

---

This section presents the comment letters received on the Draft EIR for the Kiernan Business Park Specific Plan Amendment #4 Project, followed by responses to the environmental issues raised in the comments.

# **LETTER A**

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



January 26, 2009

Josh Bridegroom  
City of Modesto  
1010 tenth Street, Suite 3300  
Modesto, CA 95356



Re: Notice of Completion, Draft Environmental Impact Report (DEIR)  
Kiernan Business Park Specific Plan Amendment #4/SCH# 2007062071

Dear Mr. Bridegroom:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers.

A.1

The Commission recommends that the City include consideration of potential project-related rail safety impacts and measures to reduce adverse impacts of the proposed project to the Kiernan Avenue at-grade crossing (CPUC #001B-106.20) and Broadway crossing (CPUC #001B-106.40). The analysis within the Transportation/Circulation section of the DEIR does not include any analysis for these crossings. How does the City propose to address these crossings?

A.2

In general, the major types of impacts to consider are collisions between trains and vehicles, and between trains and pedestrians. Changes in land use should not be allowed that would permit housing adjacent to existing rail yards. Similarly, where a need for grade-separated crossings is identified, new development should not be placed adjacent to at-grade highway rail crossings, within the footprint of land needed for future grade-separation structures.

General categories of measures to reduce potential adverse impacts on rail safety include:

- Installation of grade separations at crossings, i.e., physically separating roads and railroad track by constructing overpasses or underpasses
- Improvements to warning devices at existing highway-rail crossings
- Installation of additional warning signage
- Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption
- Installation of median separation to prevent vehicles from driving around railroad crossing gates

Josh Bridegroom  
City of Modesto  
SCH#2007062071  
January 26, 2009  
Page 2 of 2

- Where soundwalls, landscaping, buildings, etc. would be installed near crossings, maintaining the visibility of warning devices and approaching trains
- Prohibition of parking within 100 feet of crossings to improve the visibility of warning devices and approaching trains
- Installation of pedestrian-specific warning devices and channelization
- Installation of additional traffic lanes through the crossing to accommodate additional traffic
- Construction of pull-out lanes for buses and vehicles transporting hazardous materials
- Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- Elimination of driveways near crossings
- Increased enforcement of traffic laws at crossings
- Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings

A.2  
CONT'D

CPUC also encourages localities to set up mechanisms whereby new developments pay a fair share of their impact costs to fund the above measures if not already in an existing Fee program by the City or a Regional Fee program.

A.3

Commission approval is required to modify an existing highway-rail crossing or to construct a new crossing.

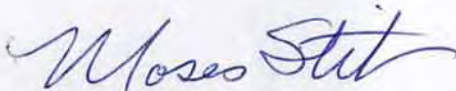
A.4

Please forward the revised Traffic impact Study (TIS) that includes the previously mentioned at-grade rail crossings for our review and comment.

A.5

Thank you for your consideration of these comments and we look forward to working with the City on this project. If you have any questions in this matter, please call me at (415) 713-0092 or email at [ms2@cpuc.ca.gov](mailto:ms2@cpuc.ca.gov).

Sincerely,



Moses Stites  
Rail Corridor Safety Specialist  
Consumer Protection and Safety Division  
Rail Transit and Crossings Branch  
515 L Street, Suite 1119  
Sacramento, CA 95814

**RESPONSES TO LETTER A:  
California Public Utilities Commission – Moses Stites**

---

**Response to Comment A.1**

The California Public Utilities Commission (CPUC) recommends that development projects near rail corridors be planned with the safety of those crossings in mind.

The City concurs that rail safety is an important issue that requires coordination of staff from various agencies, including the City, County, Caltrans and CPUC.

**Response to Comment A.2**

The commenter requests that the City consider potential project related-rail safety impacts to the Broadway and Kiernan Avenue at-grade crossings.

The Broadway crossing is located approximately 2 miles west of the westernmost portion of the project site in the community of Salida. The crossing is equipped with gates, a roadway median to prevent gate arm run around, and audible and visual warnings. The pavement is also marked to indicate a railroad crossing. Pedestrian facilities (sidewalks) are not provided at this crossing. Based on information provided in the Federal Railroad Administration website, fatal accidents occurred at this location in 1984 and 1979 (<http://safetydata.fra.dot.gov/OfficeofSafety/publicsite/crossing/Xingqryloc.aspx>). No other accidents have been reported at this crossing.

The proposed project is expected to add 34 vehicle trips across the crossing during the AM peak hour and 45 vehicle trips during the PM peak hour. Given the distance of the crossing to the project site, the project is not likely to increase pedestrian traffic across the crossing. Based on the intersection analysis presented in the DEIR, average vehicle queues at the Salida Avenue/Broadway intersection are not expected to spillback through the crossing, even with the addition of project traffic. No improvements are planned or required on Broadway that would affect the crossing.

The Kiernan Avenue crossing is located approximately 2 miles east of the easternmost portion of the project site. The two-lane crossing is equipped with gates, and audible and visual warnings. The pavement is also marked to indicate a railroad crossing. Pedestrian facilities (sidewalks) are not provided at this crossing. Based on information provided in the Federal Railroad Administration website no accidents have been reported at this location.

At buildout, the project is expected to add approximately 300 vehicle trips across the crossing during the AM peak hour and approximately 400 vehicle trips during the PM peak hour. Given the distance of the crossing to the project site, the project is not likely to increase pedestrian traffic at the crossing, and future pedestrian traffic is expected to be

limited give the auto-dominated nature Kiernan expressway and the lack of pedestrian destinations. Based on the distance to the nearest controlled intersections of Kiernan Avenue/Tully Road and Kiernan Avenue/McHenry Avenue, vehicle queues at these intersections are not expected to spillback through the crossing, even with the addition of project traffic.

Kiernan Avenue from SR 99 to McHenry Ave (including the Kiernan Avenue crossing) is proposed to be widened as part of Caltrans's Kiernan Avenue expressway project. Construction on the segment between Morrow Road and McHenry Avenue, which includes the crossing, is expected to begin in late 2010, early 2011. This widening project would occur independent of the proposed project, although the project would contribute its fair share toward the planned improvements.

There are no established thresholds for determining impacts to rail crossings, but based on industry practice, the affects of the project on the abovementioned rail crossings would be less than significant. The project does not propose to change or alter either the Broadway or Kiernan Avenue crossings, and would not significantly alter the operation of the crossings. Therefore, no additional analysis is required and no specific mitigation is required.

#### **Response to Comment A.3**

The commenter suggests that the City establish a fund where new developments pay their fair share towards improving railroad crossings.

The City's CFF program is in place to facilitate fee collection to improve at-grade crossings. The CFF program also currently includes the construction of a grade-separated crossing at Claus and the Burlington Northern Santa Fe (BNSF) rail in northeast Modesto.

#### **Response to Comment A.4**

Comment notes that Commission approval is needed to modify an existing highway rail crossing or to construct a new crossing.

Comment is noted for future reference. No improvements are planned to rail crossings as part of this project.

#### **Response to Comment A.5**

The commenter requests a copy of the revised Traffic Impact Study that includes the railroad assessment.

Please see response to Comment A.2 for detailed railroad assessment. As no significant impacts were identified to the railroad crossings, no additional assessment is necessary and the TIS will not be revised.

**LETTER B**



January 28, 2009

City of Modesto  
Community and Economic Development Department, Planning Division  
P.O. Box 642  
Modesto, CA. 95353

Attn: Josh Bridegroom, Senior Planner

**RE: Notice of Availability of a Draft Specific Plan and Draft  
Environmental Impact Report for the Kiernan Business Park Specific  
Plan Amendment #4 Project (SCH #2007062071)**

Dear Mr. Bridegroom,

The continued effort by the City of Modesto to detach land from the Salida Fire Protection District, "District", without studying and or addressing a mitigation measure is very disturbing. There have been numerous comments from the District to the City of Modesto requesting a study to address issues of project segmentation and the financial impact of piecemeal annexation and loss of revenue and its effect on the adequacy of fire service funding for the remaining portions of the District.

As was stated in a District letter to the City of Modesto (dated July 16, 2007), it would appear the City is "chopping up" its land use decisions into smaller projects as to avoid accurately assessing the cumulative project. This project further confirms the issue of "piecemeal" annexation from a known larger project.

Although you as a planner have stated your responsibility to identify the issues pursuant to CEQA in the planning process, the District continues to hold City policy responsible for inadequately addressing what has been publicly noted as a problem. As well, Stanislaus LAFCO who approves detachments has studied the impacts of what is being proposed and identifies them as negative. Formal acceptance by policy of a

B.1

Municipal Services Review identifies piecemealing and makes recommendations to mitigate it; none of which have been completed.

B.1  
CONT

The District invites the City of Modesto to seek solutions, particularly due to the fact that Salida Fire has a fire station, equipment, and personnel closer to much of the proposed area than the stations listed in the draft Specific Plan. If it is our desire to provide the best services to the citizens of a proposed area, it is necessary to address the issue appropriately. In the case of the draft Specific Plan, the resources of the District are eliminated as a possible solution, similar to the proposed practice of eliminating funding from the District.

B.2

The fire service does not operate like many other public services. Time is of an essence, as it is so well stated in adopted City policy. The District requests a study be conducted to show the location of the closest resources to respond and from where the most adequately positioned assistance is to the project.

There has been past practice within the City of Modesto to establish territory and not consider the greatest cost effective measures, especially relating to fire stations. If we allow such practice to take place today in these challenging economical times, we have failed as to what is expected of us.

The draft Specific Plan mentions ISO ratings for the District. As a point of correction, the District has a 4, 8b rating.

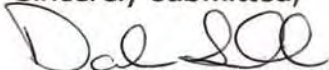
B.3

It is known the District and City are having some discussions regarding future regional fire services. Some of the issues driving such talks are our ability to continue providing adequate services to the citizens served. The proposed action to detach will only exacerbate the problem we are attempting to overcome. Together, we must immediately stop the bleeding and appropriately address the issue!

B.4

In conclusion, the District is interested in discussing options to minimize planning, financial, and operational challenges for both the City of Modesto and the District. In addition, the District requests timely written notice of all future proceedings in the matter consistent with applicable law.

Sincerely submitted,



Dale Skiles  
Fire Chief

Cc: LAFCO

**RESPONSES TO LETTER B:  
Salida Fire Protection District – Dale Skiles, Fire Chief**

---

**Response to Comment B.1**

The commenter raises concerns that the City of Modesto has not included mitigation measures for the proposed detachment of the Project site from the Salida Fire Protection District (SFPD) and the financial impact of such detachment on the District. The commenter suggests that the City is “chopping up” land use decisions to avoid assessing the cumulative impact.

The City strongly disagrees that the proposed project represents “chopping up” or piecemealing of development projects to avoid a full analysis of cumulative impacts. The DEIR includes a complete analysis of cumulative impacts of the proposed project (see Section V.b of the DEIR). This analysis anticipates the potential impacts of the project in conjunction with all existing and anticipated development through build-out of the City’s General Plan (2025). Therefore, the EIR for this project does not represent piecemealing of development to avoid full CEQA analysis.

Regarding impacts of the proposed project on fire protection services, the standards of environmental significance on page IV.1.12 of the DEIR determined that an impact would be significant if it “would result in an increased demand for fire services in an area that cannot be adequately serviced by existing and anticipated fire personnel and facilities.

Impact 1.2, identified in the DEIR, found that adequate fire and emergency service capacity exists within the Modesto Fire Department to provide service to build-out of the proposed project. Impact to fire services would therefore be less than significant.

**Response to Comment B.2**

The commenter invites the City of Modesto to seek solutions to the fire protection issue, especially since the Salida Fire Protection District has a fire station, equipment and staff closer to the project site than the City. The commenter further requests that a study be prepared to show the location of closest resources and response times to the need. The commenter concludes by suggesting that the practice of the City is not to consider the greatest cost effective measures, especially relating to fire stations.

The City and SFPD have discussed the matter of detachment of territory from the SFPD both in written and verbal correspondence. Further discussion on this is anticipated to occur in the future. However, the economic impacts of detachment of the property from the SFPD are not an environmental matter. The reduction in service area and revenue for the District would not result in any physical environmental impacts under CEQA.

Impact 1.2, identified in the DEIR, found that adequate fire and emergency service capacity exists within the Modesto Fire Department to provide service to build-out of the proposed project. Impact to fire services would therefore be less than significant.

**Response to Comment B.3**

The commenter states, as a point of clarification to the draft Specific Plan, that the SFPD has an ISO rating of 4, 8b. However, upon conducting a search for SFPD ISO ratings, City staff was not able to find a reference in the Specific Plan. A reference was found on page IV.I.9 of the DEIR. A conversation with Chief Dale Skiles on June 8, 2009, revealed that this was the text intended to be cited. Chief Skiles identified that 9 is no longer used as an ISO rating, as indicated by the DEIR. The ISO rating of 8b is the current rating for rural areas served by the District. The modified classification for ISO rating applied to rural areas served by the SFPD has no bearing on the outcome of the analysis presented in the DEIR. However, in order to provide up-to-date information and ensure that the commenter's concerns are addressed, the EIR has been changed to reflect the current ISO rating of 8b in the Changes and Modifications section of the FEIR.

**Response to Comment B.4**

The commenter acknowledges that the City and SFPD are in discussion over the potential for future regional fire service, but indicates that incremental detachment of property from the district does not contribute to the solution. The commenter then reiterates the SFPD's interest in further discussions with the City to reduce planning, financial and operational challenges for both the City and the District. In response, the commenter is directed to Response to Comment B.2.

# **LETTER C**



# San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT



January 5, 2009

Josh Bridegroom  
City of Modesto  
Planning Division  
PO Box 642  
1010 Tenth Street  
Third Floor  
Modesto, CA 95353

**Project: Kiernan Business Park Specific Plan Amendment #4 Project (SCH #2007062071), Availability of a Draft Specific Plan and DEIR**  
**District Reference No: 20080857**

Dear Mr. Bridegroom:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the subject project and offers the following comments:

1. The Specific Plan Amendment itself will not have an impact on air quality. However, future development within the plan area will contribute to the overall decline in air quality due to increased traffic and ongoing operational emissions. New development may require further environmental review and mitigation. The District makes the following recommendations regarding future development:
  - A. Accurate quantification of health risks and operational emissions requires detailed site specific information, e.g. type of emission source, proximity of the source to sensitive receptors, and trip generation information. The required level of detail is typically not available until project specific approvals are being granted. Thus, the District recommends that potential health risks be further reviewed when approving future projects, including those that would be exempt from CEQA requirements. Specific consideration should be given when approving projects that could expose sensitive receptors to toxic air contaminants (TACs). If the analysis indicates that TACs are a concern, the District recommends that a Health Risk Assessment (HRA) be performed. If an HRA is to be performed, it is

C.1

**Seyed Sadredin**

Executive Director/Air Pollution Control Officer

**Northern Region**  
4800 Enterprise Way  
Modesto, CA 95356-8718  
Tel: (209) 557-6400 FAX: (209) 557-6475

**Central Region (Main Office)**  
1990 E. Gettysburg Avenue  
Fresno, CA 93726-0244  
Tel: (559) 230-6000 FAX: (559) 230-6061  
www.valleyair.org

**Southern Region**  
2700 M Street, Suite 275  
Bakersfield, CA 93301-2373  
Tel: (661) 326-6900 FAX: (661) 326-6985

recommended that the project proponent contact the District to review the proposed modeling approach. If there are questions regarding health risk assessments, please contact Mr. Leland Villalvazo, Supervising Air Quality Specialist, at [hramodeler@valleyair.org](mailto:hramodeler@valleyair.org). Additional information on TACs can be found online by visiting the District's website at <http://www.valleyair.org/busind/pto/ToxResources/AirQualityMonitoring.htm>.

C.1 con

B. Individual development projects will be subject to District Rule 9510 (Indirect Source Review) since upon full build-out the project will include or exceed the following:

- 50 dwelling units
- 2,000 square feet of commercial space;
- 20,000 square feet of medical office space;
- 39,000 square feet of general office space;
- 20,000 square feet of recreational space; or
- 9,000 square feet of space not identified above

The District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit for each project phase including payment of all applicable fees, be made a condition of project approval. Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>.

C. Individual development projects may also be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

D. The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888. Current District rules can be found online at: [www.valleyair.org/rules/1ruleslist.htm](http://www.valleyair.org/rules/1ruleslist.htm).

2. The Specific Plan is the blueprint for future growth and provides guidance for the community's development. The District is currently designated non-attainment for state standards for ozone and PM10. Given the size of the project, it is reasonable to conclude that mobile source emissions resulting from growth and development would have significant impacts on air quality. To reduce the project related impacts on air quality the Specific Plan has

C.2

included design standards that reduce vehicle miles traveled (VMT). More recommended design elements can be found on the District's website at <http://www.valleyair.org/ISR/ISROnSiteMeasures.htm>.

C.2 cont

3. Referral documents for new development projects should include a project summary detailing, at a minimum, the land use designation, project size, and proximity to sensitive receptors and existing emission sources.

C.3

If you have any questions or require further information, please call Kanya Ellington, M.S. at (559) 230-5934.

Sincerely,

Dave Warner  
Director of Permit Services



Arnaud Marjollet  
Permit Services Manager

for

DW:ke

**RESPONSES TO LETTER C:  
San Joaquin Valley Air Pollution Control District – Arnaud Marjollet**

---

**Response to Comment C.1**

The commenter states that the Specific Plan Amendment will not have an impact on air quality in and of itself, although future development in the planning area will contribute to an overall decline in air quality due to increased traffic and operational emissions. Therefore, the commenter requests that project-specific information regarding air quality degradation be submitted in conjunction with future individual development projects. The commenter concludes this section by indicating that future development projects will be subject to a variety of District Rules, some of which are listed, and advising consultation with the District.

The Draft EIR is a programmatic level document that is intended to be used to cover future development projects within the boundaries of the study area, as provided for under Section 15168(c) of the California Environmental Quality Act. The City of Modesto believes that the air quality assessment in the Draft EIR sufficiently addresses impacts to air quality and that Mitigation Measures D.1 through D.8 will limit these impacts to the extent feasible, based on applicable rules and regulations, including those from the San Joaquin Valley Air Pollution Control District. Therefore, unless a subsequent amendment to the Kiernan Business Park Specific Plan is proposed, it is unlikely that the City will require additional CEQA review for individual development projects within the Specific Plan area. The City has adopted District rules and regulations into its General Plan policies, including compliance with District Rule 9510; these rules and regulations will be imposed on all new development as conditions of approval.

**Response to Comment C.2**

The commenter notes that mobile source emissions from development of the planning area will have significant air quality impacts, but recognizes that the proposed Specific Plan has included design standards to reduce Vehicle Miles Traveled. The commenter further identifies that the District maintains other design elements on their website for reduction of mobile source emissions.

The EIR acknowledges and assesses the impacts of mobile source emissions from the project and considers the design elements of the Specific Plan that reduce the Vehicle Miles Traveled. The information regarding identification of other air quality design elements available on the SJVAPCD website is noted.

**Response to Comment C.3**

The commenter states that referral for new development projects should contain a project summary, land use designation, project size, proximity to sensitive receptors and existing emission sources. The commenter is directed to Response to Comment O.5.

**LETTER D**

January 27, 2009

City of Modesto  
Josh Bridegroom – Senior Planner  
P O Box 642  
Modesto, CA 95353



**RE: Kiernan Business Park Specific Plan Amendment #4**  
**Location: Various within the City of Modesto and Stanislaus County**

Dear Mr. Bridegroom,

Thank you for the opportunity to comment on this referral. Following are the recommendations from our Risk & Property, Electrical, Irrigation and Domestic Water Divisions:

**Irrigation/ Domestic Water**

- MID requires the storm drain detention ponds be sized to hold the 100-year, 24 hour runoff for 48 hours to allow the storm surge to pass in the canals prior to discharge from storm drainage basins.
- There are several irrigation pipelines serving the land within the Kiernan Business Park Specific Plan as well as upstream and downstream of the plan area. The pipelines must be replaced, upgraded or removed as required by MID. Irrigation easements must be provided for any remaining facilities.
- Prior to any construction improvement plans must be submitted to and approved by the MID Irrigation Engineering Department.

**Electrical**

- In conjunction with related site/road improvement requirements, existing overhead and underground electric facilities within or adjacent to the proposed development shall be protected, relocated or removed as required by the District's Electric Engineering Department. Appropriate easements for electric facilities shall be granted as required.
- Relocation or Installation of electric facilities shall conform to the Districts Electric Service Rules.
- Costs for relocation and/or undergrounding the Districts facilities at the request of others will be borne by the requesting party. Estimates for relocating or undergrounding existing facilities will be supplied upon request.
- The District should be contacted for requests to remove existing service within the outlined area designated for removal. The cost of removal will be at the District's expense provided that the load being served is also removed.

D.1

D.2

- The 15' PUE shall be maintained adjacent to the existing overhead lines along the Kiernan Avenue street frontage in order to protect the overhead electric facilities and maintain necessary safety clearances.
- A 10' PUE is required along all proposed and existing street frontages.
- The Electric Engineering Department requires a construction site plan with proposed ingress-egress and Public Utility easements shown on the proposed Kiernan Business Park map. Electric service to the proposed parcels is not available at this time. The customer should contact the District's Electric Engineering Department to coordinate electric service requirements for the project. Additional easements may be required with the development of the Kiernan Business Park.

**The Modesto Irrigation District reserves its future rights to utilize its property, including its canal and electrical easements and rights-of-way, in a manner it deems necessary for the installation and maintenance of electric, irrigation, agricultural and urban drainage, domestic water and telecommunication facilities. These needs, which have not yet been determined, may consist of poles, crossarms, wires, cables, braces, insulators, transformers, service lines, open channels, pipelines, control structures and any necessary appurtenances, as may, in District's opinion, be necessary or desirable.**

If you have any questions, please contact me at 526-7433.

Sincerely,



Celia Aceves  
Risk & Property Analyst

Xc:

File

**RESPONSES TO LETTER D:  
Modesto Irrigation District – Celia Aceves**

---

**Response to Comment D.1**

The commenter conveys the MID requirement for storm drain detention basins to hold the 100-year, 24 hour storm for 48 hours prior to discharge into the canal. The commenter further identifies that the pipelines within and surrounding the project will need to be replaced, upgraded or removed in conjunction with development and easements must be provided for those that remain. The commenter concludes by requiring improvement plans to be submitted to and approved by the Modesto Irrigation District.

In response, the overall storm drainage system, including the basins, is planned to handle the 100-year, 24-hour storm for 48 hours, as MID requires. Individual development projects within the Specific Plan area will be forwarded to the District to identify the location of on-site irrigation pipeline and to recommend replacement, upgrades, removal, and easements, as appropriate. Future development projects in the Specific Plan area will then be conditioned to implement these recommendations. As a standard practice, the City will forward final improvement drawings to the District for their review and approval prior to the issuance of any construction permits by the City.

**Response to Comment D.2**

The commenter identifies that electrical facilities will need to be protected, relocated or removed in conjunction with development. The commenter further indicates that the relocation or installation shall conform to the District's Electrical Service Rules, and provides some other parameters relative to the procedure and cost of facility relocation. The commenter concludes by identifying necessary public utility easements and requesting a construction site plan that includes proposed ingress-egress locations and easements.

As is standard practice in the City of Modesto, applications for individual projects within the Kiernan Business Park Specific Plan area will be routed to MID for appropriate comments and conditions of approval that will be attached to development applications. Applicants will be required to protect, relocate or remove facilities accordingly and provide easements as required by MID.

# **LETTER E**

February 2, 2009

Josh Bridegroom, Senior Planner  
Community and Economic Development Department  
City of Modesto  
1010 10<sup>th</sup> Street, Suite 3300  
Modesto, CA 95354

**SUBJECT: Kiernan Business Park Specific Plan Amendment #4 - Draft Specific Plan and Environmental Impact Report (EIR)**

Dear Mr. Bridegroom:

Thank you for the opportunity to review the Draft Specific Plan and Draft Environmental Impact Report (EIR) for the subject project. The following comments are provided for the City's consideration, as Lead Agency:

General Comments

- As Lead Agency, the City of Modesto is responsible for considering the effects, both individual and collective, of all activities involved in the project (Public Resources Code Section 21102.1). LAFCO is a Responsible Agency and will utilize the CEQA documents prepared by the City in reviewing the above subject proposal. E.1
- The proposed project includes the annexation of approximately 67 acres. Adopted Commission policies would require that the annexation boundaries include the entire rights-of-way of Kiernan Avenue and the proposed American Avenue extension.
- The proposed American Avenue extension appears that it will utilize a portion of Assessor's Parcel Number 078-015-011. This should be clarified, as this parcel was not listed as one of those with a portion involved in the specific plan area or annexation area. E.2
- Footnote 3 on page IV.B.2 appears to be incorrect. It should identify the City's rezoning for parcels currently located within the County's jurisdiction. E.3

Public Services

The EIR contains sections on public services, including fire, police, water, and sewer, which indicate that the proposed project would have a less than significant impact on these services. LAFCO policy requires that upon annexation and development of new territory, the existing service levels provided by the City be at least maintained in the annexing territory. E.4

- Fire Services: Upon annexation, territory is detached from the affected fire district (Salida Fire Protection District), as the City provides fire services within the City Limits. Although economic impacts of a project are not usually considered in an environmental analysis, the identification of the amount of revenue loss to the District and their anticipated service cost E.5

savings would be helpful in assessing the effects of the detachment from the District. E5

The EIR identifies the City's General Plan policies that support the City's goals for fire services relevant to the Kiernan Business Park Specific Plan Amendment #4, including Community Services Policy V-K.2(m), which states:

*The City of Modesto may negotiate with affected fire protection districts when an annexation to the City is contemplated and before it [the district] has been effected to determine whether the boundary change may result in the erosion of fire protection or other emergency services. Any resulting agreements must be approved by City Council and the governing board of the fire protection district prior to City Council approval of the annexation. Options range from the consolidation of the fire protection district into Modesto City Fire to revenue sharing.*

The Salida Fire Protection District has indicated its concerns with this and similar projects which result in detachment from the District and lost revenues. LAFCO strongly encourages discussions between the City and District occur prior to application to LAFCO for annexation. This would be consistent with both the City's stated policy above and LAFCO's policies requiring consideration of impacts to affected agencies.

- Various parts of the EIR state that a portion of the project site is proposed to be annexed to the Modesto Municipal Sewer District No. 1. As mentioned in a previous referral response, the Modesto Municipal Sewer District No. 1 has not been recognized by LAFCO as a separate independent special district. Additionally, our office has no record of the boundaries of the Modesto Municipal Sewer District No. 1. E.6
- The Water Supply Section (page IV.K.1) states: "The contiguous water service area includes all locations within the City limits, the City's Sphere of Influence, and areas within the Cities of Salida, Empire, and Ceres." As a point of clarification, properties within the City's Sphere of Influence are included within the City's service area upon annexation. Also, Salida and Empire are unincorporated communities. E.7
- Pursuant to LAFCO policies and State Law (Government Code §56653), a Plan for Services prepared by the City will be required upon application to LAFCO. This document is intended to show that the City has the necessary services available to serve the development. The analysis must include detailed evidence of current service levels, ability to maintain these levels, sufficient sewer capacity, sufficient quantities and quality of water, storm drainage, and financing mechanisms to implement the Kiernan Business Park Specific Plan. E.8

#### Agricultural Resources

One of LAFCO's main charges, as put forth by the Legislature, is to protect and promote agriculture. The proposed Kiernan Business Park Specific Plan Amendment annexation area includes prime farmland as well as the Williamson Act Contracted land. E.9

- There is one active Williamson Act Contract within the proposed project area. The Williamson Act is considered a mechanism to preserve agricultural land both in the short and long term. Pursuant to Government Code Section 56754, the Commission shall E.10

determine whether the City shall succeed to the Williamson Act rights, duties, and powers of the County pursuant to Section 51243, or if the City may exercise its option not to succeed to the contracts pursuant to Section 51243.5. If the City intends not to succeed to any of the contracts upon annexation, this should be stated in any resolution adopted by the City approving the proposal. As identified in the law, the city may exercise its option not to succeed to the contract if it is determined that each of the following had occurred prior to January 1, 1991:

E.10 CONT

1. The land being annexed was within one mile of the city's boundary when the contract was executed;
  2. The City had filed with the local agency formation commission a resolution protesting the execution of the contract;
  3. The local agency formation commission had held a hearing to consider the city's protest to the contract;
  4. The local agency formation commission had found that the contract would be inconsistent with the publicly desirable future use and control of the land; and,
  5. The local agency formation commission had approved the city's protest.
- The EIR indicates that the direct impact of the loss of Prime Farmland would be a significant and unavoidable impact of the project. Mitigation Measures B.1 and B.3 state that the City Council will "consider the creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation for the loss of prime farmland." Compliance with this program would be a condition of issuance of a building permit. As LAFCO will utilize the CEQA documents prepared by the City in reviewing the annexation proposal and considering the effects on agricultural lands, the Commission may request that the potential mitigation program be considered by the City Council prior to any decision rendered by LAFCO.

E.11

If you have any questions regarding the above comments, please contact our office at (209) 525-7660.

Sincerely,



Sara Lytle-Pinhey  
Assistant Executive Officer

cc: Chief Skiles, Salida Fire Protection District

**RESPONSES TO LETTER E:**  
**Stanislaus LAFCO – Sara Lytle-Pinhey, Assistant Executive Officer**

---

**Response to Comment E.1**

The commenter states that City of Modesto is the lead agency responsible for conducting a comprehensive environmental review, which LAFCO will use when reviewing subsequent annexations as a responsible agency. The commenter goes on to state that any annexation that may occur as a result of the project would be required to include the entire rights-of-way of Kiernan Avenue and the proposed American Avenue extension. The City acknowledges the responsibilities of the City of Modesto as lead agency and LAFCO as a responsible agency. The City further acknowledges LAFCO policies regarding annexation boundaries. This comment raises no environmental issues requiring a response in this Comments and Responses document.

**Response to Comment E.2**

The commenter requests clarification as to whether Assessor’s Parcel Number (APN) 078-015-011 is included as part of the project, because the extension of American Avenue will likely require some land from that property. Table III.1 on page III.5 of the EIR is intended to identify properties that are within the specific plan area. The table omits APN 078-015-011, because it will simply be used to extend American Avenue and related facilities along the westernmost sliver of the parcel. Any land that is used for public infrastructure will be exacted as public right-of-way, and will cease to be part of this parcel. Therefore, this parcel is outside of the ultimate specific plan area and will not receive any development entitlements in conjunction with this project.

Nevertheless, the parcel is included within the study area, as can be seen in Figures III.6, III.7 and III.11. Due to the confusion that may occur relative to APN 078-015-011 being omitted from Table III.1, the table and associated text are amended in the Changes and Modifications section of the final EIR to include the parcel. There are no environmental effects related to the possible extension of American Avenue through APN 078-015-011 that were not studied in the EIR. It is not under Williamson Act contract and potential loss of farmland would be covered under the discussion of Impact B.1.

**Response to Comment E.3**

The commenter states that footnote 3 on page IV.B.2 should identify the City’s rezoning for parcels currently located within the County’s jurisdiction. The footnote identifies the properties as being zoned Planned Specific Plan-Overlay (P-SP-O). This is a rezoning designation, as all rezonings within the City begin with “Planned.” However, in order to eliminate any confusion on this issue, the word zoned is replaced with rezoned in the Changes and Modifications section of the final EIR. In addition, the P-SP-O designation is replaced with P-SP, as the “O” was recently deleted from this zoning designation.

**Response to Comment E.4**

The commenter notes that LAFCO policy is that existing service levels be at least maintained when property is annexed. The City acknowledges this policy, and it is discussed in section IV.I of the DEIR. The commenter is referred to section IV.I of the DEIR for more information relative to service levels. This will be further elaborated upon in the Plan for Services provided to LAFCO for annexation of territory within the Kiernan Business Park Specific Plan.

**Response to Comment E.5**

The commenter suggests that the City consider analyzing the economic impacts of detachment of the property from the Salida Fire Protection District (SFPD) and encourages discussion between the City and SFPD prior to application to LAFCO for annexation. The economic impacts of detachment of the property from the SFPD are not an environmental matter. The reduction in service area and revenue for the District would not result in any physical environmental impacts under CEQA. The City and SFPD have discussed the matter of detachment of territory from the SFPD both in written and verbal correspondence. Further discussion on this is anticipated to occur in the future.

**Response to Comment E.6**

The commenter indicates that LAFCO does not recognize Modesto Municipal Sewer District No. 1 and has no record of its boundaries. Modesto Sanitary Sewer District No. 1 was created by resolution in 1966 by both the City of Modesto and Stanislaus County. The district has never been adopted or recognized by LAFCO. As a result, LAFCO cannot ratify the annexation of territory into its boundaries, as called for by section III.F of the DEIR. The language is amended in the Changes and Modifications section of the FEIR to eliminate any reference to LAFCO's oversight of territory being annexed to Modesto Municipal Sanitary Sewer District No. 1. Instead, the Changes and Modifications section adds annexation to the Modesto Municipal Sanitary Sewer District No. 1 to the list of City of Modesto Entitlements.

**Response to Comment E.7**

The commenter indicates that the description of the City's water service area on page IV.K.1 should be clarified to indicate that properties within the sphere of influence are included into the water service area in conjunction with annexation. The commenter also indicates that Salida and Empire are unincorporated communities. The clarification relative to the City's water service area extending into the sphere of influence with annexation is included in the Changes and Modifications section of the FEIR. The comment relative to Salida and Empire is noted. However, this has no bearing on the accuracy of the statement that portions of those communities receive water service from the City of Modesto.

**Response to Comment E.8**

The commenter identifies that a Plan for Services will need to be submitted in conjunction with application to LAFCO for annexation and provides the various elements that will need to be included. This comment is noted. This is not an environmental issue and requires no further response.

**Response to Comment E.9**

The commenter states that one of LAFCO's main charges is to protect and promote agriculture and identifies that prime farmland is included within the project's boundaries, as is Williamson Act Contracted land. The City acknowledges these statements. Section IV.B of the DEIR considers the potential impacts of the project on agricultural resources. Loss of farmland, both directly and cumulatively, is identified as significant and unavoidable impacts, whereas the impact on agricultural operations adjacent to the project site is identified as less than significant and no mitigation is required.

**Response to Comment E.10**

The commenter identifies that there is one Williamson Act Contracted property within the project and provides the regulations and procedures that govern its future status as Williamson Act property. The City acknowledges this information. As identified on page IV.B.4 of the DEIR, the property owner filed for Non-Renewal of the Williamson Act Contract on this property in 2004. This contract is due to expire in 2014.

**Response to Comment E.11**

The commenter identifies that Mitigation Measures B.1 and B.2, calling for the City Council to consider the creation of a farmland mitigation program, may need to be considered by the City Council prior to LAFCO making any determinations on annexation proposals, as they rely on the previous CEQA work completed by the City. This comment is noted. However, it should be known that the EIR identifies the associated impacts, Impacts B.1 and B.3, as significant and unavoidable. Implementation of Mitigation Measures B.1 and B.3 would not change the CEQA status, and, as such, should not affect LAFCO's ability to consider future annexations for approval.

**LETTER F**



**ADMINISTRATION**

**Arturo M. Flores**  
*Superintendent*

**Debbe Bailey**  
*Deputy Superintendent*  
*Chief Business Official*

**Chris G. Flesuras, Jr.**  
*Deputy Superintendent*  
*Chief Human Resources Official*

**Daisy Lee, Ed.D**  
*Associate Superintendent*  
*Academic Learning Community*

**Patricia Portwood**  
*Associate Superintendent*  
*Academic Learning Community*

**Craig Rydquist**  
*Associate Superintendent*  
*Academic Learning Community*

# MODESTO CITY SCHOOLS

426 Locust Street, Modesto, California 95351-2631  
Administrative Offices (209) 576-4011/Fax (209) 576-4184  
www.monet.k12.ca.us

**BOARD OF EDUCATION**

**Steven Grenbeaux**  
*President*

**Kimberly Gerber Spina**  
*Vice President*

**Nancy Cline**

**Steve Collins**

**Gary A. Lopez**

**Cindy Marks**

**Belinda Rollicheck**



January 14, 2009

Josh Bridegroom, Senior Planner  
City of Modesto  
Community and Economic Development  
Planning Division  
P. O. Box 642  
Modesto, CA 95353

RE: Draft Specific Plan and Draft Environmental Impact Report for the Kiernan Business Park

Dear Mr. Bridegroom:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report for the Kiernan Business Park for its impact on the Modesto High School District.

Development Mitigation

It is the position of the Modesto High School District that development within the District should mitigate 100% of the cost of housing the students that are generated by that development. In the event that School Facility Program funds are available from the State, those monies can be used to offset the cost of constructing the school facilities. **Statutory developer fees and state School Facility Program grant amounts do not fully mitigate the cost of constructing school facilities.**

A number of options beyond statutory developer fees are available for mitigating the impact of development and include but are not limited to:

1. Developer/District Negotiated Agreements
2. Mello-Roos Community Facilities Districts
3. Developer Built Schools

F.1

The District encourages the development community to work with the District to achieve appropriate mitigation solutions for the students generated by the development.

F.1 CONT'D

Student Generation

The following student generation rates will be applied in determining school facility needs:

Student Generation Rates	9-12
Multi-Family Dwellings	0.096

The Specific Plan is to provide for the development of a new Business Park and industrial uses, a medical campus in the vicinity of Kiernan Avenue, and mixed use and residential. Maximum estimated new dwelling units:

<u>Land Use Designation</u>	<u>Proposed Units</u>
Medium High Density Residential	342

F.2

Applying the student generation rates from the table above yields the following estimated results:

Land Use Designation	Proposed Units	Generation Rates	9-12 Students
Medium High Density	342	.096	33
<b>Totals</b>			<b>33</b>

Current High School Facilities

Modesto City High Schools have a housing capacity for 13,272 students. The District has projected that the High School District will have up to 13,493 students in the 2009-2010 school year which is 102% of capacity.

While the impact of any one project may be small, the cumulative impact of multiple projects may be significant.

Transportation

The increase of traffic from the Proposed Project could impact school bus routes.

We will continue to review any traffic study information for the ingress/egress locations, and proposed stop signs/traffic lights as it becomes available.

F.3

Fee Collection

The statutory commercial development fee is \$.47 per square foot. The State Allocation Board adjusts this fee every other year and was approved at its January 2008 meeting.

The appropriate school impact fees will be assessed by the Salida Union School District on all commercial construction.

F.4

The appropriate school impact fees will be assessed by the Salida Union School District and Modesto High School District for all residential development.

Thank you for the opportunity to comment on the Draft EIR for the Kiernan Business Park.

If you have any questions, please feel free to call me at (209) 576-4032

Sincerely,



Dana McGarry  
Director, Planning and Research

cc: Debbe Bailey, Deputy Superintendent, Modesto City Schools  
Jim Yardy, Assistant Superintendent, Salida Union School District

**RESPONSES TO LETTER F:  
Modesto High School District – Dana McGarry, Director, Planning and  
Research**

---

**Response to Comment F.1**

The commenter states that the Modesto High School District (MHSD) does not collect adequate funding from statutory developer fees and state School Facility Program grants to cover the cost of constructing school facilities. MHSD collects developer fees in accordance with Government Code Section 65995, as established through SB 50. These fees are commonly referred to as Level I fees. Government Code Section 65995.5 contains criteria by which higher fees, commonly referred to as Level II fees, can be assessed upon development by school districts.

Every two years, school districts produce a School Facility Needs Analysis and a School Facility Fee Plan. If these meet the burden of proof established under Section 65995.5, the respective school district is authorized to collect Level II fees. As of April 2009, based on the State Allocation Board review of January 2008, MHSD did not qualify for Level II fees.

The developers of property within the Kiernan Business Park Specific Plan will be subject to the payment of fees applicable at the time of development, whether Level I or Level II. Government Code Section 65995 establishes that the collection of fees in accordance with its provisions, which include a reference to Section 65995.5, constitute full and complete mitigation of the impacts of a project.

However, school districts and developers, independent of City involvement, may work out different arrangement to offset the demand on school facilities generated by new residential development. These arrangements may include, but are not limited to negotiated agreements, developer-built facilities, and the creation of a Mello-Roos Community Facilities District.

**Response to Comment F.2**

The commenter presents additional information on student generation rates and school facilities, concluding that MHSD will be operating at 102% of capacity in the 2009-2010 school year. The commenter further states that while the impact of an individual project may be small, the cumulative impact of multiple projects may be significant. As mentioned under Response to Comment F.1, Government Code Section 65995 establishes that the collection of fees in accordance with its provisions constitute full and complete mitigation of the impacts of a project. The developers of property within the Kiernan Business Park Specific Plan will be subject to the payment of school fees that are applicable at the time of development.

**Response to Comment F.3**

The commenter states that the increase of traffic from the project could impact school bus routes and that further review of traffic information related to ingress/egress and proposed stop signs/traffic lights will be conducted as it becomes available. This level of information will become available as the project area is developed. The City will refer individual development projects within the project area to MHSD along with any traffic-related information as they are filed with the City.

**Response to Comment F.4**

The commenter provides additional information concerning the school fees paid by developers and the mechanism for assessment. The City acknowledges this fact. This comment raises no environmental issues requiring a response in this Comments and Responses document.

**LETTER G**

**DEPARTMENT OF TRANSPORTATION**

P.O. BOX 2048 STOCKTON, CA 95201  
 (1976 E. CHARTER WAY/1976 E. DR. MARTIN  
 LUTHER KING JR. BLVD. 95205)  
 PHONE (209) 941-1921  
 FAX (209) 948-7194  
 TTY: 711



*Flex your power!  
 Be energy efficient!*

February 9, 2009

**10-STA-219-PM 1.85  
 SCH#2007062071  
 Kiernan Business Park**

Josh Bridegroom  
 City of Modesto  
 1010 Tenth Street, Suite 3300  
 Modesto, CA 95354

Dear Mr. Bridegroom:

The California Department of Transportation (Department) appreciates the opportunity to have reviewed the Kiernan Business Park Specific Plan Amendment #4. The Department has the following comments:

- 1) The lane configurations in figures 4a and 4b do not appear to be compliant with existing lane configurations. If the configurations are incorrect/inaccurate the data that is produced using the configurations will be incorrect/inaccurate, please make the necessary changes and submit the documents to the Department for review and comment. ] G.1
- 2) Traffic Operations is requesting hardcopies of the worksheets used for the report. The Synchro electronic files do not have the data used for the analysis. Unsignalized intersections are not analyzed using Synchro, in order to verify the data, Traffic Operations will need to review the worksheets ] G.2
- 3) Please provide the TIS appendices in order to provide a thorough response regarding the proposed mitigations. ] G.3
- 5) To insure the project has been adequately reviewed and commented on, the cumulative condition scenario electronic files that were not included in any of the documents that were received by the Department are being requested. Please submit the necessary documents for the Departments' review and comment. ] G.4
- 6) Page 35 of the TIS "future without project conditions" states that construction for both ] G.5

Kiernan and Pelandale is anticipated to start in early July 2008 but the projects will not go into construction until 2015. The mitigations should include interim projects impacts on opening day and near term conditions.

G.5 CONT

- 7) For Kiernan Avenue/SR 99 Southbound ramps the report states that the applicant should pay their fair share contribution toward the ultimate interchange improvement. At this time the opening day is 2015 but due to funding this may change. How will this project mitigate for opening day impacts if this improvement does not occur as projected?
- 8) For Kiernan Avenue/Sisk Road it states that the applicant should pay their fair share contribution toward the ultimate interchange improvement. At this time opening day is 2015, but due to funding this may change. How will this project mitigate for opening day impacts if this improvement does not occur as projected?
- 9) For Pelandale Avenue/SR 99 Southbound ramps it states that the applicant should pay their fair share contribution toward the ultimate interchange improvement. At this time the opening day is 2015, but due to funding this may change. How will this project mitigate for opening day impacts if this improvement does not occur as projected?
- 10) For Pelandale Avenue/Sisk Road it states that the applicant should pay their fair share contribution toward the city improvement project. When will this project occur? How will this project mitigate for opening day impacts if this improvement does not occur by opening day?
- 11) For Standiford Avenue/SR 99 Southbound ramps it states that the applicant should pay their fair share contribution toward the ultimate interchange improvement. Is there a project to mitigate this impact? If not, how will this project mitigate for the impact?
- 12) Any work done in the States right-of-way will require an encroachment permit.

G.6

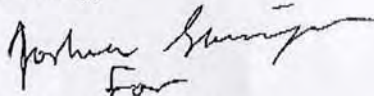
G.7

G.8

G.9

If you have any questions or would like to discuss our comments in more detail, please contact Joshua Swearingen at (209) 948-7142 (e-mail: [joshua\\_swearingen@dot.ca.gov](mailto:joshua_swearingen@dot.ca.gov)) or me at (209) 941-1921.

Sincerely,



TOM DUMAS, CHIEF  
OF METROPOLITAN PLANNING

**RESPONSES TO LETTER G:  
California Department of Transportation – Tom Dumas, Chief of Metropolitan  
Planning**

---

**Response to Comment G.1**

The commenter states that lane configurations in Figures 4a and 4b do not appear to be compliant with existing lane configurations.

The existing intersection lane configurations and traffic controls, as depicted in Figures 4A and 4B of Appendix B, are based on the conditions at the time the Notice of Preparation was issued (2006) and additional field reviews conducted during preparation of the analysis, which was completed in mid-2008. Some of the recently constructed improvements were not included as they were not yet complete. For example, a right turn on the eastbound approach was recently installed at the Pelandale Avenue/Dale Road intersection, but was not included in the analysis. Also, since the analysis was completed, construction along Pelandale Avenue has resulted in a temporary reduction in the number of through lanes on Pelandale Avenue at the Pelandale Avenue/Prescott Road and Pelandale Avenue/Carver Road intersections. At several intersections, right-turn lanes were assumed for the analysis of existing conditions although a dedicated right-turn lane is not marked. At these locations, the shoulder or outside lane is wide enough that motorists use the roadway as a right-turn lane despite the fact that a right-turn lane is not striped.

Based on our review, the lane configurations are reflective of existing conditions at the time of the analysis and no changes were made to the analysis. Lanes that have subsequently been added would improve the flow of traffic and, therefore, would not result in impacts not identified by the traffic analysis. The temporary reduction in the number of through lanes on Pelandale Avenue at Prescott and Carver Roads is anticipated to be eliminated and Pelandale Avenue is expected to operate at normal capacity by the time the project begins generating traffic.

**Response to Comment G.2**

The commenter requests hardcopies of the worksheets used for the transportation study. Hardcopy worksheets of the technical appendices have been provided to Caltrans.

**Response to Comment G.3**

The comment questions the near-term year considered in the analysis.

The near-term traffic forecasts include traffic from approved and pending projects, as well as regional growth through the area. The actual year that this level of traffic will occur is dependent on a number of factors, including the local and regional economy and

the construction schedule of the planned and pending projects in the area. For this analysis, the near-term year was estimated to be 2016.

**Response to Comment G.4**

The comment requests that the cumulative condition electronic files be provided to Caltrans.

The travel demand model files used to develop Cumulative roadway segment volumes have been provided to Caltrans. The model files used are consistent with the City's General Plan Update. A roadway segment analysis was completed for the cumulative buildout year, consistent with the City's General Plan.

**Response to Comment G.5**

The comment states that the Transportation Impact Study identifies that construction for both Kiernan and Pelandale is anticipated to start in July 2008, but that the projects will not go into construction until 2015.

The near-term analysis anticipated construction of the portions Kiernan Avenue and Pelandale Avenue that have full funding and are already under construction. No improvements to the SR 99/Kiernan Avenue or SR 99/Pelandale Avenue interchanges were assumed for the analysis of near-term conditions, as those improvements are not yet fully funded and would not be complete for the near-term condition.

**Response to Comment G.6**

The commenter questions how the project proposes to mitigate opening day impacts to the Kiernan Avenue/SR 99 Southbound Ramp, Kiernan Avenue/Sisk Road, and Pelandale Avenue/SR 99 Southbound Ramps intersections if the improvements planned to be completed by 2015 are delayed.

Due to uncertainty relative to design, funding and construction of necessary improvements, the Kiernan Avenue/SR 99 Southbound Ramp, Kiernan Avenue/Sisk Road, and Pelandale Avenue/SR 99 Southbound Ramps intersections are all projected to operate deficiently in the near-term independent of the addition of project traffic. The addition of project traffic would exacerbate the deficient conditions, but would not cause deficient operations. The project will be required to pay its fair share towards planned improvements at these intersections through the payment of City and County fees.

If the project is fully built-out prior to the construction of improvements at Kiernan Avenue/SR 99 Southbound Ramp, Kiernan Avenue/Sisk Road, and Pelandale Avenue/SR 99 Southbound Ramps intersections, the impacts would remain significant and unavoidable until the improvements are constructed. This is consistent with the findings presented in the DEIR, as neither the City nor the project sponsors have jurisdiction over those locations.

**Response to Comment G.7**

The comment questions when the planned improvement project at the Pelandale Avenue/Sisk Avenue intersection would be complete, and, if not completed by opening day for the project, what the opening day mitigation would be.

The improvements identified in Mitigation Measure C.1k are currently out to bid and are expected to be completed within two years. As this is an improvement project that is expected to be constructed prior to completion of the proposed project, no opening day mitigation is necessary.

**Response to Comment G.8**

The commenter questions whether there is a planned infrastructure improvement project that the applicant could contribute to for mitigating the impact at the Standiford Avenue/SR 99 southbound ramps intersection. The commenter further questions how the impact will be mitigated if there is not.

As stated in DEIR, the project sponsor would be required to contribute its fair share towards improvements at the Standiford Avenue/SR 99 interchange through the payment of City fees (CFF). The identified improvement (construction of a second southbound left-turn lane) received Caltrans and Federal Highway Administration (FHWA) approval; however, its projected addition to the City's Capital Improvement Program has been delayed. As the timing of this improvement is uncertain, this impact would be significant and unavoidable until the improvements are constructed. This is consistent with the findings presented in the DEIR, as neither the City nor the project applicant have jurisdiction over this location.

**Response to Comment G.9**

The commenter notes that any work perform in the State right-of-way will require an encroachment permit.

This comment is noted for future reference.

**LETTER H**

MICHAEL C. NORMOYLE, ESQ.  
*Legal Counseling and Advocacy*

February 2, 2009



**By FAX and First-Class**  
**(209) 491-5798**

City of Modesto  
City Planning Department  
1010 10<sup>th</sup> Street  
Modesto, CA 95354

**Re: Comments on Draft EIR for Kiernan Business Park Specific Plan  
Amendment (#4) & Project**

Dear Sir/Madam:

This letter submits comments to the Draft EIR for the Kiernan Business Park Specific Plan Amendment (#4) & Project ("the DEIR") on behalf of Mana Developments and Hans Wagner, parties who own and are attempting to develop property for business park use in the area commonly referred to as Kiernan Business Park South.

When the parcel maps for Mana Developments and Hans Wagner ("collectively Mana/Wagner"), covering approximately 38.33 gross acres, were processed by the City and eventually approved in October 2007, the City of Modesto planning staff insisted that environmental review be undertaken at the same time for an Infrastructure Finance Plan and a Facilities Master Plan for the entire Kiernan Business Park South Area (covering approximately 80 acres). Accordingly, when the two parcel maps were approved with a mitigated negative declaration, the mitigation measures imposed on parcel map projects were mitigation measures for the entire 80 acres. There were no findings of infeasibility, no findings of overriding consideration, and no findings that implementation of mitigation measures would be conditioned on or subject to "cost sharing" arrangements with other nearby properties within the larger Kiernan Business Park Specific Plan area.

It appears again from this DEIR that the way for project applicants – particularly in the Kiernan Business Park Specific Plan area – to be freed from the obligation of dealing or being burdened with mitigation measures is to have an environmental impact report prepared (preferably a program level EIR) and then have that report become the vehicle to be used by local decision makers in generating overriding consideration findings that essentially create a "hands off" situation when it

comes to consideration of impact mitigation in connection with subsequent project-related applications.<sup>1</sup>

In the case of the Kiernan Business Park Specific Plan Area, what this means in real terms is that the burden of actual mitigation potentially falls on the shoulders of those who have not gone the EIR route.

Specific comments:

**Pg. II.2:** It states on this (and again at Pg. III.31) that a final EIR with a MMRP must be certified before any of the "project applications listed below" can be approved. What happens if before any of those applications is submitted the City certifies an EIR that finds many key mitigation measures infeasible and contains findings of overriding consideration that relieve the applicant from responsibility to implement mitigation measures? What's the use in that situation of even having an IFP/FMP?

**Pg. II.2:** It is unclear, given statements on this page (and at Pg. III.31) about project construction beginning in mid to late 2009, about when the applicant will be submitting and seeking approval of a tentative subdivision map. What CEQA review will that tentative map application be submitted to if findings of overriding consideration (re infeasibility of mitigation measures) have been made already?

**Pg. II.3:** How is it that the introduction of a land use other than a business park, which clearly creates the potential for "land use compatibility conflicts with existing land use plans, policies and/or regulations, is a "less than significant" project impact, requiring no study or mitigation?

**Pgs. II.3 and II.4:** What possible justification is there for the conclusion that each and all of the items listed on these two pages create project impacts that are less than significant, requiring no mitigation? The rationales offered are not credible.

**Pgs. II.8 – II.11:** A number of potential (roadway) mitigation measures identified in the summary are similar or identical to mitigation measures identified in the MMRP adopted in connection with the Mana/Wagner parcel map approvals. Why are some of these mitigation measures deemed feasible and required in the case of Mana/Wagner, but deemed infeasible for the proponents of development in the Kiernan Business Park East area?

**Pg. III.2:** The DEIR states that the Specific Plan Amendment includes formation of an FMP and IFP but also states that the proposed project does not include any specific development proposal. On that basis the document then states that it will be

<sup>1</sup> The DEIR notes on page I.2 how Responsible Agencies having jurisdiction over later elements of the project will use the final EIR in their analysis and decision making.

H.1 CONT

H.2

H.3

H.4

H.5

H.6

a "programmatic EIR", leaving unanswered the question of exactly when the FMP and IFP will be prepared and subjected to environmental review. How is it that the processing of the Mana/Wagner parcel maps, which similarly did not include any specific development proposals, included very specific elements and projects that would be included in the FMP and IFP for the "South" area?  
Why are things different for the East? Again, what good is "project-level" environmental review if the overriding consideration findings regarding mitigation measure infeasibility have been made already?

H.6 cont

**Pg. III.3 and III.4:** The "Project Vicinity" description presented on these pages (also found at Pg. IV.A.2) is not accurate or current in terms of describing what is located in the area to the south of the project area. There is no secret that the Kiernan Business Park Specific Plan South area is located there, and yet there is no mention of that sub-area or any descriptions of the land use entitlements already obtained by landowners in that area (i.e. the Bank of Stockton and Mana/Wagner).

H.7

**Pg. III.6:** Under "Existing Land Use Plan" it would be helpful to identify and describe how the City has chosen to break up the Kiernan Business Park Specific Plan area into specific sub-areas (i.e. West, East, and South), in addition showing the different land use designation areas depicted in Figure III.2. In several places in the EIR it appears that the author is subtly trying to suggest that East and South are one and the same.<sup>2</sup> One cannot have a true appreciation for how things have developed in the Kiernan Business Park Specific Plan area if one does not have information about the way in which decision making has been incremental rather than holistic.

H.8

**Figure III.12:** It would be helpful if the markings were changed to make the distinction between South and East more clear.

H.9

**Pg. III.29:** The section on FMP and IFP adds nothing and is perhaps somewhat misleading in light of statements made on Pg. III.2. Again, it would appear that no environmental scrutiny would be applied to an FMP or IFP under after the programmatic EIR has been certified.

H.10

**Pg. IV.A.8:** The DEIR does a good job of describing what the Kiernan Business Park Specific Plan was intended to do and the types of development it was supposed to, promote, encourage and accommodate. Where is the analysis showing where vitally important business park sites will be if large portions of the Kiernan Business Park Specific Plan area are approved for development of non-business park uses?

H.11

**Pg. IV.A.10:** We disagree strongly with the Impact A.1 discussion and conclusion that the impact identified there will be "less than significant," requiring no further consideration or mitigation. How many amendments to the plan have been made

H.12

<sup>2</sup> For instance, Figure III.1 shows the "East" area but does not identify it as such. And when it is identified, in Figure III.12, the markings and shading suggest to one glancing quickly that the two areas are the same.

already? How many more might now be contemplated? Where is the analysis showing the cumulative, precedent-setting impact is of having multiple amendments to the specific plan which all allow deviation from the underlying business park concept? Where is the assurance that the remainder of the property in the East area will be developed as Business Park (BP)? How can it be stated that no significant impacts will be generated by or associated with the introduction of land uses (e.g. MU and MDHR) that the DEIR concedes (IV.A.11) "were not anticipated for the Kiernan-Carver CPD in the *Urban Area General Plan*?"

H.12 CONT

**Pg. IV.C.5:** Figures IV.C.1 and IV.C.2 Were the intersections at Kiernan/Morrow and Bangs/ Morrow studied?

H.13

**Pg. IV.C.46 and IV.C.47:** How are the project sponsors supposed to contribute to the Kiernan Business Park *West* CFD? Further, in light of how the City handled the imposition of mitigation measures when it approved the Mana/Wagner parcel maps, how is it that although mitigation measures are identified that would improve LOS at 13 intersections (some of which are the subject of mitigation measures imposed on Mana/Wagner), in most instances the mitigation measures will be deemed infeasible for some or all of the reasons given on these pages. While infeasibility in instances where the improvement location is outside the jurisdiction of the City may be understandable, the other "infeasibility" explanations offered are both hard to understand on lack of logic and vagueness grounds, and equally hard to accept in light of how similar issues were treated so differently in the case of Mana/Wagner.

H.14

**Pg. IV.C.49 and IV.C.50:** The language used to describe and discuss Mitigation Measure C.1f is very fuzzy. There was no such "fair share" language in the MMRP attached to the Mana/Wagner approvals, and what (or which) is the Kiernan Business Park CFD being referred to? Is it the West CFD, which is referred to several times in the DEIR, of a yet-to-be created CFD for the East area?

H.15

**Pg. IV.C.50:** The language used to describe and discuss Mitigation Measures C.1.g and C.1.b is not only fuzzy but unsupportable given the way mitigation of impacts at the same locations was addressed (and required) in the case of Mana/Wagner.

H.16

**Pg. IV.C.55:** Again there is a reference to making a "fair share contribution to a Kiernan Business Park *West* CFD." Not only is there no explanation offered about how that would work, but such a statement seems to directly contradict other statements suggesting that that one of the expected follow up applications to Amendment #4 is supposed to be an application for the creation of a CFD for the "East" area? In addition, there is stark contrast again between how this very same mitigation measure is addressed in the Mana/Wagner conditions of approval and MMRP. Why is the feasibility vs. infeasibility analysis suddenly different for the "East" area of the Kiernan Business Park Specific Plan area? How is it that the proponents of a non-business park

H.17

use have mitigation measures found to be "infeasible" for them when the very same mitigation measure is required of the parties wishing to actually build a business park?

H.17 CONT

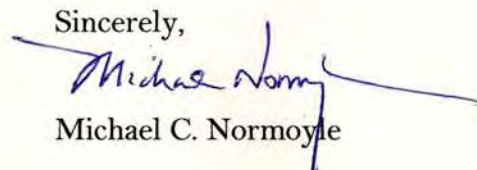
Thank for reviewing and considering these comments as the City does further work on the EIR. Mana/Wagner reserve the right to supplement these comments, to provide written or oral responses to the City's proposed final EIR, and to appear and comment at any hearings on the application for which the DEIR has been prepared.

H.18

Mana/Wagner have concerns, yes, about various aspects of what is being proposed in the East area, but the underlying concern for Mana/Wagner is more a concern about fairness of process and treatment than anything else. The major concern for Mana/Wagner is that the City appears to be treating applicants within the larger specific plan area differently, based on the level of CEQA review being done for the different projects. In what seems to be a twist of logic, the higher the level of CEQA scrutiny, the better chance one appears to have of being relieved of, rather than receive, mitigation responsibilities. Mana/Wagner objects to the extent the City is using, or letting applicants use, the EIR process as a vehicle or license to have viable mitigation measures deemed infeasible when the same or similar measures are magically feasible in the case of applicants not going the EIR route.

H.19

Sincerely,



Michael C. Normoyle

cc: Reza Vossoughi and Hans Wagner

**RESPONSES TO LETTER H:  
Mana Development and Hans Wagner – Michael C. Normoyle, Esq.**

---

**Response to Comment H.1**

The commenter notes that the mitigated negative declaration completed for the Kiernan Business Park South Area did not include findings of infeasibility, findings of overriding considerations or mitigation measures providing cost sharing for infrastructure. The commenter continues by stating that the KBPE DEIR demonstrates that applicants may be freed from mitigations by the use of overriding considerations made possible by production of an environmental impact report. The commenter concludes that this results in the burden of actual mitigation potentially falling on those who have not completed an EIR.

The City reviews each application on its own merits to determine the appropriate CEQA process to use that will best implement the City's obligation to analyze all physical impacts of the proposed project. The City determined, in consultation with the applicant, that a mitigated negative declaration should be prepared for Kiernan Business Park South. For the Kiernan Business Park Specific Plan Amendment #4 application, the City determined, in consultation with the applicant, that an EIR should be prepared.

The City of Modesto believes that both documents fulfill the City's obligation for environmental review.

**Response to Comment H.2**

The commenter identifies that the DEIR document indicates that a Final EIR must be certified before project applications can be approved and questions what happens when the EIR relieves the applicant from the responsibility to implement mitigation measures. The commenter questions the usefulness of an IFP/FMP (Infrastructure Financing Plan/Facilities Master Plan) when this is the case.

State law requires the certification of a Final EIR prior to approval of a project, where an EIR is determined to be the appropriate CEQA process. Lead Agencies are allowed by CEQA Guidelines (Section 15093) to make Findings of Overriding Considerations when approving projects requiring an EIR. Such findings require the Lead Agency to balance the economic, legal, social, technological or other benefits of a project against a project's unavoidable environmental risks. If the Lead Agency finds that the benefits of a proposed project will outweigh the unavoidable adverse impact, the adverse environmental impacts can be determined to be acceptable. The FMP/IFP is an implementation and financing plan for the construction of infrastructure improvements that remain following the Findings of Overriding Considerations.

### **Response to Comment H.3**

The commenter asks what CEQA review will be required for approval of a tentative subdivision map if a Statement of Overriding Considerations is approved. Since the DEIR identifies approval of a tentative subdivision map as part of the overall project approval (see page III.31, Section F), no additional CEQA review will be required so long as the tentative subdivision map is consistent with the Kiernan Business Park Specific Plan Amendment #4 Project, as amended by the City of Modesto.

### **Response to Comment H.4**

The commenter asks how it can be that the items listed on pages II.3 and II.4, including the introduction of land uses other than a business park, can be determined to be less than significant, requiring no study or mitigation. In response, the commenter is directed to the discussion and analysis contained on pages IV.A.1 through IV.K.17 of the EIR.

### **Response to Comment H.5**

The commenter asks why a number of mitigation measures for roadway impacts are similar or identical to mitigation measures contained in the Mana/Wagner CEQA document, yet these mitigation measures are required in the instance of Mana/Wagner but deemed infeasible for this proposed project.

In accordance with CEQA Section 15070(1), the lead agency (City) is required to prepare a mitigated negative declaration if the applicant agrees to revisions in the project plans or proposals that would mitigate the significant effects of the project. Following the initial study of the Mana/Wagner application, the City consulted with the applicant to ensure that the applicant felt that the mitigation was feasible. It was determined that the mitigation was feasible and that the project should proceed with a mitigated negative declaration. Following the initial study for the Kiernan Business Park Specific Plan Amendment #4 application, it was determined that the project would result in impacts that the applicant did not believe would be feasible to mitigate. Therefore, these impacts were identified as potentially significant and an EIR was prepared. Mitigated Negative Declarations do not provide for payment of fair-share fees and findings of infeasibility/overriding considerations, EIR's do.

### **Response to Comment H.6**

The commenter references the DEIR identification of the FMP/IFP as being part of the Specific Plan Amendment, and questions when the FMP/IFP will be prepared if the EIR is programmatic and no specific development is proposed. The commenter goes on to question why the Mana/Wagner project was required to include specific elements for the FMP/IFP when it did not include a specific development proposal. The commenter concludes by asking how this project is different from other projects and what good is a “project” level environmental review if overriding considerations are made.

In response, it is noted that the DEIR focuses on the Kiernan Business Park Specific Plan Amendment #4 project, also known as Kiernan Business Park East, and not the FMP/IFP protocol for other projects, such as the Mana/Wagner project. The Kiernan Business Park Specific Plan Amendment #4 includes specific elements for the FMP/IFP, such as technical studies for sewer, water, storm drainage and roadways. At the time the FMP/IFP is prepared, its contents will be considered against the assumptions in the EIR to determine whether subsequent environmental review is necessary. The same considerations will apply as referenced in the response to comment H.3, above. The FMP and IFP will be prepared by the City prior to any development within the plan area based on the level of detail available to the City at the time these plans are prepared. They may be amended in the future as more development detail is provided by project developer(s).

In regard to questions over credibility of environmental review which includes findings of overriding considerations, the commenter is directed to Response H.2.

#### **Response to Comment H.7**

The commenter states that the Project Vicinity description provided in the EIR does not accurately describe the development that exists in the area, because it does not mention the Kiernan Business Park sub-area, Bank of Stockton or Mana/Wagner.

The description of the Project Vicinity on Page III.3 is intended to orient the reader as to the context of the project. The Kiernan Business Park South sub-area is part of the overall Kiernan Business Park Specific Plan and is distinguished from the rest of the Specific Plan to provide for the phasing of infrastructure and financing only. It does not convey any meaningful contextual orientation for the reader. The Mana/Wagner project is a parcel map, and also does not provide any meaningful contextual orientation. Bank of Stockton is a relatively small project not immediately abutting the project site. Bank of Stockton and other similar uses, such as the Rite Aid and the professional offices across Dale Road from Bank of Stockton are not mentioned because the City felt that they have less relevancy in conveying the project setting than the uses that were mentioned.

#### **Response to Comment H.8**

The commenter suggests that the EIR should identify the various sub-areas in the Kiernan Business Park Specific Plan. As alluded to under comment H.7, these “sub-areas” are only distinguished for the purposes of infrastructure installation and financing. They are not considered separate, self-contained areas of the Specific Plan. Due to timing of development activity and applicant request, the City has accommodated the phasing of infrastructure planning and financing for the Kiernan Business Park Specific Plan. However, this infrastructure planning and financing is coordinated throughout the Specific Plan Area, as necessary. The EIR reflects this, as is evidenced by Figure III.7,

which coordinates the circulation pattern for the entire Specific Plan and III.12 through III.14, which coordinate the sewer, water and storm drainage utilities within the entire portion of the Specific Plan located on the east side of Dale Road, sometimes referred to as Kiernan East and Kiernan South.

#### **Response to Comment H.9**

The commenter requests that the distinction between Kiernan South and Kiernan East be more clearly shown in Figure III.12. This is addressed by the Response to Comment H.8.

#### **Response to Comment H.10**

The commenter suggests that the discussion on FMP/IFP may be misleading, because no environmental scrutiny would be applied to an FMP/IFP after certification of the EIR. The referenced discussion provides information on the FMP/IFP within the context of the project. Both the FMP and IFP are implementing actions of the proposed Specific Plan and deal with financing and related infrastructure components of the proposed project. The impacts of infrastructure improvements have been analyzed in the DEIR. Neither the FMP nor the IFP are anticipated to cause either direct or indirect environmental impacts beyond those analyzed in the DEIR and no additional environmental review is required. For further information, please review Response to Comment H.6.

#### **Response to Comment H.11**

The commenter asks where to find the analysis of relocation potential for business park designated land displaced by the proposed amendment to the Specific Plan. This comment does not raise any environmental issues. However, the Alternatives section of the DEIR (Section VI-1) describes and analyzes alternatives to the proposed project. Alternatives include a no project alternative, continuation of a business park alternative and a reduced-intensity alternative. Other non-business park alternatives were not analyzed, since the project objectives, as shown on page III.2 are to:

- Develop a mixed-use area adjacent to the Kaiser Medical Center.
- Create an extended-hours community by allowing a mix of difference land uses and activities.
- Attract businesses that provide support to the nearby Kaiser hospital.
- Provide for multi-family residential uses.

#### **Response to Comment H.12**

The commenter strongly disagrees with the Impact 1A discussion and the conclusion that there will be a less than significant impact with respect to introducing new land use designations that would conflict with existing land use plans, policies and related regulations. The commenter asks where there is an analysis showing the cumulative impact of the multiple amendments to the Specific Plan to deviate from Business Park,

and what assurance exists that the remainder of the property in the Project area will be developed as a business park. The commenter further questions how no significant impacts are identified when the DEIR concedes that the changes in land use were not anticipated in the General Plan.

In response, the application to amend the existing Specific Plan and General Plan have been filed by the property owner, which is permissible under state planning law and is subject to approval by the City of Modesto. As mentioned in the discussion under Impact A.1, the project's new designations would facilitate services and provide housing in proximity to existing Business Park and Medical Center land uses in the vicinity. CEQA does not recognize modifications in land use plans as a significant impact unless established by local policies. The City of Modesto has not adopted policies identifying the deviation of land uses as significant impacts. The DEIR includes a cumulative analysis of the proposed amendment, including cumulative traffic, air quality, noise and related impacts. For further information regarding land use impacts see Response H.4.

### **Response to Comment H.13**

The commenter questions whether the intersection at Kiernan/Morrow and Bangs/Morrow were studied. Morrow Road is a local roadway that connects Kiernan Avenue to Bangs Avenue, and provides access to large lot residential and agricultural uses. Given the land uses served by Morrow Road, this facility typically experiences low traffic volumes, although there may be peaks of activity during agricultural seasons. The intersections of Kiernan/Morrow and Bangs/Morrow were not included in the transportation impact analysis for the Kiernan Business Park Amendment #4, as the project is not expected to significantly increase traffic on Morrow Road. With the widening of Kiernan Avenue to provide two travel lanes in each direction, the Morrow Road/Kiernan Avenue intersection would be restricted to right-in/right-out operations and would operate acceptably with development of the proposed project.

The Bangs Avenue/Morrow Avenue intersection is included in the study segment of Bangs Avenue (Bangs Avenue from Dale Road to McHenry Road was analyzed in the DEIR). The widening of Bangs Avenue from Dale Road to McHenry Road to provide two travel lanes in each direction was identified as a needed roadway improvement to accommodate traffic growth, including the proposed project. The Project Applicant would contribute their fair share to this improvement. The intersection of Bangs Avenue/Morrow Avenue would operate acceptably with side-street stop-control and a four lane cross section on Bangs Avenue, with the existing uses on Morrow Road and development of the Proposed Project and other approved and pending projects. Should the land uses change on Morrow Road, additional studies would be required for those projects to determine if additional traffic control would be warranted at the Bangs Avenue/Morrow Avenue intersection.

#### **Response to Comment H.14**

The commenter asks how the project is supposed to contribute to the Kiernan Business Park West CFD. The commenter continues by asking how the project's impacts to several intersections were deemed infeasible, in light of the fact that they were required for the Mana/Wagner project. The commenter concludes by questioning the validity of explanations offered for the mitigation measures identified as being infeasible.

Project developer(s) of the Kiernan Business Park Specific Plan Amendment #4 project will be required to contribute their fair share of infrastructure improvement costs based on the impact caused by development in the proposed project. As some projects within the Kiernan Business Park Specific Plan area on the west side of Dale Road have already constructed more than their fair share on specific facilities, they will require reimbursement for costs that are disproportional to their impacts. However, since future improvements may be made by other areas of the Specific Plan, including the area on the south side of Bangs, it is appropriate to modify this statement to require project sponsors to simply contribute to the Kiernan Business Park CFD. This amendment is reflected in the Changes and Modifications section of the Final EIR. These monies will then be dispersed equitably between all developing parties who have constructed greater than their fair share of infrastructure improvements.

With regard to the question relative to the infeasibility of findings for the project, where they were not made for Mana/Wagner, the commenter is directed to Response to Comment H.5.

In respect to explanations for mitigation measures that were deemed infeasible in the DEIR, these explanations are based on CEQA Section 15093, as described above under Response to Comment H.2. These will be elaborated upon in conjunction with the preparation of final CEQA findings of overriding considerations. These will be available for public review prior to action by the Modesto City Council.

#### **Response to Comment H.15**

The commenter states that the language used to describe Mitigation Measure C.1f is unclear, that no such "fair share" language existed for the Mana/Wagner project, and that they do not know which CFD is being referred to. In response to the comment that Mitigation Measure C.1f is unclear, the language of this measure is quite specific: "install a two-lane roundabout with a right-turn by-pass lane or install traffic signals and left-turn pockets on all approaches." For more information about the "fair share" language, please see Response to Comment H.5. The CFD that is being referred to is the collective CFD for the Kiernan Business Park Specific Plan. The details related to funding of improvements will be determined through the FMP and IFP process.

### **Response to Comment H.16**

The commenter identifies the language used to describe Mitigation Measures C.1g and C.1b as unclear and indicates that it is unsupported, given that these mitigations were required in the case of Mana/Wagner.

Mitigation Measure C.1g provides two possible approaches to mitigate the associated impact, install a two-lane roundabout or install traffic signals on all approaches. Mitigation Measure C.1b requires Kiernan Avenue to be widened to two through lanes in each direction. These options for mitigating the associated impacts are not unclear. For information as to how these mitigations could be required for Mana/Wagner, but not for the project, the commenter should refer to Response to Comment H.5.

### **Response to Comment H.17**

The commenter questions the meaning of the statement that the project would be required to make a fair share contribution to the Kiernan Business Park West CFD, indicating that it is not clear how this would work and that it seems to contradict the anticipated follow-up action of CFD formation for the area on the east side of Dale Road. The commenter goes on to question the contrast between how this same mitigation was handled for Mana/Wagner versus the project. The commenter is directed to Response to Comment H.14 and Response to Comment H.5.

### **Response to Comment H.18**

The commenter declares the right to provide further comments at a later time. The right of the commenter to submit additional comments is acknowledged.

### **Response to Comment H.19**

The commenter expresses concerns regarding the fairness of process and treatment between the Mana/Wagner project and the Kiernan Business Park Specific Plan Amendment #4 project. In response, the commenter is directed to Response to Comments H.1 and H.5.

# LETTER I

To: City of Modesto.

12/15/08

Subj: Kiernan Business Park - Amendment # 4 Project

Sir, I reside at 2931 Bangs Ave, Modesto CA 95356 my house is sitting on one acre, we are very near the Dale Ave.

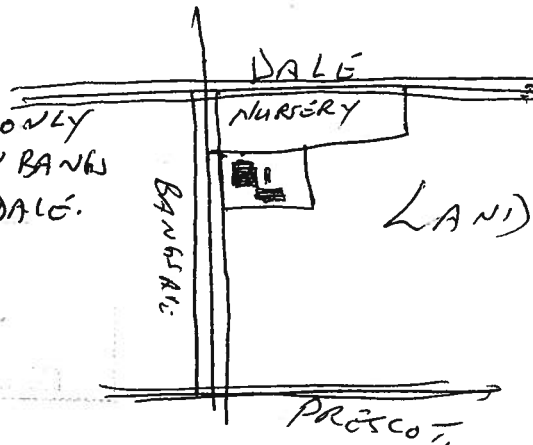
We are very Concern with your Proposal of expanding Bangs Ave to 4-lanes. My house is sitting about 27 feet from the edge of Bangs Ave. 2 years ago they improved Bangs Ave, because of Kaiser Hospital. We lost ten feet from front of our house, My question is.

By EXPANDING BANGS AVE TO 4-LANE, THE STREET WILL BE IN THE MIDDLE OF MY FAMILY ROOM, WE WILL HAVE NO KITCHEN, LIVING ROOM, FORMAL DINNINg ROOM WHAT WILL HAPPEN TO OUR HOME?

I owe over \$1,050,000.00 ON MY HOUSE WHAT WILL HAPPEN TO MY WAY OF LIFE? PLEASE ANSWER MY CONCERN. THANK YOU.

MARTIN DAVID  
2931 BANGS AVE  
MODESTO, CA 95356  
209.541-7417 OR  
209.545.2040

NOTE:  
I AM THE ONLY  
HOUSE ON BANGS  
CLOSE TO DALE.



**RESPONSES TO LETTER I:  
Martin David**

---

**Response to Comment I.1**

The commenter states that he is concerned that widening Bangs Avenue to four lanes, as called for by the proposed project, will result in encroachment of the roadway into his house. The commenter's concern about the potential loss of a portion of his house to widen Bangs Avenue is noted. The Initial Study prepared for the Project (included as Attachment A to the DEIR) found that demolition of 13 dwellings in order to widen roadways in the project vicinity would not be a significant impact on the environment, and, therefore, this was not addressed in the DEIR. However, based on the ultimate Bangs Avenue cross-section and the distance of the house from the current facility, it is not anticipated that the widening would extend to this house.

The need to acquire right-of-way to accommodate future improvements to construct the Kiernan Business Park Specific Plan Amendment #4 project will be further addressed through the FMP and IFP.

# **LETTER J**



January 30, 2009  
2452 Kiernan Ave.  
Modesto, CA 95356

City of Modesto  
Community and Economic Development  
Planning Division  
P.O. Box 642  
Modesto, CA 95353

Reference: Kiernan Business Park Specific Plan Amendment #4 Project (SCH #2007062071) "Project"

Property owned by Mr. Marino Giannini and the Giannini Children's Trust are owners of property at the above address (referenced property) part of which is subject to terms and conditions of "Project". Having reviewed the Draft EIR we have the following comments on the proposed "Project".

- The "Project" extension of American Avenue as proposed would divide the reference property into two parcels; approximately 1/3 in the "Project" and 2/3 not in the "Project". Such a division poses a significant and irreversible economic hardship to the owners. The size of the remaining parcel outside of the "Project" and access restrictions as part of the State's Kiernan widening project, would leave a parcel too small and isolated to be an economically viable farming unit. J.1
- As proposed in the "Project", American Ave. would be extended through the referenced property along the current alignment of American Ave north to Kiernan. The design of the State's Kiernan widening project does not allow American Ave. to cross, or even have an intersection with the widened Kiernan. Therefore, there is no need to maintain the current alignment of American Ave. through the referenced property. The presence of an extended American Ave. as proposed would pose an economic hardship on the owners by dividing the referenced property into two smaller parcels with a significant street running between the parcels. As an example, irrigation would have to be reconfigured, farm equipment would be moved between the parcels over American Avenue and harvesting would be significantly limited because of the major road. J.2

The referenced property has been farmed by Mr. Giannini for over 25 years and he currently lives on the property in a home that appears to be on the proposed right of way of American Ave.. It would require significant adjustments by him to his life style in his remaining years. This would prove an enormous, unnecessary emotional burden on an individual who has recently lost his wife and is 85 years old. J.3

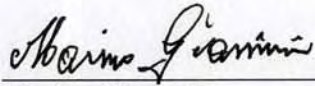
Therefore any extension of American Ave. should be curved to the east boundary of the Giannini Parcel. This would allow Mr. Giannini to remain in his home J.4

J.5

with minimal impact on his lifestyle and farming activities. It would have no impact on the Kiernan widening project as American is not planned as a four way intersection.

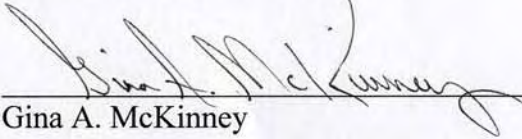
Thank you for your consideration of these issues.

Sincerely,

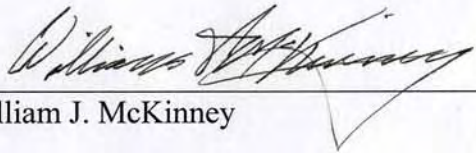


Marino Giannini

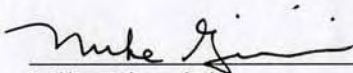
**Giannini Children's Trust**



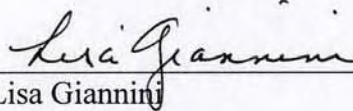
Gina A. McKinney



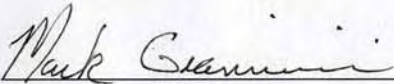
William J. McKinney



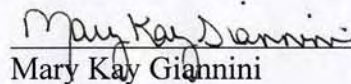
Mike Giannini



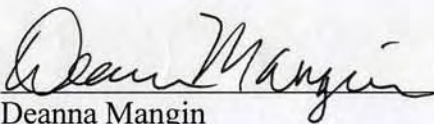
Lisa Giannini



Mark Giannini



Mary Kay Giannini



Deanna Mangin



Jim Mangin

**RESPONSES TO LETTER J:  
Giannini Family Trust – Marino Giannini**

---

**Response to Comment J.1**

The commenter notes that the proposed northern extension of American Avenue would divide the commenter's property such that approximately the western one-third of their property would lie within Kiernan Business Park and the remaining portion would be east of American Avenue and outside of the Specific Plan area. The commenter indicates that they are concerned that this configuration, coupled with the access restrictions to SR 219 (Kiernan Avenue) imposed by Caltrans, would leave the eastern parcel too small and isolated to be economically farmed.

The current project, analyzed in the EIR, would represent an amendment to the Specific Plan, but would not change the boundary of the Specific Plan or the proposed circulation system, including the extension of American Avenue. The eastern boundary of the Specific Plan and the extension of American Avenue were established and analyzed for environmental effects in conjunction with the adoption of the original Specific Plan in 1997. Even so, the EIR analyzes the project's burden on continued agricultural operations for properties surrounding the site and finds that the burden is less than significant. American Avenue will not be extended until properties within the northeast portion of the Specific Plan are proposed for development. Until such time, the commenter is free to continue farming this property. Following development, if the commenter finds that it is not economically viable to farm the eastern two-thirds of their property independently, they may combine operations with an adjacent farm, either through purchase, sale or other agreement. The ownership or operational patterns of agricultural property is not required to be analyzed under CEQA, just that the property be able to be maintained in agricultural production, through whatever arrangement.

**Response to Comment J.2**

The commenter notes that proposed improvement plans for Kiernan Avenue, north of the project site, would not allow an intersection with American Avenue; therefore, there is no need to maintain the currently proposed alignment of American Avenue.

The City does not concur that the improvement plans for Kiernan Avenue would preclude an intersection with American Avenue. The transportation study assumed a right-in/right-out access at this location based on discussions with Caltrans. Furthermore, in addition to providing vehicular and emergency access to future parcels of land in the northeast portion of the Specific Plan, American Avenue is also proposed to be used to provide major water, sewer and drainage facilities to support future development of parcels in the northeast portion of the planning area. Therefore, deletion of the proposed extension of this road would not be appropriate. With regard to the economic issues associated with the extension of American Avenue at this location, the commenter is directed to Response to Comment J.1.

**Response to Comment J.3**

The commenter reiterates concern mentioned under Comment J.1 relative to the economic issues created by the extension of American Avenue at this location. The commenter is directed to Response to Comment J.2.

**Response to Comment J.4**

The commenter identifies that the extension of American Avenue through the subject property and possibly homestead of the property owner would result in undue emotional and lifestyle adjustments. This comment is noted. However, as mentioned under Response to Comment J.1, American Avenue will not be extended until properties within the northeast portion of the Specific Plan are proposed for development. This comment does not relate to an environmental issue and no further response is required.

**Response to Comment J.5**

The commenter recommends that American Avenue be curved to the east boundary of the Giannini parcel, indicating that this would allow Mr. Giannini to remain in his home with minimal impact to his lifestyle. The commenter may request an Amendment to the Kiernan Business Park Specific Plan to relocate American Avenue to the east, but, as mentioned under Response to Comment J.1, the location of American Avenue is not proposed to be modified with this project. A separate CEQA environmental analysis will be required to assess the impacts of such a proposal.

As noted in Response to Comment J.1, Mr. Giannini may remain in his house and utilize his property as he wishes until development actually occurs in this portion of the Specific Plan area that may necessitate the extension of American Avenue.

**LETTER K**



**Fleur de Ville Improvement Association**  
c/o Liberty Property Management  
1120 Scenic Drive  
Modesto, CA 95350  
209.548.4578 \* 209.541.3335  
209.578.5487 fax



January 30, 2009

**City of Modesto**  
**Planning Division**  
**P.O. Box 642**  
**Modesto, CA 95353**

RE: Kiernan Business Park Specific Plan Amendment #4 Project

To Whom It May Concern:

After review of the notice of availability of the Kiernan Business Park project the Fleur De Ville Board of Directors is concerned about the reclassification of Dale Road, Bangs Avenue, and Healthcare Way. As a result, our concerns relate to increased traffic and noise that will potentially affect homeowners in our association.

] K.I

Please advise how the City plans to deal with this issue.

Sincerely,

*Randall Jalli*  
*Vikram Brar*  
*Francis Ip*  
*Giordonna Levatino*  
*Anne Bobson*  
Board of Directors  
Fleur De Ville Improvement Association

**RESPONSES TO LETTER K:  
Fleur de Ville Improvement Association – Board of Directors**

---

**Response to Comment K.1**

The commenter expresses concerns related to the increase of traffic and noise reflected by the reclassification of Dale Road, Bangs Avenue and Healthcare Way. Concerns with increased traffic and noise associated with the proposed project are noted. These topics are analyzed in Section C, Transportation and Circulation and Section E, Noise, of the DEIR.

Dale Road and Bangs Avenue have already been reclassified in the City's General Plan. The Specific Plan is simply being modified to reflect the General Plan classification, per state law. Healthcare Way is not being reclassified in a manner that will increase its carrying capacity. The street classification is simply being modified from a two-lane industrial collector to a two-lane minor collector, east of Dale Road. These facilities serve identical purposes, but under a different naming convention.

The Transportation and Circulation section concludes that many anticipated impacts of the proposed project can be mitigated to a less than significant level; however, in some instances, traffic impacts cannot be mitigated to a less than significant level and are unavoidable. These impacts are detailed in the DEIR.

Similarly, most noise impacts can be mitigated to a less than significant level, with the exception of cumulative exterior noise levels in the year 2025. The Modesto General Plan Master EIR anticipates noise levels to exceed community thresholds across the City by 2025.

**LETTER L**



City of Ceres • City of Hughson • City of Modesto • City of Newman • City of Oakdale • City of Patterson  
City of Riverbank • City of Turlock • City of Waterford • County of Stanislaus

February 5, 2009

Mr. Patrick Kelly, Planning Division Manager  
City of Modesto  
Planning Division  
1010 10<sup>th</sup> Street  
Modesto, CA 95354

SUBJECT: Kiernan Business Park Specific Plan Amendment #4 Project

Mr. Kelly:

Thank you for the opportunity to review the application cited above. Stanislaus Council of Governments wishes to submit the following comments:

- CalTrans traffic analysis indicated that, at opening, State Route (SR) 219 between Carver Rd. and Tully Rd. would be impacted to the extent that the design on Phase II of the project was expanded to a six-lane facility to address those impacts. I did not see this addressed in the Draft EIR.
- The initiation of development in the Kiernan Business Park will produce additional impacts to the transportation infrastructure.
- We see significant traffic/transportation impacts from the development of the Kiernan Business Park and future development. Of concern are the impacts you have identified in your Draft EIR to the streets, roads, and highways in the surrounding area. These impacts include State Route (SR) 99 and SR 219 (Kiernan Ave.) interchanges, Pelandale Ave., Dale Road, Standiford Ave, Bangs Avenue, Salida Blvd. Prescott Road, Carver Road, Tully Road, and American Ave. The mitigations identified in the Draft EIR are appropriate.
- It is necessary to apply Capital Facilities Fees to the Kiernan Business Park as it is developed to address eventual build-out impacts.

L.1  
L.2  
L.2  
L.3

Thank you for the opportunity to comment on this project.

Sincerely,

Charles Turner, Associate Planner  
Stanislaus Council of Governments

**RESPONSES TO LETTER L:  
StanCOG – Charles Turner, Associate Planner**

---

**Response to Comment L.1**

The commenter notes that a Caltrans analysis indicated that SR 219 (Kiernan Avenue) between Carver Road and Tully Road would be impacted such that a six lane facility would need to be constructed as part of a second phase of improvements to the facility. The commenter questions whether this was addressed in the draft EIR.

The analysis presented in the draft EIR assumed that Kiernan Avenue between Carver Road and Tully Road would be a four-lane facility in the near-term and a six-lane facility at buildout (cumulative condition). With the addition of traffic from the project, Kiernan Avenue would operate acceptably with a four-lane cross section in the near term and acceptably as a six-lane facility at buildout.

Although the project contributes to the need for Kiernan Avenue to be ultimately constructed as a six-lane cross section, that need would occur independent of the project. The project will pay their fair share towards the Kiernan Avenue widening through the payment of local and regional fees.

**Response to Comment L.2**

The comment notes that development of the Kiernan Business Park would produce additional impacts to the transportation infrastructure. The commenter further states that impacts were identified to a number of streets, roads and highways, and that mitigation measures identified in the DEIR are appropriate.

The City concurs that the project would result in significant impacts to the transportation infrastructure and that the mitigation measures identified in the DEIR are appropriate to mitigate the impacts of the proposed project.

**Response to Comment L.3**

The commenter states that it is necessary to apply Capital Facilities Fees to the Kiernan Business Park as it is developed to address build-out impacts.

The Project Applicant will be required to pay local and regional fees to mitigate impacts as the Project is developed. Additionally, a financing master plan for construction and maintenance of various infrastructure items, including transportation, will be facilitated by the Infrastructure Financing Plan that the City of Modesto requires as an implementation measure for all Specific Plans. The development of an Infrastructure Financing Plan is anticipated by the EIR, as reflected on page III.29.

**LETTER M**

COMMENT LETTER M



ARNOLD SCHWARZENEGGER  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT  
DIRECTOR

February 3, 2009



Josh Bridegroom  
City of Modesto, Comm. and Econ. Development Dept.  
P.O. Box 642  
1010 Tenth Street, 3300  
Modesto, CA 95354

Subject: Kiernan Business Park Specific Plan Amendment #4  
SCH#: 2007062071

Dear Josh Bridegroom:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 30, 2009, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2007062071  
**Project Title** Kiernan Business Park Specific Plan Amendment #4  
**Lead Agency** Modesto, City of

---

**Type** EIR Draft EIR

**Description** The project would provide for the consideration and adoption of amendments to the Kiernan Business Park Specific Plan and would include the following: redesignation of a 39 acre portion of the 153 acre project site currently designated BP under the existing GP and Specific Plan, to MU in the GP and MU and MHDR in the Specific Plan; removal of Pelandale Expressway cross section; reclassification of Dale Rd from a four lane minor arterial to a six lane principal arterial between Kiernan Ave and Bangs Ave; reclassification of Bangs Ave from a two lane industrial connector to four lane major collector; reclassification of Healthcare Way from a two lane industrial connector to a two lane minor collector east of Dale Rd; redesign of a cross section for four lane minor arterial; redesign of cross sections for two lane minor collectors; implementation of a new development standards and design guidelines for the MU and MHDR areas to provide a framework and direction for development within these areas; and revisions to the Land Use Plan Diagram, the Circulation Plan Diagram, the Bike Paths Figure, and the Illustrative Public Facilities Plan Diagram in the Specific Plan to reflect the proposed changes to the Specific Plan. The remaining 114 acres of the project site would remain in the BP land use designation and under current development standards and design guidelines called out under the existing Kiernan Business Park Specific Plan. The Specific Plan otherwise remains unchanged in substance with respect to the rest of the Specific Plan area.

---

**Lead Agency Contact**

**Name** Josh Bridegroom  
**Agency** City of Modesto, Comm. and Econ. Development Dept.  
**Phone** (209) 571-5267 **Fax**  
**email**  
**Address** P.O. Box 642  
1010 Tenth Street, 3300  
**City** Modesto **State** CA **Zip** 95354

---

**Project Location**

**County** Stanislaus  
**City** Modesto  
**Region**  
**Lat / Long** 37° 42' 14" N / 121° 3' 0" W  
**Cross Streets** Dale Road, Kiernan Avenue, Bangs Avenue, future American Avenue  
**Parcel No.** 078-015-001,2,3,5,7,10,12,13,15,17,20,23,24,25,26,28  
**Township** 3S **Range** 8E **Section** sec.1 **Base** MtDiablo

---

**Proximity to:**

**Highways** SR219,SR99  
**Airports** No  
**Railways** Southern Pacific  
**Waterways** MID Lateral No. 6, Stanislaus River  
**Schools** Muncy, Chrysler, Perkins, Sisk, Dietrich, Baptist, Stanislaus, Boer  
**Land Use** Agricultural, commercial and public/SP & P-SP/Business Park (BP) land use designation.

---

**Project Issues** Agricultural Land; Air Quality; Biological Resources; Cumulative Effects; Drainage/Absorption; Growth Inducing; Landuse; Noise; Public Services; Schools/Universities; Sewer Capacity; Toxic/Hazardous; Traffic/Circulation; Water Quality; Water Supply; Wildlife

Note: Blanks in data fields result from insufficient information provided by lead agency.

**Document Details Report**  
**State Clearinghouse Data Base**

---

**Reviewing Agencies** Resources Agency; Department of Conservation; Department of Fish and Game, Region 4; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 10; Air Resources Board, Transportation Projects; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission; Public Utilities Commission

---

**Date Received** 12/17/2008      **Start of Review** 12/17/2008      **End of Review** 01/30/2009

Note: Blanks in data fields result from insufficient information provided by lead agency.

**DEPARTMENT OF TRANSPORTATION**

P.O. BOX 2048 STOCKTON, CA 95201  
(1976 E. CHARTER WAY/1976 E. DR. MARTIN  
LUTHER KING JR. BLVD. 95205)  
PHONE (209) 941-1921  
FAX (209) 948-7194  
TTY: 711



*Flex your power!  
Be energy efficient!*

January 21, 2009

*Clear  
1-30-09  
e*



**10-Sta-219-PM 1.85  
SCH#2007062071  
Kiernan Business Park**

Josh Bridegroom  
City of Modesto  
1010 Tenth Street, Suite 3300  
Modesto, CA 95354

Dear Mr. Bridegroom:

The California Department of Transportation (Department) appreciates the opportunity to have reviewed the Kiernan Business Park Specific Plan Amendment #4. The Department has the following comment:

- Please provide a hard copy of the Traffic Impact Study as well as the electronic files for the Departments review.

If you have any questions or would like to discuss our comments in more detail, please contact Joshua Swearingen at (209) 948-7142 (e-mail: [joshua\\_swearingen@dot.ca.gov](mailto:joshua_swearingen@dot.ca.gov)) or me at (209) 941-1921.

Sincerely,

*For*  
TOM DUMAS, CHIEF  
OF METROPOLITAN PLANNING

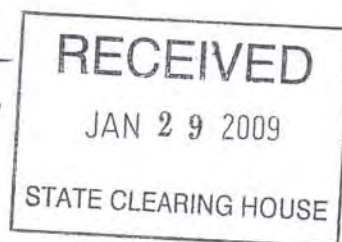
## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

January 26, 2009

Josh Bridegroom  
City of Modesto  
1010 tenth Street, Suite 3300  
Modesto, CA 95356

Clear  
1-30-09  
e



Re: Notice of Completion, Draft Environmental Impact Report (DEIR)  
Kiernan Business Park Specific Plan Amendment #4/SCH# 2007062071

Dear Mr. Bridegroom:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers.

The Commission recommends that the City include consideration of potential project-related rail safety impacts and measures to reduce adverse impacts of the proposed project to the Kiernan Avenue at-grade crossing (CPUC #001B-106.20) and Broadway crossing (CPUC #001B-106.40). The analysis within the Transportation/Circulation section of the DEIR does not include any analysis for these crossings. How does the City propose to address these crossings?

In general, the major types of impacts to consider are collisions between trains and vehicles, and between trains and pedestrians. Changes in land use should not be allowed that would permit housing adjacent to existing rail yards. Similarly, where a need for grade-separated crossings is identified, new development should not be placed adjacent to at-grade highway rail crossings, within the footprint of land needed for future grade-separation structures.

General categories of measures to reduce potential adverse impacts on rail safety include:

- Installation of grade separations at crossings, i.e., physically separating roads and railroad track by constructing overpasses or underpasses
- Improvements to warning devices at existing highway-rail crossings
- Installation of additional warning signage
- Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption
- Installation of median separation to prevent vehicles from driving around railroad crossing gates

Josh Bridegroom  
City of Modesto  
SCH#2007062071  
January 26, 2009  
Page 2 of 2

- Where soundwalls, landscaping, buildings, etc. would be installed near crossings, maintaining the visibility of warning devices and approaching trains
- Prohibition of parking within 100 feet of crossings to improve the visibility of warning devices and approaching trains
- Installation of pedestrian-specific warning devices and channelization
- Installation of additional traffic lanes through the crossing to accommodate additional traffic
- Construction of pull-out lanes for buses and vehicles transporting hazardous materials
- Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- Elimination of driveways near crossings
- Increased enforcement of traffic laws at crossings
- Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings –

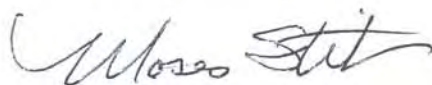
CPUC also encourages localities to set up mechanisms whereby new developments pay a fair share of their impact costs to fund the above measures if not already in an existing Fee program by the City or a Regional Fee program.

Commission approval is required to modify an existing highway-rail crossing or to construct a new crossing.

Please forward the revised Traffic impact Study (TIS) that includes the previously mentioned at-grade rail crossings for our review and comment.

Thank you for your consideration of these comments and we look forward to working with the City on this project. If you have any questions in this matter, please call me at (415) 713-0092 or email at [ms2@cpuc.ca.gov](mailto:ms2@cpuc.ca.gov),

Sincerely,



Moses Stites  
Rail Corridor Safety Specialist  
Consumer Protection and Safety Division  
Rail Transit and Crossings Branch  
515 L Street, Suite 1119  
Sacramento, CA 95814



STATE OF CALIFORNIA

GOVERNOR'S OFFICE of PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT



ARNOLD SCHWARZENEGGER  
GOVERNOR

CYNTHIA BRYANT  
DIRECTOR

February 10, 2009

Josh Bridegroom  
City of Modesto, Comm. and Econ. Development Dept.  
P.O. Box 642  
1010 Tenth Street, 3300  
Modesto, CA 95354



Subject: Kiernan Business Park Specific Plan Amendment #4  
SCH#: 2007062071

Dear Josh Bridegroom:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on January 30, 2009. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2007062071) when contacting this office.

Sincerely,

Terry Roberts  
Senior Planner, State Clearinghouse

Enclosures  
cc: Resources Agency

## DEPARTMENT OF TRANSPORTATION

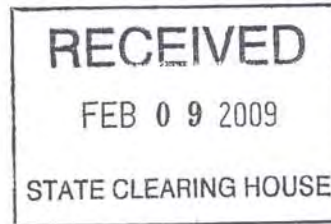
P.O. BOX 2048 STOCKTON, CA 95201  
(1976 E. CHARTER WAY/1976 E. DR. MARTIN  
LUTHER KING JR. BLVD. 95205)  
PHONE (209) 941-1921  
FAX (209) 948-7194  
TTY: 711



*Flex your power!  
Be energy efficient!*

February 9, 2009

*Clear  
1-30-09  
late  
e*



**10-STA-219-PM 1.85  
SCH#2007062071  
Kiernan Business Park**

Josh Bridegroom  
City of Modesto  
1010 Tenth Street, Suite 3300  
Modesto, CA 95354

Dear Mr. Bridegroom:

The California Department of Transportation (Department) appreciates the opportunity to have reviewed the Kiernan Business Park Specific Plan Amendment #4. The Department has the following comments:

- 1) The lane configurations in figures 4a and 4b do not appear to be compliant with existing lane configurations. If the configurations are incorrect/inaccurate the data that is produced using the configurations will be incorrect/inaccurate, please make the necessary changes and submit the documents to the Department for review and comment.
- 2) Traffic Operations is requesting hardcopies of the worksheets used for the report. The Synchro electronic files do not have the data used for the analysis. Unsignalized intersections are not analyzed using Synchro, in order to verify the data, Traffic Operations will need to review the worksheets.
- 3) Please provide the TIS appendices in order to provide a thorough response regarding the proposed mitigations.
- 4) What year is near term? The project fails to mention a year for this condition.
- 5) To insure the project has been adequately reviewed and commented on, the cumulative condition scenario electronic files that were not included in any of the documents that were received by the Department are being requested. Please submit the necessary documents for the Departments' review and comment.
- 6) Page 35 of the TIS "future without project conditions" states that construction for both

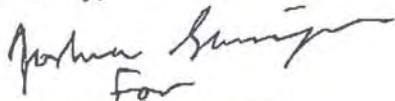
*"Caltrans Improves mobility across California"*

Kiernan and Pelandale is anticipated to start in early July 2008 but the projects will not go into construction until 2015. The mitigations should include interim projects impacts on opening day and near term conditions.

- 7) For Kiernan Avenue/SR 99 Southbound ramps the report states that the applicant should pay their fair share contribution toward the ultimate interchange improvement. At this time the opening day is 2015 but due to funding this may change. How will this project mitigate for opening day impacts if this improvement does not occur as projected?
- 8) For Kiernan Avenue/Sisk Road it states that the applicant should pay their fair share contribution toward the ultimate interchange improvement. At this time opening day is 2015, but due to funding this may change. How will this project mitigate for opening day impacts if this improvement does not occur as projected?
- 9) For Pelandale Avenue/SR 99 Southbound ramps it states that the applicant should pay their fair share contribution toward the ultimate interchange improvement. At this time the opening day is 2015, but due to funding this may change. How will this project mitigate for opening day impacts if this improvement does not occur as projected?
- 10) For Pelandale Avenue/Sisk Road it states that the applicant should pay their fair share contribution toward the city improvement project. When will this project occur? How will this project mitigate for opening day impacts if this improvement does not occur by opening day?
- 11) For Standiford Avenue/SR 99 Southbound ramps it states that the applicant should pay their fair share contribution toward the ultimate interchange improvement. Is there a project to mitigate this impact? If not, how will this project mitigate for the impact?
- 12) Any work done in the States right-of-way will require an encroachment permit.

If you have any questions or would like to discuss our comments in more detail, please contact Joshua Swearingen at (209) 948-7142 (e-mail: [joshua\\_swearingen@dot.ca.gov](mailto:joshua_swearingen@dot.ca.gov)) or me at (209) 941-1921.

Sincerely,



TOM DUMAS, CHIEF  
OF METROPOLITAN PLANNING

**RESPONSES TO LETTER M:  
California Office of Planning and Research – Terry Roberts, Director, State  
Clearinghouse**

---

**Response to Comment Letter M**

The commenter indicates that comments from responding agencies have been forwarded to the City and acknowledges that the City has complied with State Clearinghouse review requirements for draft environmental documents. The City acknowledges these comments. The comments that were forwarded to the City parallel the comments received by the City directly from the responsible agencies.

**LETTER N**



**CHIEF EXECUTIVE OFFICE**  
**Richard W. Robinson**  
**Chief Executive Officer**

**Patricia Hill Thomas**  
**Chief Operations Officer/  
Assistant Executive Officer**

**Monica Nino-Reid**  
**Assistant Executive Officer**

**Stan Risen**  
**Assistant Executive Officer**

1010 10<sup>th</sup> Street, Suite 6800, Modesto, CA 95354  
P.O. Box 3404, Modesto, CA 95353-3404  
Phone: 209.525.6333 Fax 209.544.6226

## **STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE**

February 13, 2009

Josh Bridegroom, Senior Planner  
City of Modesto  
PO Box 642  
Modesto, CA 95353

**SUBJECT: ENVIRONMENTAL REFERRAL – CITY OF MODESTO – NOTICE OF AVAILABILITY OF A DRAFT SPECIFIC PLAN AND DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4 PROJECT**

Mr. Bridegroom:

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has determined that it may have a significant effect on the environment. Specifically, the environmental comments encompass several key areas and the following is submitted for consideration.

### **Salida Community Plan**

The western most portion of the Kiernan Avenue Business Park is located within "Area 6" of the Salida Community Plan. Development in this area would be subject to the Salida Initiative adopted by the Board of Supervisors in August 2007, inclusive of participation in any overall infrastructure financing plan.

The current Specific Plan Amendment does not include any changes to the western portion of the Specific Plan within the Salida Plan Community Area, and therefore would not have any direct affect on the Salida Community Plan.

However, any residential or commercial development adjacent to existing agricultural uses does have the potential to impact those adjacent agricultural land uses. The ERC recommends that the City consider including design guidelines and measures designed to ensure that development within the Kiernan Business Park Specific Plan Area comply

N.1

N.2

**ENVIRONMENTAL REFERRAL – CITY OF MODESTO – NOTICE OF AVAILABILITY OF A DRAFT SPECIFIC PLAN AND DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDEMENT #4 PROJECT**

Page 2

with Stanislaus County's agricultural buffer and farmland mitigation guidelines as defined in the Agricultural Element of the County General Plan.

N.2 cont'd

**Fire Protection**

The project needs to address the significant adverse impact on the fiscal viability of the Salida Fire Protection District. By annexing property presently in the Fire District, the City will derogate the economic viability of the District. A focused Environmental Impact Report needs to be prepared demonstrating at a minimum the short and long term impact on the Salida Fire Protection District's finances. The report also needs to address how the City of Modesto proposes to make the Salida Fire Protection District whole. Refer to comment "Fire Protection" page 58 and 59 of the Draft EIR.

N.3

**Infrastructure Standards and Scope**

The infrastructure standards and scope must be defined and maintained at the highest order to properly mitigate project impacts. Proper master planning of infrastructure should be included in the environmental phase. The impact of not having Master Plans is that the full impact of development cannot be assessed. It is anticipated that the Kiernan Business Park Specific Plan will provide master plans that include fiscal plans based on a capital improvement program, and include an analysis of impact fees, finance options and maintenance and operations funding. The following provides an outline of the various master plans that are anticipated prior to development:

Transportation Master Plan to identify:

- Regional impacts;
- Phasing plans with triggers for improvements;
- Identification of right of way dedication needed;
- Circulation element;
- Roadway standards;
- Traffic calming standards;
- Public transit planning;
- Maintenance funding;
- IT elements; and
- Bicycle and pedestrian circulation.

N.4

Water Master Plan and System Model to identify:

- Study area and land use plan;
- Design criteria: Provide information on service criteria as well as fire protection planning guidance. Specific design criteria shall include: distribution, system piping (sizing, maximum velocity, minimum and

**ENVIRONMENTAL REFERRAL – CITY OF MODESTO – NOTICE OF AVAILABILITY  
OF A DRAFT SPECIFIC PLAN AND DRAFT ENVIRONMENTAL IMPACT REPORT  
FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4  
PROJECT**

Page 3

maximum pressures, layout, valving, etc.), storage tanks (minimum storage requirements, maximum and minimum base elevations, etc.), pumping facilities (sizing, layout, type, etc.) pipeline materials, and other miscellaneous items;

- Water supply and water demand;
- Water quality summary and potential treatment facilities; and
- Sustainable water supply (SB 610), which may be a combination of surface water, groundwater, and reclaimed water.

Storm Drain Master Plan to identify:

- Topographic surveys;
- Hydraulic analysis;
- Storm drain Improvements;
- Basin design standards;
- Outfalls to rivers or canals;
- NPDES/Water quality;
- Storm drainage impact fees; and
- Design standards.

Sewer Master Plan to identify:

- Existing system;
- Characteristics of sewer sheds;
- Flow data;
- Wastewater generation factors and peaking factors;
- Sewer hydraulic model;
- Reclaimed water; and
- Treatment facilities and alternatives.

Specific impacts that the ERC has identified pertaining to infrastructure that have not been addressed in the Kiernan Business Park Specific Plan Amendment #4 include:

- Development in the Specific Plan area shall be responsible to pay fair share monies to Stanislaus County Department of Public Works for the Kiernan Avenue Interchange Improvements. This should be made part of the Kiernan Business Park Specific Plan.
- Mitigation Measure C.1 discusses the Southbound SR 99 Ramp. The measure is to restripe the shared southbound through/right-turn lane to a shared left/through/right-turn lane. How will this effect the traffic numbers utilizing the right hand turn? Will this cause a back up on the ramp and highway during peak hours (like at Briggsmore and

N.4 cont'd

N.5

N.6

**ENVIRONMENTAL REFERRAL – CITY OF MODESTO – NOTICE OF AVAILABILITY OF A DRAFT SPECIFIC PLAN AND DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDEMENT #4 PROJECT**

Page 4

Pelandale off-ramps)? This mitigation measure may adversely affect the County traffic into Salida on the west side of SR 99.

- The mitigation measures, such as C.1k, mention widening Sisk Road at Pelandale Avenue at the intersection. Will any segment of Sisk, beyond the intersections, be widened to accommodate the additional traffic? This is not mentioned in the mitigation measures. Will fair share monies be calculated for the widening of Sisk Road between Pelandale Avenue and Kiernan Avenue?
- Traffic on County roads north of Kiernan Avenue is not addressed. This project will effect County roadways by adding to existing traffic loads. How will this project off-set these effects?

N.6 cont'd

N.7

N.8

Furthermore, the Stanislaus County Environmental Review Committee offers the following additional specific comments relative to traffic impact/mitigation:

Page IV.C.2 Area Roadways

The project is contained on the northern Modesto City Limits. It should be noted that no roadways north of Kiernan Avenue are included in the study area. The predominant peak period to and from the northern Modesto area is to and from Route 99 north. In the future, the study area will be accessed by the Route 99/Hammett Road interchange, Hammett Road extension/North County Corridor, and via Sisk Road and Dale Road. The EIR does not consider these facilities in the traffic study. The ERC ascertains that significant investment in these facilities will be required to provide adequate access to the Kiernan Business Park and these facilities should be addressed in the traffic analysis.

N.9

Page IV.C.26 Future Project Traffic Distribution

The project traffic analysis does not consider traffic traveling up Dale Road and Sisk Road to the future Hammett Road extension. Ongoing work with the Stanislaus Council of Governments (StanCOG) model reveals that much of the project traffic from the northern Modesto area travels to and from San Joaquin County and points north. The County therefore requests that the analysis include the Route 99/Hammett Road interchange, Hammett Road extension/North County Corridor, Sisk Road and Dale Road to the north of Kiernan Avenue.

**ENVIRONMENTAL REFERRAL – CITY OF MODESTO – NOTICE OF AVAILABILITY OF A DRAFT SPECIFIC PLAN AND DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDEMENT #4 PROJECT**

Page 5

Mitigation Measure C.1a - Kiernan Avenue and SR 99 Southbound Ramps. The County and Caltrans are currently underway with evaluating and environmentally clearing improvements to the interchange, with construction scheduled for 2011-2013. The Kiernan Business Park project should provide a fair share of improvement at the Kiernan Avenue/Route 99 interchange.

N.10

Needed Mitigation for Hammett/Route 99 Interchange

The County and Caltrans are currently underway with evaluating and environmentally clearing improvements to the interchange, with construction scheduled for 2012-2014. The Kiernan Business Park project should provide a fair share of improvement at the Hammett Road/Route 99 interchange.

N.11

Mitigation Measure C.2a Kiernan Avenue

It is stated that this improvement is infeasible because there is no assurance of future funding. The County believes the development should pay for the improvement of Kiernan Avenue as necessary to maintain level of service and not rely on projects funded by regional sources.

Mitigation Measure C.3 – Kiernan/Route 99 interchange

It is stated that this improvement is infeasible because there is no assurance of future funding. The County believes the development should pay for the improvement of Kiernan/Route 99 interchange as necessary to maintain level of service and not rely on projects funded by regional sources.

Mitigation Measure C.4a -- Kiernan/Route 99 interchange

It is stated that this improvement is infeasible because there is no assurance of future funding. The County believes the development should pay for the improvement of Kiernan/Route 99 interchange as necessary to maintain level of service and not rely on projects funded by regional sources.

N.12

Mitigation Measure C.4b – Kiernan Avenue/Sisk Road

It is stated that this improvement is infeasible because there is no assurance of future funding. The County believes the development should pay for the improvement of Kiernan/Sisk Road interchange as necessary to maintain level of service and not rely on projects funded by regional sources.

Mitigation Measure C.5a – Route 99 Widening

It is stated that this improvement is infeasible because there is no assurance of future funding. The County believes the development should pay for the improvement of Route 99 as necessary to maintain level of service and not rely on projects funded by regional sources.

**ENVIRONMENTAL REFERRAL – CITY OF MODESTO – NOTICE OF AVAILABILITY OF A DRAFT SPECIFIC PLAN AND DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDEMENT #4 PROJECT**

Page 6

Mitigation Measure C.5a – Kiernan Avenue Widening

It is stated that this improvement is infeasible because there is no assurance of future funding. The County believes the development should pay for the improvement of Kiernan Avenue as necessary to maintain level of service and not rely on projects funded by regional sources.

N.12 CONTI

In summary, the project should calculate the cost and fair share of its impacts to and need for improvement of area roadways. If the project is not identified for regional funding, the project should provide entirely for improvements that would improve the level of service to the necessary standard. If these project mitigations cannot be funded by the Kiernan Business Park, then the project should not be approved by the City.

N.13

**Hazardous Materials/Waste**

- Applicant shall determine, to the satisfaction of the Department of Environmental Resources (DER), that a site containing (or formerly containing) residences or farm buildings, or structures, has been fully investigated (via Phase I study and Phase II study if necessary) prior to the issuance of a grading permit. DER recommends research be conducted to determine if pesticides were used on the proposed development site if rezoning from agricultural land; if confirmed, suspect site areas should be tested for organic pesticides and metals. Any discovery of underground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of DER.
- Applicant should contact the Department of Environmental Resources regarding appropriate permitting requirements for hazardous materials and/or wastes. Applicant and/or occupants handling hazardous materials or generating hazardous wastes must notify the Department of Environmental Resources relative to: (Calif. H&S, Division 20).
  - A. Permits for the underground storage of hazardous substances at a new or the modification of existing tank facilities.
  - B. Requirements for registering as a handler of hazardous materials in the County.
  - C. Submittal of hazardous materials Business Plans by handlers of materials in excess of 55 gallons or 500 pounds of a hazardous material or of 200 cubic feet of compressed gas.
  - D. The handling of acutely hazardous materials may require the preparation of a Risk Management Prevention Program that must be implemented prior to operation of the facility. The list of acutely hazardous materials can be found in SARA, Title III, Section 302.

N.14

N.15

**ENVIRONMENTAL REFERRAL – CITY OF MODESTO – NOTICE OF AVAILABILITY  
OF A DRAFT SPECIFIC PLAN AND DRAFT ENVIRONMENTAL IMPACT REPORT  
FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4  
PROJECT**

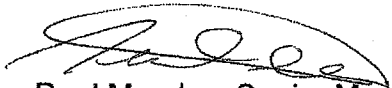
Page 7

- E. Generators of hazardous waste must notify the Department of Environmental Resources relative to the: (1) quantities of waste generated; (2) plans for reducing wastes generated; and (3) proposed waste disposal practices.
- F. Permits for the treatment of hazardous waste on-site will be required from the Hazardous Materials Division.
- G. Medical waste generators must complete and submit a questionnaire to the Department of Environmental Resources for determination if they are regulated under the Medical Waste Management Act.

N15 CONT'

The ERC appreciates the opportunity to comment on this project.

Sincerely,



Raul Mendez, Senior Management Consultant  
Environmental Review Committee

cc: ERC Members

**RESPONSES TO LETTER N:**  
**Stanislaus County Environmental Review Committee – Raul Mendez**

---

**Response to Comment N.1**

The commenter notes the westernmost portion of the Kiernan Business Park Specific Plan is located within “Area 6” of the Salida Community Plan, and development proposed in the Specific Plan area would be subject to the Salida Initiative adopted by the Board of Supervisors, inclusive of participation in any overall infrastructure finance plan. The commenter goes on to indicate that this amendment does not include any changes to the western portion of the Specific Plan, and therefore, would not have any direct affect on the Salida Community Plan. The City acknowledges these comments.

**Response to Comment N.2**

The commenter states that residential or commercial development adjacent to existing agricultural uses could impact these lands and the City should consider including design guidelines and measures to ensure that development in the Specific Plan area complies with Stanislaus County’s agricultural buffer and farmland mitigation guidelines contained in the Agricultural Element of the County General Plan.

Section B of the DEIR analyzes impacts of the project on agricultural resources. Impact B.2 found that development of the proposed project would have a less than significant impact on agricultural operations adjacent to the project site and no mitigation measures are recommended.

**Response to Comment N.3**

The commenter states that the project needs to address significant adverse impacts on the viability of the Salida Fire Protection District, since the proposed detachment from this District would degrade the economic viability of the District. The commenter further proposes that a Focused EIR should be prepared demonstrating the short and long term impact on the District’s finances and how the City of Modesto proposes to make the District “whole.”

The City disagrees with the need to address financial considerations of the Salida Fire Protection District through an EIR. The purpose of an EIR is to assess physical impacts to the environment.

The commenter is also directed to the responses to Comment Letter B from the Salida Fire Protection District.

**Response to Comment N.4**

The commenter notes that infrastructure standards must be defined and included in the environmental phase, indicating that the impact of development cannot be assessed if this is not done. The commenter further relays that it is anticipated that the project will include master plans to assess impact fees, finance options, and maintenance and operations funding for transportation, water, storm drainage and sewers.

The commenter is directed to Sections IV.C and IV.J contained in the EIR. Section IV.C analyzes impacts related to transportation and circulation and Section IV.J addresses impacts related to utilities and related services. The City believes the DEIR adequately analyzes all of these topics requested by the commenter.

In regard to production of a financing master plan for construction and maintenance of the various infrastructure items listed above, this will be facilitated by the Infrastructure Financing Plan that the City of Modesto requires as an implementation measure for all Specific Plans. The development of an Infrastructure Financing Plan is anticipated by the EIR, as reflected on page III.29.

**Response to Comment N.5**

The commenter states that development in the Specific Plan area shall be responsible for fair share payments to the Stanislaus County Department of Public Works for the Kiernan Avenue/SR 99 interchange improvements.

Mitigation Measure C.1a states that the project sponsor would be required to contribute their fair share toward the cost of improvements at the Kiernan Avenue/SR 99 interchange. The financial contribution toward the improvements at this interchange will be based on the fee programs that are in place at the time of development, per state law. At present, not all improvements necessary to fully offset the impacts of the project are planned or authorized by Caltrans and, as such, fees have not been adopted to address them. Therefore, the impacts to this interchange have been determined to be significant and unavoidable. However, the project will be responsible to contribute to any fees that may be adopted to cover the cost of Caltrans authorized improvements in the future.

**Response to Comment N.6**

The commenter is concerned that the interim improvement identified as part of Mitigation Measure C.1 could result in adverse conditions for the southbound movement at the SR 99 southbound ramp/Kiernan Avenue intersection.

The SR 99/Kiernan Avenue southbound off-ramp currently operates at a deficient LOS D during the AM and PM peak hours. The addition of project traffic would worsen operations. Mitigation proposed in the DEIR, restriping the SR 99 southbound off-ramp at Kiernan Avenue to provide a left-turn lane and a left-through-right shared lane, would provide acceptable intersection operations with the Project. This measure would reduce

vehicle queues for the southbound movement to a level that could be accommodated on the existing off-ramp. Without the restriping, the southbound queue would spillback to the mainline. The improvement would also reduce the vehicle queue for the eastbound through movement, reducing vehicle queue spillback into Salida from the interchange. Although average delay would increase for the southbound right-turn movement, overall, the intersection would function better and vehicle queues would be reduced with the improvement.

#### **Response to Comment N.7**

The commenter states that Mitigation Measure C.1k mentions the widening of Sisk Avenue at the intersection of Pelandale Avenue, but does not address whether the project would pay a fair share towards the widening of Sisk Road between Pelandale Avenue and Kiernan Avenue.

Based on the trip generation and assignment, the proposed project would add a negligible amount of traffic to the segment of Sisk Road between Pelandale Avenue and Kiernan Avenue. Travel on this roadway segment to access the project site would be circuitous, as there are no direct connections to the project site from Sisk Road between Kiernan and Pelandale Avenues. Therefore, no fair share payment towards widening Sisk Road between Kiernan Avenue and Pelandale Avenue, above those included in the City and County fee programs, would be required.

#### **Response to Comment N.8**

The comment states that County Roads north of the project are not addressed. The commenter is directed to Response to Comment N.9.

#### **Response to Comment N.9**

The commenter indicates that no roadway segments north of Kiernan Avenue are included in the study and that the predominant direction of travel to and from the northern Modesto Area is to/from SR 99 north, and that, in the future, the Project site would be accessed by the SR 99/Hammett Road interchange, Hammett Road Extension/North County Corridor and via Sisk and Dale Road. The commenter requests that the analysis include the Hammett Road interchange, Hammett Road extension/North County Corridor, Sisk Road and Dale Road to the north of Kiernan Avenue.

The intersection and roadway analysis locations evaluated in the DEIR were selected based on a number of factors, including the project trip generation and trip distribution, as well as the projected level of service for facilities in close proximity to the project site. With the exception of SR 99, which was analyzed, the project's impacts are anticipated to be negligible to facilities north of Kiernan Avenue.

For example, based on the project trip distribution, the proposed project is expected to increase traffic on Dale Road, north of Kiernan Avenue, by approximately 81 AM peak

hour trips and 93 PM peak hour trips. This roadway would operate acceptably with the addition of project traffic, under existing plus project, near-term and cumulative scenarios. Project trip increases to other north/south roadways north of Kiernan Avenue would be significantly less, as trips would disperse with travel farther away from the site.

**Response to Comment N.10**

The commenter states that the proposed Project should provide a fair share payment to improvements at the Kiernan Avenue/SR 99 interchange, as improvements are scheduled for construction for 2011-2013. The commenter is directed to Response to Comment N.5.

**Response to Comment N.11**

The commenter states that the proposed Project should provide a fair share payment to improvements at the Hammett Road/SR 99 interchange, as improvements are scheduled for construction for 2012-2014.

Based on the trip generation and distribution rates for the project, traffic increases at the Hammett Road/SR 99 interchange are expected to be minimal. The financial contribution toward the improvements at this interchange will be based on the fee programs that are in place at the time of development, per state law. If the Hammett Road/SR99 interchange is included in the County fee program (PFF), the proposed project would pay their fair share towards construction of the interchange improvements through payment of the fee.

**Response to Comment N.12**

The commenter references mitigation measures identified as being infeasible for County facilities (Kiernan Avenue, Sisk Road at Kiernan Avenue and SR 99), and indicates that the development should pay for the improvements of those facilities necessary to maintain level of service, regardless of regional funding sources.

The project's contribution to the impacts that would be generated at these facilities does not correlate with the cost of the mitigation that would be necessary to offset the impacts. These are regional facilities that already receive a huge volume of traffic from existing development. The impacts that are associated with the project represent a relatively small contribution to the overall impacts of the facilities. Therefore, it is not reasonable to require the project to completely fund the mitigation.

Although, as mentioned in the EIR, the project will be required to provide a fair-share financial contribution to many of these impacts, it is not possible to require the project to provide a fair-share contribution where the improvements are not designed or funded, as there can be no assurance that the improvements will ever be constructed.

**Response to Comment N.13**

The commenter states that the cost of improvements and fair share of impacts should be calculated and that, for facilities where there is no regional funding, the Project should provide entirely for improvements. The DEIR identifies the near-term percent contribution to impacted intersections and roadway segments in Table 27 of Appendix B. The project is responsible to mitigate some of these impacts, but is not required to mitigate others. The commenter is directed to Response to Comment N.12 for further explanation.

**Response to Comment N.14**

The commenter states that the project sponsor must demonstrate that previously developed properties and properties previously used for agricultural purposes have been fully investigated for hazardous materials/waste prior to the issuance of a grading permit. The commenter further indicates that any hazardous materials/waste identified should be immediately brought to the attention of the Department of Environmental Resources.

Mitigation Measure F.2 requires Phase I site assessments, site investigations and the implementation of remediation as necessary prior to development. The mitigation monitoring and reporting plan will ensure that these things are coordinated through the County Department of Environmental Resources.

**Response to Comment N.15**

The commenter provides the permitting requirements, policies and procedures for handling hazardous materials or generating hazardous waste and requests that the Department of Environmental Resources (DER) be consulted regarding this matter. The City acknowledges these permitting requirements, policies and procedures. In accordance with standard practice, individual development projects within the planning area will be referred to the Department of Environmental Resources for review and comment. Any hazardous materials or waste will be required to be handled or maintained in accordance with current Stanislaus County Department of Environmental Resources policies and procedures.

**LETTER O**



**San Joaquin Valley**  
AIR POLLUTION CONTROL DISTRICT

February 2, 2009



Josh Bridegroom  
City of Modesto  
Planning Department  
P. O. Box 642  
Modesto, CA 95354

**Project: Kiernan Business Park Specific Plan Amendment #4**  
**District Reference No: 20070941**

Dear Mr. Bridegroom:

The San Joaquin Valley Unified Air Pollution Control District (District) has previously commented on this project (District Reference No. 20080857, dated January 5, 2009). The District offers the following additional comments:

1. As the EIR included only summary tables for the URBEMIS modeling outputs, the District can neither validate the emissions were modeled in accordance with District approved methodology, nor validate the calculations presented in Tables IV.D.5 and IV.D.6. However, based on the information provided in the EIR, the District concurs with the conclusion that construction and operation emissions from the buildout of the specific plan will have a significant impact on air quality. 0.1
  
2. Feasible mitigation of construction exhaust emission includes use of construction equipment powered by engines meeting, at a minimum, Tier II emission standards, as set forth in §2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 Code of Federal Regulations. The EIR indicates that the emissions analysis included the use of Tier II particulate filters and diesel oxidation catalysts on construction equipment. Mitigation measures reducing construction exhaust emissions must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines §15126.4, subd.(a)(2)). As such, the District recommends incorporating, as a condition of project approval, a requirement that off-road construction equipment achieve fleet average emissions equal to or less than the Tier II emissions standard of 4.8 g/hp hr for NOx. This can be achieved through any combination of uncontrolled engines and engines complying with Tier II and above engine standards. 0.2

**Seyed Sadredin**  
Executive Director/Air Pollution Control Officer

**Northern Region**  
4800 Enterprise Way  
Modesto, CA 95358-8718  
Tel: (209) 557-6400 FAX: (209) 557-6475

**Central Region (Main Office)**  
1980 E. Gettysburg Avenue  
Fresno, CA 93726-0244  
Tel: (559) 233-6000 FAX: (559) 230-6061  
[www.valleyair.org](http://www.valleyair.org)

**Southern Region**  
2709 M Street, Suite 275  
Bakersfield, CA 93301 2373  
Tel: (805) 326-6900 FAX: (661) 326-8985

3. For clarification purposes, the District recommends the following changes to the text on page IV.D.30:

a. In the first sentence of the first paragraph, the emissions model should be changed from *UR3EMIS* to *URBEMIS*. ] 0.3

b. The following sentence should be changed from, "*The estimated emission results from the program are provided on annual basis (tons per day).*" to "... (*tons per year*)."

4. As individual projects within the Specific Plan are identified, project referrals should include a project summary detailing, at a minimum, the land use designation, project size, proximity to sensitive receptors, and proximity to existing emission sources (including both stationary sources and non-stationary sources such as loading docks and truck refrigeration units). ] 0.5

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call Jessica Willis at (559) 230-5818.

Sincerely,

Dave Warner  
Director of Permits Services



for Arpaud Marjollet  
Permit Services Manager

DW: jw

Cc: File

**RESPONSES TO LETTER O:  
San Joaquin Valley Air Pollution Control District – Arnaud Marjollet**

---

**Response to Comment O.1**

The commenter notes that only summary tables for the URBEMIS model was included in the DEIR and the commenter cannot validate the calculations presented in Tables IV.D.5 and IV.D.6. However, based on information presented in the DEIR, the District concurs with the conclusion that construction and operation emissions of buildout of the project will have a significant impact on air quality. The City of Modesto acknowledges this comment.

**Response to Comment O.2**

The commenter notes that mitigation measures reducing construction exhaust emissions must be fully enforceable through permit conditions, agreements or other binding instruments. The commenter requests incorporating, as a condition of project approval, a requirement that off-road construction equipment achieve a fleet-average emissions equal to or less than Tier II emission standards, which can be achieved through any combination of uncontrolled engines and engines complying with Tier II and above engine standards.

This issue is addressed by Mitigation Measure D.1, which requires project developers to perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. As implementation of this measure, the mitigation monitoring and reporting program will require all future development to achieve average emissions equal to or less than Tier II standards of 4.8 g/hp-hr for NO<sub>x</sub>, based on current SJVAPCD policies.

**Response to Comment O.3**

The commenter recommends that page IV.D.30 be modified to change the spelling of “UR3EMIS” to “URBEMIS.” This comment is acknowledged and the text of the DEIR is hereby changed as follows: Page IV.D.30 is changed from “UR3EMIS” to “URBEMIS” in the Changes and Modifications section of the FEIR.

**Response to Comment O.4**

The commenter requests that the text on page IV.D.30 be modified from “The estimated emission results from the program are provided on an annual basis (tons per day)” to “tons per year.” This comment is acknowledged and the text of the EIR has been changed accordingly in the Changes and Modifications section of the FEIR.

**Response to Comment O.5**

The commenter requests that future referrals of individual projects within the Specific Plan area sent to the District include a project summary with land use designation, size, proximity to sensitive receptors and proximity to existing emission sources. It is standard practice for Modesto Planning Division staff to refer individual development projects to the San Joaquin Valley Air Pollution Control District. The City's submittal requirements for new development and referral form will generally ensure that the information requested by the District is provided. If the District finds, during the course of reviewing a project, that additional information is necessary, the City will provide the requisite information upon request.

## IV. Changes and Modifications

---

The following changes are made to the Draft EIR. New or revised text is shown in **boldface underline** type and deletions are shown as ~~striketrough~~.

### CHAPTER II, SUMMARY

#### Section II.A, Overview of the Proposed Project

The sixth and tenth bullets on page II.2 are revised in accordance with Response to Comment E.6 as follows:

- Adoption of a resolution initiating annexation of a 67-acre portion of the project site **to the City of Modesto and the Modesto Municipal Sanitary Sewer District No. 1.**
- Approval by the Local Agency Formation Commission (LAFCO). LAFCO will review reorganization of the amended Kiernan Business Park Specific Plan, including the annexation of the 67-acre portion of the 153-acre project site to the City of Modesto ~~and the Modesto Municipal Sanitary Sewer District No. 1,~~ **absent a negotiated agreement on service delivery and revenue sharing,** and simultaneously detach this portion of the project site from the Salida Fire Protection District.

### CHAPTER III, PROJECT DESCRIPTION

#### Section III.C, Project Location and Existing Conditions

Table III.1 on page III.5 is augmented to include APN 078-015-011 in accordance with Response to Comment E.3 as follows:

**Table III.1: Parcels on the Project Site**

<b>Parcel</b>	<b>Location</b>
<b>Parcels Within Existing City Limits</b>	
Parcel 078-015-001	Kiernan Avenue
Parcel 078-015-003	4754 Dale Road
Parcel 078-015-007	4620 Dale Road
Parcel 078-015-020	4506 Dale Road
Parcel 078-015-023	2719 Bangs Avenue
Parcel 078-015-024	Bangs Avenue
Parcel 078-015-025	Dale Road
Parcel 078-015-026	2931 Bangs Avenue
Parcel 078-015-028	2731 Bangs Avenue
<b>Parcels Outside Existing City Limits</b>	

Parcel 078-015-002	2866 Kiernan Avenue
Parcel 078-015-005	2572 Kiernan Avenue
Parcel 078-015-010	2573 Bangs Avenue
<b>Parcel 078-015-011</b>	<b>2473 Bangs Avenue</b>
Parcel 078-015-012	2706 Kiernan Avenue
Parcel 078-015-013	2742 Kiernan Avenue
Parcel 078-015-015	2506 Kiernan Avenue
Parcel 078-015-017	2472 Kiernan Avenue

*Source:* Thompson-Hysell Engineers & Velthoen Associates (Kiernan Ave. Business Park East Exhibit No. A); City of Modesto GIS, 2006; Stanislaus County Assessor’s Office.

**Section III.E, Proposed Project**

The description of the sewer and storm-drain systems and associated figures located on pages III.26 through III.31 are modified to reflect refinements to utility designs. These refinements are in keeping with City Standards and do not generate new impacts either on or off-site.

The changes to the description of sewer facilities relate to the line sizes within the project site. These transmission lines will be located within the public roadways in accordance with City Standards and will continue to connect with the trunk lines in the surrounding street network, as previously studied. As there have been no proposed changes to land uses or development intensity, sewer capacity needs for the project remain unchanged.

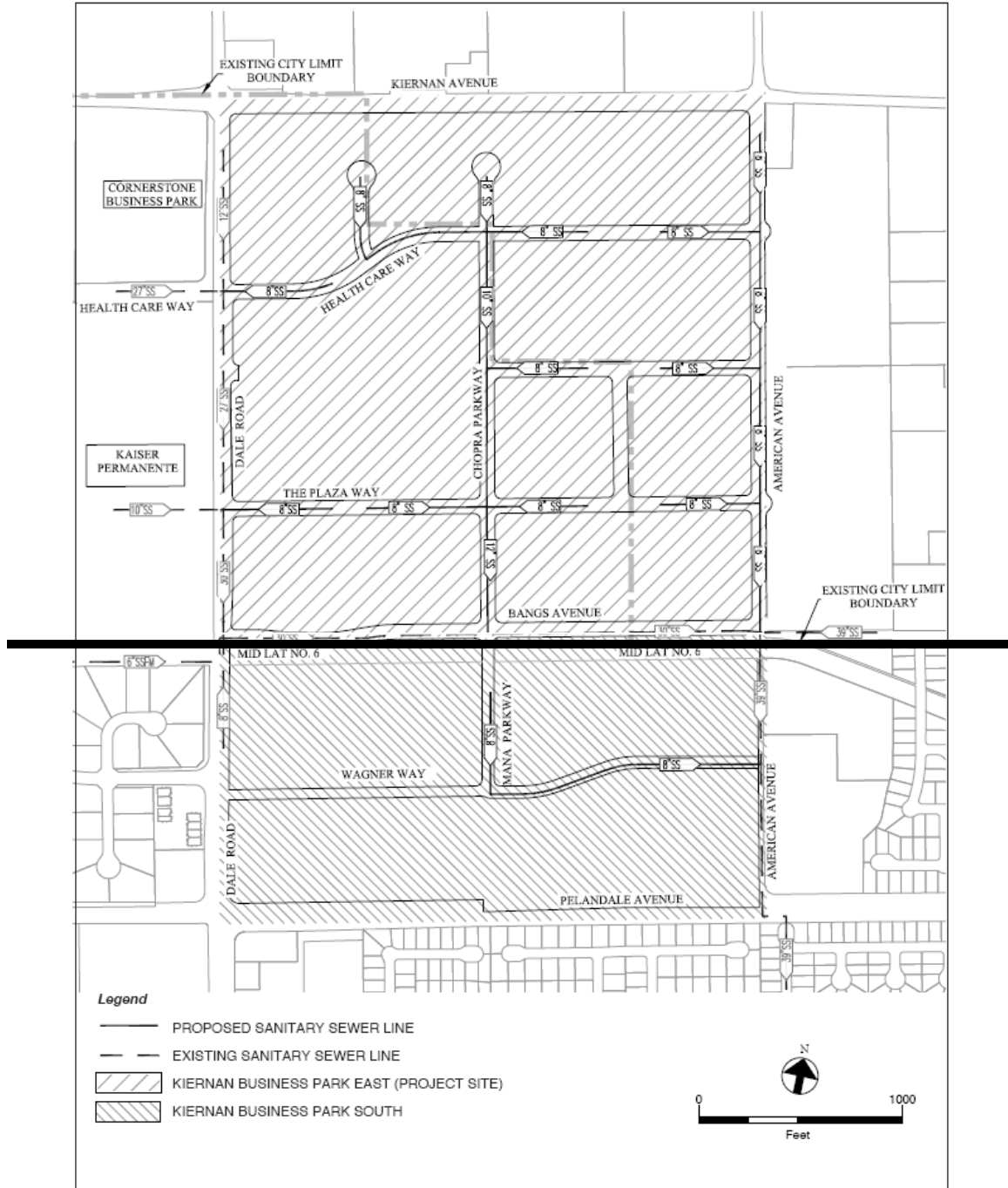
The changes to the description of storm drainage facilities relate to the elimination of the linear detention basins along the public roadways and corresponding upsizing of the terminal detention basins. The modified design will provide for the treatment and storage/discharge of surface runoff in a volume and manner consistent with what was assumed under the previously-studied design and City Standards. As there have been no changes to development intensity that would result in increased impervious surface, storm drainage needs for the project remain the same.

The changes to the description of sewer and storm-drain systems and associated figures are as follows:

**Sanitary Sewer System**

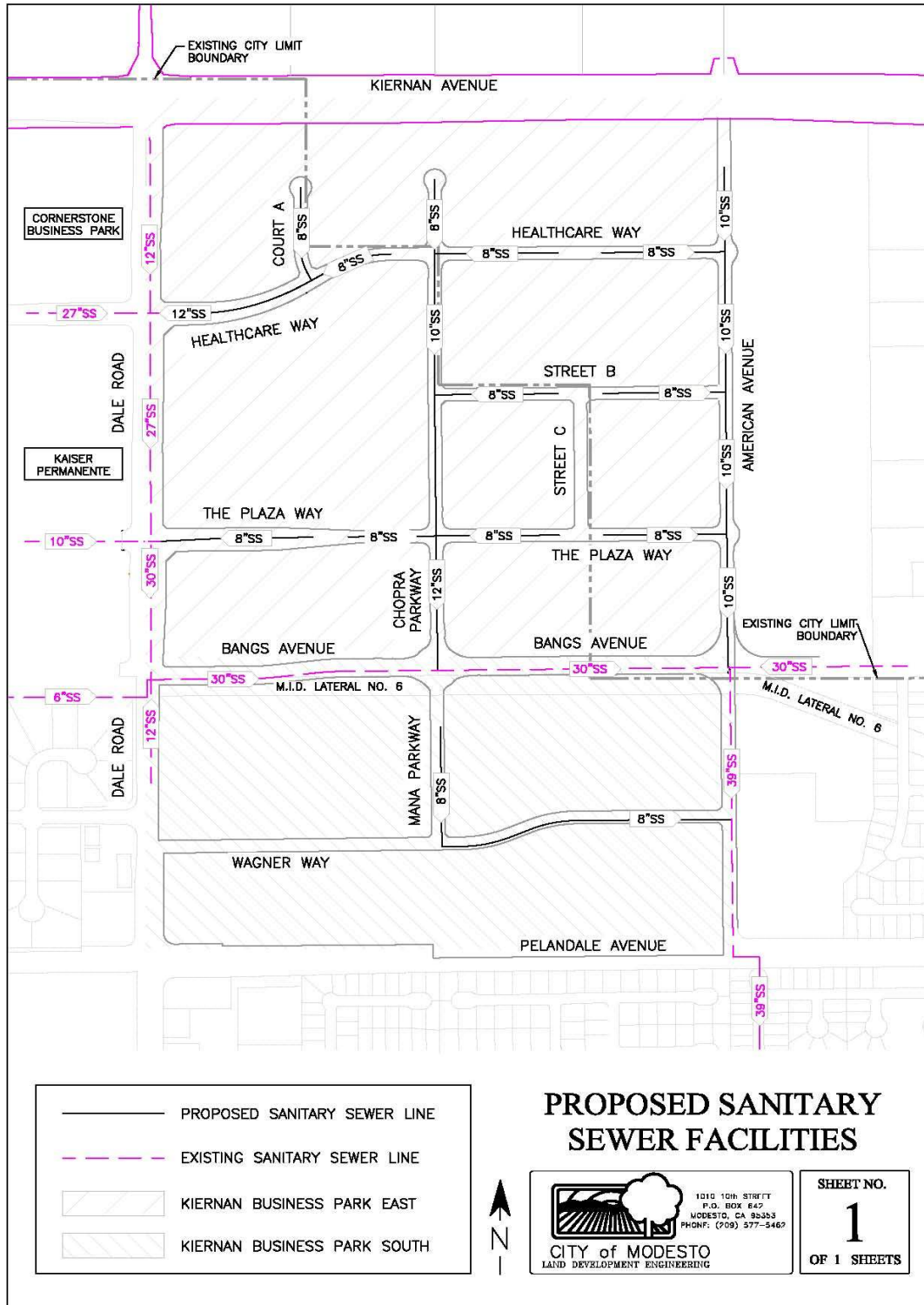
Connections to the existing 12-inch, to 30-inch sanitary sewer system along Dale Road and Bangs Avenue are part of the proposed Specific Plan Amendment (See Figure III.13: Proposed Sanitary Sewer Facilities System.). Proposed sanitary sewer facilities serving the project site area would consist of eight-inch **to 12-inch** pipelines that follow the alignments of Healthcare Way, The Plaza Way, Chopra Parkway, and other roads on the project site.

IV. Changes and Modifications



SOURCE: Dahlin Group, Turnstone Consulting

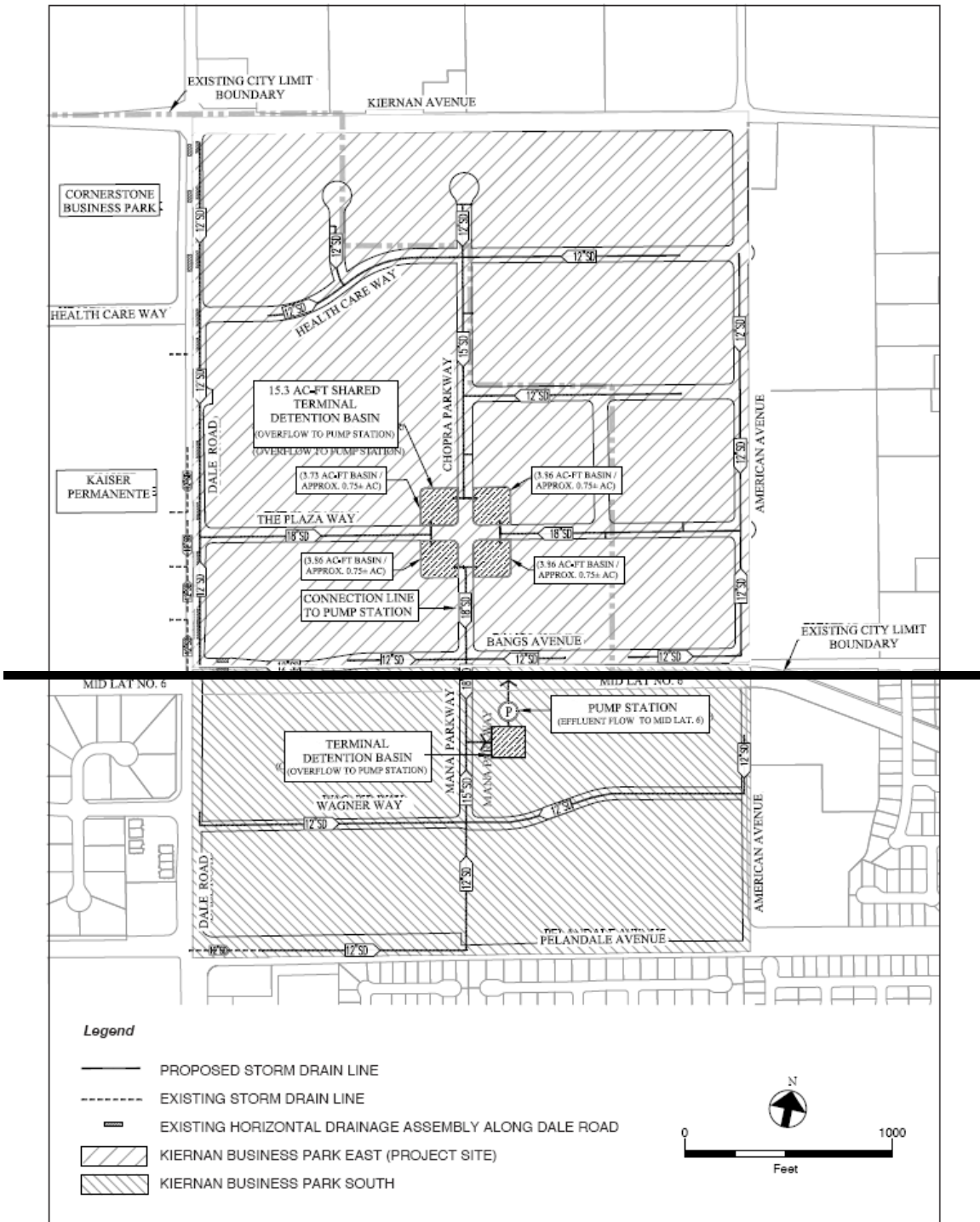
**FIGURE III.13: PROPOSED SANITARY SEWER FACILITIES SYSTEM**

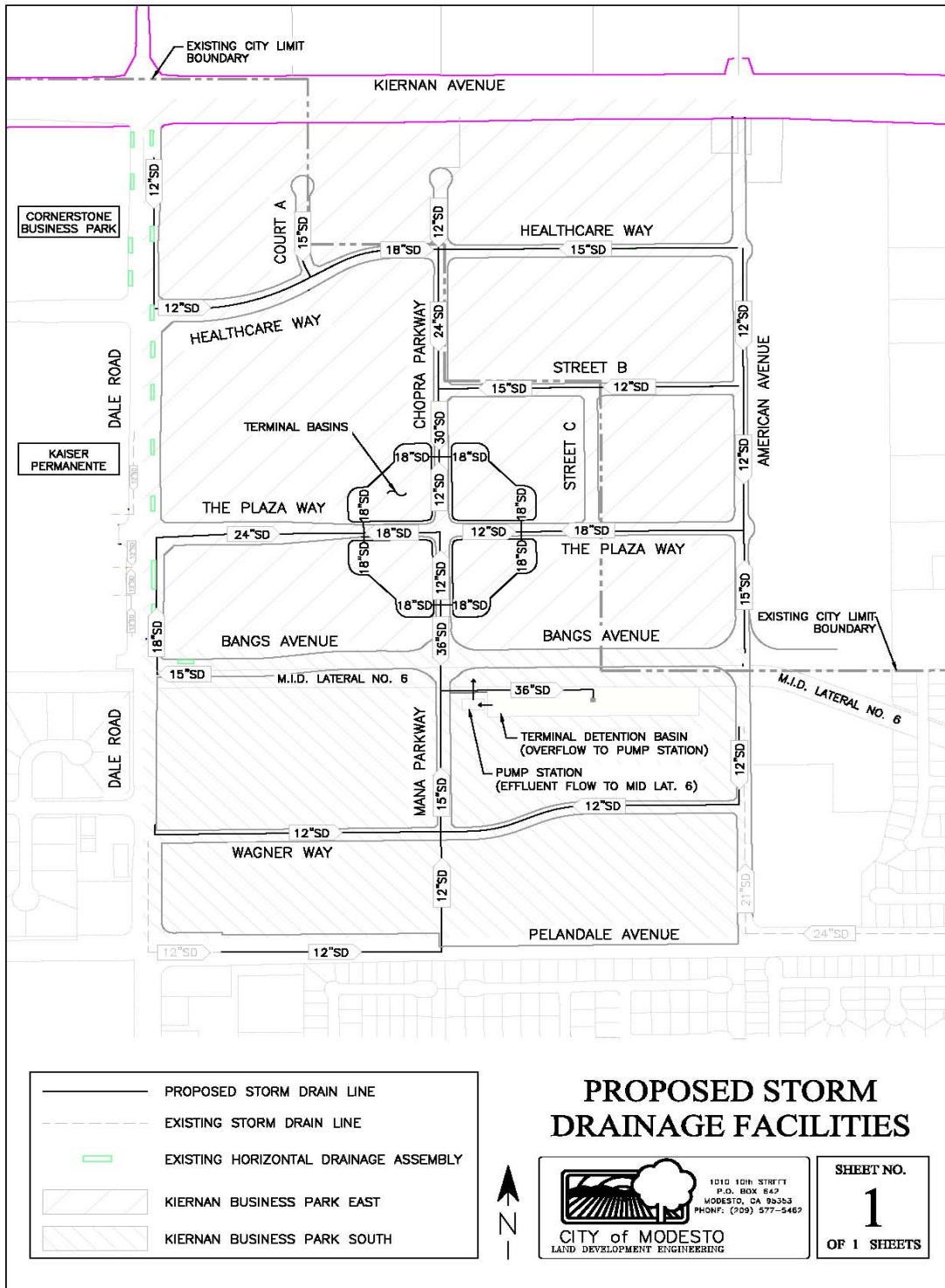


**Figure III-13: Proposed Sanitary Sewer Facilities**

### **Storm Drainage System**

Storm drainage on the project site would be served by a combination of on-site detention (infiltration) basins, ~~linear detention (infiltration) basins adjacent to public streets, a 15-acre shared terminal detention basin, and drainage discharge into MID Lateral No. 6.~~ **and a terminal basin with a pump to discharge to MID facility** (See Figure III.14: Proposed Storm Drainage Facilities System.)





**Figure III-11: Proposed Storm Drainage Facilities**

**Section III.F, Project Approvals**

The sixth bullet under the City of Modesto heading on page III.31 is modified in accordance with Response to Comment E.6 as follows:

- Adoption of a resolution initiating annexation of a 67-acre portion of the project site **to the City of Modesto and the Modesto Municipal Sanitary Sewer District No. 1.**

The Stanislaus Local Agency Formation Commission bullet on page III.31 is revised in accordance with Response to Comment E.6.as follows:

- Approval by the Local Agency Formation Commission (LAFCO). LAFCO will review reorganization of the amended Kiernan Business Park Specific Plan, including the annexation of the 67-acre portion of the 153-acre project site to the City of Modesto ~~and the Modesto Municipal Sanitary Sewer District No. 1,~~ and simultaneously detach this portion of the project site from the Salida Fire Protection District.

**CHAPTER IV, ENVIRONMENTAL SETTING, IMPACTS AND MITIGATION**

**Section IV.B, Agricultural Resources**

The first footnote at the bottom of page IV.B.2 is modified in accordance with Response to Comment E.3 as follows:

<sup>1</sup> These parcels are **pre**zoned as Planned Specific Plan-~~Overlay~~ (P-SP-~~O~~) on the Modesto zoning map.

**Section IV.C, Transportation and Circulation**

The first sentence in the last paragraph on page IV.C.46 is modified in accordance with Response to Comment H.14 as follows:

Where applicable, project sponsors would contribute their fair share of the cost of improvements into the City’s Capital Facilities Fee (CFF) program, Stanislaus County’s Public Facility Fee (PFF) program, or the ~~City’s Community Facilities District No. 2007-2 (Kiernan Business Park West CFD).~~ **Kiernan Business Park CFD.**

The second to last sentence under Mitigation Measure C.1d on page C.IV.49 is modified in accordance with Response to Comment H.14 as follows:

The project applicant would be required to pay their fair share contribution towards the planned Caltrans and City of Modesto improvements through payment into the Kiernan Business Park ~~West~~CFD.

The second to last sentence under Mitigation Measure C.2d on page C.IV.55 is modified in accordance with Response to Comment H.14 as follows:

The project sponsor would be required to pay their fair share contribution to the ultimate cost of these improvements through payment to the Kiernan Business Park ~~West~~ CFD.

The second to last sentence under Mitigation Measure C.4d on page C.IV.68 is modified in accordance with Response to Comment H.14 as follows:

The project sponsor would be required to pay their fair share contribution to the ultimate cost of these improvements through payment into the Kiernan Business Park ~~West~~CFD, or, if the intersection improvements are not in place prior to the construction of the proposed project, construct the improvements.

The second to last sentence under Mitigation Measure C.5d on page C.IV.74 is modified in accordance with Response to Comment H.14 as follows:

The project sponsor would be required to pay their fair share contribution to the ultimate cost of these improvements through payment into the Kiernan Business Park ~~West~~ CFD.

#### **Section IV.D, Air Quality**

The first sentence of the second paragraph on page IV.D.30 is modified in accordance with Response to Comment O.3 as follows:

The emissions from construction activities were estimated using the ~~UR3EMIS~~ URBEMIS software program, and the results are shown in Table IV.D.5.

The bottom of the second paragraph on page IV.D.30 is modified in accordance with Response to Comment O.4 as follows:

The estimated emission results from the program are provided on an annual basis (tons per ~~day~~ year).

#### **Section IV.G, Biological Resources**

Mitigation Measure G.3 on page IV.G.14 is amended to include the mitigation from the preceding paragraph under it, as follows:

**Mitigation Measure G.3. Same as Mitigation Measures G.1a and G.1b for burrowing owls; the cumulative loss of habitat for Swainson's hawks should be mitigated by providing 0.25 acre of off-site HM lands comprising irrigated row crops, ruderal areas, fallow fields, and irrigated pasture. All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to CDFG) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's hawks. Management Authorization holders/project sponsors shall provide for the long-term management of HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at a rate agreed upon by CDFG.**

#### **Section IV.I, Community Services**

The last sentence in the third paragraph on page IV.I.9 is modified in accordance with Response to Comment B.3 as follows:

In areas with a water system its ISO rating is 4, while in the more rural parts of its service area without a water system its ISO rating is **9 8b**.

#### **Section IV.K, Water Supply**

The second paragraph on page IV.K.1 is amended in accordance with Response to Comment E.7 as follows:

The City of Modesto Municipal Water System service area consists of one large contiguous area and several outlying areas. The contiguous water service area includes all locations within the City limits, **portions of** the City's Sphere of Influence, and areas within the Cities of Salida, Empire, and Ceres. **The contiguous water service area is generally extended into the Sphere of Influence in conjunction with annexation.** The outlying water service areas include Grayson, Del Rio and Hickman, Waterford, and some small areas within the City of Turlock.

## **V. KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4 MITIGATION MONITORING AND REPORTING PROGRAM**

---

In accordance with CEQA Guidelines § 15097, to ensure implementation of mitigation measures identified in the EIR as included in the project and those imposed as conditions of approval by the lead agency, a program for monitoring or reporting [Mitigation Monitoring and Reporting Program (MMRP)] must be adopted. Until mitigation measures are completed, the lead agency remains responsible for ensuring that implementation occurs in accordance with the program.

The attached MMRP lists the Kiernan Business Park Specific Plan Amendment #4 mitigation measures. It identifies who is responsible for implementation of the mitigation measure and the necessary steps, or actions, to complete it. The MMRP describes how the measure will be monitored, who is responsible for the monitoring, and presents a schedule of when the mitigation is to be implemented.

**KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4 PROJECT  
MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<b>Agricultural Resources</b>				
<p><b>B.1:</b> Prior to any actual development in the Kiernan Business Park Specific Plan area, the City Council would consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation for the loss of prime farmland.</p>	<p>Project Developers and City of Modesto</p>	<p>City of Modesto shall finalize review and consideration of the adoption of a farmland mitigation program.</p> <p>Project Developers shall implement applicable portions of the program, if approved by City.</p>	<p>Community and Economic Development Department shall ensure farmland mitigation program is considered and instituted, if approved by the City Council.</p>	<p>The consideration of a farmland mitigation program shall be prior to issuance of certificate of occupancy for the first building within the plan area.</p>
<p><b>B.3:</b> Prior to any actual development in the Kiernan Business Park Specific Plan area, the City Council would consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation for the loss of prime farmland. (Same as Mitigation Measure B.1)</p>	<p>Same as Mitigation Measure B.1</p>	<p>Same as Mitigation Measure B.1</p>	<p>Same as Mitigation Measure B.1</p>	<p>Same as Mitigation Measure B.1</p>
<b>Transportation and Circulation</b>				
<p><b>C.1b: Kiernan Avenue and Sisk Road:</b> Widen Kiernan Avenue to provide two through lanes in each direction.</p>	<p>City of Modesto and Caltrans</p>	<p>The identified road improvements shall be completed by Caltrans and City of Modesto.</p>	<p>City Engineer shall verify completion of improvements.</p>	<p>Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.</p>
<p><b>C.1c: Kiernan Avenue and Stoddard Road:</b> Widen Kiernan Avenue to provide two through lanes in each direction. Signalize the intersection.</p>	<p>City of Modesto and Caltrans</p>	<p>The identified road improvements shall be completed by Caltrans and City of Modesto.</p>	<p>City Engineer shall verify completion of improvements.</p>	<p>Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.</p>

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<b>C.1d: Kiernan Avenue and Dale Road:</b> Widen Kiernan Avenue to provide two through lanes in each direction. Add turn pockets at all approaches. Signalize the intersection. Construct a second northbound left-turn lane and a northbound right-turn lane.	City of Modesto and Caltrans	The identified road improvements shall be completed by Caltrans and City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
<b>C.1f: Bangs Avenue and American Avenue:</b> Install a two-lane roundabout with a northbound right-turn by-pass lane or install traffic signals and left-turn pockets on all approaches.	Project Developers and the City of Modesto	Project Developers shall either construct the improvements or pay their fair share and the improvements will be constructed by the City of Modesto	City Engineer shall verify completion of improvements per City specifications.	Improvements shall be completed prior to issuance of a building permit for the final building within the second phase of development.
<b>C.1k: Pelendale Avenue and Sisk Road:</b> Install a third westbound through lane, a second westbound left-turn lane, a second southbound through lane, and a second southbound left-turn lane.	City of Modesto	The identified road improvements shall be completed by the City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
<b>C.2c: Pelendale Avenue:</b> Add an eastbound and westbound through lane between Dale Road and Tully Road.	City of Modesto	The identified road improvements shall be completed by the City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
<b>C.4c: Dale Road and Kaiser Main Entrance/The Plaza Way:</b> Add a third southbound through lane; add a third northbound through lane.	Project Developers and Kaiser Modesto Medical Center	Kaiser Modesto Medical Center shall build the southbound lane. Project Developers shall construct the northbound lane.	City Engineer shall verify completion of improvements per City specifications.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<p><b>C.4d: Bangs Avenue and American Avenue:</b> Construct a two-lane roundabout with a northbound by-pass lane; or install a traffic signal and add an eastbound through lane, an eastbound left-turn pocket, a westbound through lane, a westbound left-turn pocket, a northbound left-turn lane, a northbound through lane, a northbound right-turn only lane, a southbound left-turn lane, and a southbound shared through/right-turn lane.</p>	<p>Project Developers</p>	<p>Project Developers shall either construct the improvements or pay their fair share and the improvements will be constructed by the City of Modesto</p>	<p>City Engineer shall verify completion of improvements per City specifications.</p>	<p>Improvements shall be completed prior to issuance of a building permit for the final building within the third phase of development.</p>
<p><b>C.7: Pelandale Avenue and Dale Road:</b> No physical improvements are recommended for these roadways beyond the planned maximum cross-section. Other measures, such as signal timing coordination and transportation demand management measures, should be implemented to maximize through traffic efficiency and minimize single occupant vehicle trips. The project sponsor shall prepare a transportation demand management program to the satisfaction of City staff.</p>	<p>Project Developers</p>	<p>Project Developers shall prepare a transportation demand management program to the satisfaction of staff.</p> <p>Project Developers shall implement the provisions of the program in conjunction with development.</p>	<p>City Traffic Engineer and Transit Manager shall review and approve transportation demand management program, and monitor its use through the imposition of conditions of approval upon future development.</p>	<p>Transportation demand management program shall be instituted prior to development entitlement for any building within the plan area.</p>
<p><b>C.8: Construction-related traffic activity:</b> The project sponsor shall develop a construction management plan for review and approval by the City Public Works Department and the Community Development Department.</p>	<p>Project Developers</p>	<p>Project Developers shall prepare a construction management plan to the satisfaction of staff.</p> <p>Project Developers shall implement the provisions of the program in conjunction with development.</p>	<p>Public Works Director and Community &amp; Economic Development Director or designees shall review and approve a construction management plan, and monitor its provisions through the imposition of conditions of approval upon future development.</p>	<p>Construction management program shall be instituted prior to development entitlement for any building or tentative map within the plan area.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p><b>C.9: C.1a, e, g, h, i, j, and l, C.2a, 2b, and 2d, C.3, C.4 a, b, e, f, g, h, j, k, and l, C.5.a, b, c, d and e, C.6: Potentially Infeasible Mitigations:</b> Construct roadway segment, intersection and interchange improvements as specified in the subject sections of the EIR, where they become feasible.</p>	City	The City shall ensure that these improvements are made when timing, jurisdictional and funding issues are resolved and shall require the project to provide a fair-share contribution to the off-site facilities, as specified in the FEIR, through payment to the project CFD.	C&ED Director	Prior to Adoption of the CFD by City Council and ongoing.
<b>Air Quality</b>				
<p><b>D.1:</b> The construction plans for each group of buildings shall incorporate the following recommendations from the District to minimize emissions during construction phases:</p>				
<ul style="list-style-type: none"> <li>The project developers shall review Regulation VIII of the San Joaquin Valley Air Pollution Control District regulations and submit a compliance plan to the San Joaquin Valley Air Pollution Control District prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented.</li> </ul>	Project Developers	Project Developers shall review Regulation VIII and submit a compliance plan to the San Joaquin Valley Air Pollution Control District. The compliance plan shall be incorporated in construction contracts and implemented by developers.	Project Developers shall provide draft compliance plan to the Community and Economic Development Department for review and approval.	Compliance plan shall be submitted to and approved by the San Joaquin Valley Air Pollution Control District prior to the issuance of a grading or building permit, whichever occurs first.
<ul style="list-style-type: none"> <li>Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. It is anticipated that in the near future both NO<sub>x</sub> and PM<sub>10</sub> control equipment will be available. The San Joaquin Valley Air Pollution Control District should be consulted during this process.</li> </ul>	Project Developers	Project Developers shall consult with SJVAPCD and identify available new technology and shall incorporate requirements for new technology in construction contracts. At minimum, future development shall achieve average emissions equal to or less than Tier II standards of 4.8 g/hp-hr for NO <sub>x</sub> , based on current	Project Developers shall report to the San Joaquin Valley Air Pollution Control District on new technology to be included.	The Project Developers shall incorporate available new technology in construction contracts.

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
		SJVAPCD policies.		
<ul style="list-style-type: none"> <li>Dust suppression shall be implemented on all disturbed areas, including inactive outdoor storage piles, by application of water, chemical stabilizer/suppressant, or covering with a tarp, vegetative ground cover, or other suitable cover.</li> </ul> <p>(cont'd.)</p>	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration.

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<ul style="list-style-type: none"> <li>Dust suppression shall be implemented following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles using water or chemical stabilizer/suppressant.</li> </ul>	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration
<ul style="list-style-type: none"> <li>Dust suppression shall be implemented on all on-site unpaved roads, and off-site unpaved access roads used during the construction phase, using water or chemical stabilizer/suppressant.</li> </ul>	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration

(cont'd.)

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<ul style="list-style-type: none"> <li>All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions by application of water during the activity or by presoaking.</li> </ul>	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration
<ul style="list-style-type: none"> <li>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.</li> </ul> <p><i>(cont'd.)</i></p>	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District..	Implement measures throughout the construction duration

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<ul style="list-style-type: none"> <li>The project developers shall limit traffic speed on unpaved roads to 15 miles per hour.</li> </ul>	Project Developers	The construction foreman or liaison shall post speed limit signs and ensure that construction vehicle operators travel at or less than 15 mph.	The construction foreman or liaison shall monitor speed limits.  Project Developers shall monitor compliance throughout the construction duration.	The Project Developers shall install speed limit signs as part of the site preparation process prior to issuance of a grading permit.  Implement measures throughout the construction duration.
<ul style="list-style-type: none"> <li>The project developers shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.</li> </ul>	Project Developers	All slopes shall be measured by the Project Developers and identified on the building permit plan set submitted. The construction foreman or liaison shall oversee the placement of sandbags or other runoff control measure(s) on all slopes determined to have a slope greater than 1 percent.	The construction foreman or liaison shall monitor runoff control measure(s) and shall conduct weekly runoff control measure(s) inspections and shall submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	The building permit submittal shall identify slope measurements.  Implement measures throughout the construction duration.
<ul style="list-style-type: none"> <li>The project developers shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways.</li> </ul>	Project Developers	The construction foreman or liaison shall ensure that wheel washers and/or equipment washers are in place at all points of exit from the site and are correctly implemented.	Construction foreman or liaison shall record inspections in a daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	The washers shall be provided prior to issuance of grading or building permit, whichever occurs first.  Implement measures throughout the construction duration.

(cont'd.)

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<ul style="list-style-type: none"> <li>The project developers shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust.</li> </ul>	Project Developers	<p>Windbreaks shall be installed by the Project Developers.</p> <p>The construction foreman or liaison shall ensure that windbreaks are correctly placed and implemented.</p>	<p>The construction foreman or liaison shall inspect installed windbreaks on a weekly basis and record inspections in the construction log.</p> <p>Inspection results shall be submitted in a monthly report to the San Joaquin Valley Air Pollution Control District.</p>	<p>Windbreaks shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first.</p> <p>Implement measures throughout the construction duration.</p>
<ul style="list-style-type: none"> <li>The project developers shall suspend excavation and grading activity when winds exceed 20 miles per hour.</li> </ul>	Project Developers	<p>Project developers shall install wind speed measuring devices and ensure that these devices are correctly located and calibrated.</p>	<p>The construction foreman shall cease all excavating and grading activities when wind speed measuring devices indicate speeds over 20 mph.</p> <p>Suspension of construction activity due to wind speeds shall be recorded in the construction log. Construction reports shall be submitted to the San Joaquin Valley Air Pollution Control District, on a monthly basis.</p>	<p>Wind speed measuring devices shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first.</p> <p>Implement measures throughout the construction duration.</p>

(cont'd.)

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<ul style="list-style-type: none"> <li>The project developers shall limit the area subject to excavation, grading, and other construction activity at any one time.</li> </ul> <p><i>(cont'd.)</i></p>	<p>Project Developers</p>	<p>The project sponsor shall provide a written statement with any request for development permits or other permits involving movement of soil supporting a determination that the request minimizes the amount of exposed soil on the project site during the relevant construction period. The Community and Economic Development Director will either accept the report or require additional means to reduce the amount of exposed soil, such as hydroseeding or planting vegetation with irrigation, in areas that are proposed to be exposed for more than 20 days with no construction activity.</p> <p>Construction shall comply with the General Construction Permit.</p>	<p>The construction foreman or liaison shall ensure that construction activities do not exceed the allowable area of excavation and grading activity permitted on the site and shall oversee implementation of any required best management practices.</p> <p>The construction foreman or liaison shall record excavation and grading activities in a construction log on a daily basis and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.</p>	<p>Project Developer shall provide a plan to reduce soil exposure prior to the issuance of grading or building permit, whichever occurs first.</p> <p>Implement measures throughout the construction duration.</p>

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<ul style="list-style-type: none"> <li>The project developers shall ensure that the accumulation of mud or dirt is expeditiously removed from adjacent public streets at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions).</li> </ul>	Project Developers	The construction foreman or liaison shall establish and implement a daily street sweeping schedule during construction activities that involve movement of soil.	The construction foreman or liaison shall monitor daily street sweeping and provide a daily log. Results shall be submitted in a monthly report to the San Joaquin Valley Air Pollution Control District.	Project Developer shall provide a daily street sweeping schedule prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.
<ul style="list-style-type: none"> <li>The project developers shall use alternative-fuel construction equipment, where feasible.</li> </ul>	Project Developers	Project Developers shall consult with SJVAPCD to identify feasible goals for equipment use. These goals shall be incorporated into construction contracts. The Project Developers shall use alternative-fuel construction equipment throughout the construction duration, where feasible.	The Project Developers shall report to the San Joaquin Valley Air Pollution Control District. the alternative-fuel equipment to be used in each phase.	Project Developer shall provide a list of any alternative equipment prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.
<ul style="list-style-type: none"> <li>The project developers shall minimize idling time (e.g., to a 10-minute maximum).</li> </ul> <p><i>(cont'd.)</i></p>	Project Developers	The construction foreman or liaison shall limit idling time on the construction site to a 10-minute maximum.	The construction foreman or liaison shall monitor idling.	Implement measures throughout the construction duration.

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<ul style="list-style-type: none"> <li>The project developers shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.</li> </ul>	Project Developers	The construction foreman or liaison shall limit the hours of heavy-duty equipment and/or the amount of equipment in use on the construction site.	The construction foreman or liaison shall monitor hours and use of heavy-duty equipment.	Implement measures throughout the construction duration.
<ul style="list-style-type: none"> <li>The project developers shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible.</li> </ul>	Project Developers	Project Developers shall incorporate requirements to replace fossil-fueled equipment with electrically driven equivalents, where feasible.	Project Developers shall report to the San Joaquin Valley Air Pollution Control District about electrically driven equipment to be used in each phase.	The Project Developers shall use electrically driven equipment throughout the construction duration, where feasible.
<ul style="list-style-type: none"> <li>The project developers shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the San Joaquin Valley Air Pollution Control District.</li> </ul>	Project Developers	The construction foreman or liaison shall comply with traffic control programs to curtail construction activities during periods of high ambient pollution based on advisories from the the San Joaquin Valley Air Pollution Control District, such as on declared 'Spare the Air' days.	The construction foreman or liaison shall curtail or cease construction activity based on the San Joaquin Valley Air Pollution Control District advisories.	During advisory periods, such as 'Spare the Air' days, construction activity shall be curtailed or stopped.
<ul style="list-style-type: none"> <li>The project developers shall implement activity management to reduce cumulative short-term impacts.</li> </ul>	Project Developers	Project Developers shall submit and implement an activity management plan.	The San Joaquin Valley Air Pollution Control District shall review the activity management plan.	Activity management plan shall be submitted to and approved prior to the issuance of a grading or building permit, whichever occurs first.  Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<b>D.2a:</b> Implementation of design features to reduce emissions from motor vehicle activity:				
<ul style="list-style-type: none"> <li>The project developers shall incorporate improvements for transit service, including bus turnouts, transit loading areas, and shelters.</li> </ul>	Project Developers	Project Developers shall provide a plan for bus turnouts, loading and shelters along perimeter streets.	The Transit Manager shall review and approve the plan.	<p>Review and approval of transit service improvements shall occur prior to development entitlement for any building or tentative map within the plan area.</p> <p>All improvements shall be completed prior to certificate of occupancy or recordation of tentative map, or as determined by the FMP and IFP.</p>
<ul style="list-style-type: none"> <li>The project developers shall incorporate sidewalks and bicycle paths throughout the site and connect those facilities to any nearby pedestrian and bicycle facilities, including those located at open space areas, parks, schools, or commercial areas.</li> </ul> <p>(cont'd.)</p>	Project Developers	Project Developers shall submit plans to the Community and Economic Development Department that identify the appropriate locations of all pedestrian and bicycle facilities elements and implement the plans.	The Community and Economic Development Department shall review and approve plans and ensure the improvements are constructed accordingly.	<p>Review and approval of pedestrian and bicycle facilities shall occur prior to development entitlement for any building within the plan area.</p> <p>All improvements shall be completed prior to certificate of occupancy, or as determined by the FMP and IFP.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> <li>The project developers shall incorporate secure bicycle storage and parking facilities throughout the site.</li> </ul>	Project Developers	Project Developers shall submit plans to the Community and Economic Development Department that identify all the bicycle storage and parking facilities on the project site and implement the plans.	The Community and Economic Development Department shall review and approve plans and ensure the improvements are constructed accordingly.	<p>Review and approval of bicycle storage facilities shall occur prior to development entitlement for any building within the plan area.</p> <p>All improvements shall be completed prior to certificate of occupancy, or as determined by the FMP and IFP.</p>
<p><b>D.2b:</b> The project developers shall prepare a trip reduction plan for review and approval by the City of Modesto prior to occupation of each phase of the proposed project. To be compliant with the policies of the <i>Urban Area General Plan</i>, the trip reduction plan shall address how the following features will be implemented:</p> <ul style="list-style-type: none"> <li>Providing matching services (for participants in carpools and vanpools) by employers with over 100 weekday employees or coordination with Caltrans’ “Commuter Computer” program;</li> <li>Employer-based dissemination of commute information;</li> <li>A program to guarantee rideshare participants a ride home in case of emergency;</li> <li>Flex-time scheduling;</li> <li>Site plan design which encourages pedestrian movement between adjacent land uses;</li> <li>Incentives such as preferred location of four percent of parking for carpools and hybrid or other clean-fuel vehicles;</li> <li>Encouraging submission of site plans featuring mixed land uses or “neo-traditional” design; and</li> <li>Encouraging employers to experiment with telecommuting options, where feasible.</li> </ul> <p>(cont’d.)</p>	Project Developers	Project Developers shall submit trip reduction plans to the Community and Economic Development Department for review and approval.	The Community and Economic Development Department shall review and approve a trip reduction plan for each phase of the project.	The trip reduction plans shall be submitted and approved prior to certificate of occupancy for each phase of the project.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<b>D.2c:</b> The site design shall fulfill the following requirements to reduce emissions from energy consumption:				
<ul style="list-style-type: none"> <li>The project developers shall incorporate energy-efficient building design features including automated control systems for heating and air conditioning and energy efficiency to achieve a 20 percent reduction beyond the requirements of the Building Code (Title 24, California Code of Regulations), increased wall and ceiling insulation beyond Building Code requirements, light-colored roof materials to reflect heat, and energy-efficient lighting and lighting controls.</li> </ul>	Project Developers	Project developers shall submit construction drawings showing energy efficient building design features and implement the measures	The Building Division shall review and approve all construction plans to ensure that all energy efficiency measures are included and implemented..	<p>Prior to issuance of building permit for any building, construction plans shall show that all energy efficient measures are included.</p> <p>Prior to certificate of occupancy for any building, all energy efficient design features included in construction plans shall be implemented</p>
<ul style="list-style-type: none"> <li>The project developers shall orient buildings to the north to maximize natural cooling and heating.</li> </ul>	Project Developers	Project developers shall submit site plans demonstrating northern orientation of buildings and construct the buildings in accordance with the approved plans.	<p>The Planning Division shall confirm appropriate building orientation in conjunction with development plan review.</p> <p>The Building Division shall ensure buildings are constructed in accordance with the approved plans.</p>	Building orientation shall be reviewed prior to development plan approval for any building within the plan area.
<ul style="list-style-type: none"> <li>The project developers shall incorporate approved deciduous trees to provide shade on the south- and west-facing sides of buildings.</li> </ul>	Project Developers	Project Developers shall submit site plans showing shade trees on the south- and west-facing sides of buildings and implement the plans.	The Department of Parks, Recreation and Neighborhoods shall review and approve all landscape plans.	<p>Prior to building permit issuance of each project, landscape plans shall be approved.</p> <p>Implement measures prior to certificate of occupancy.</p>

(cont'd.)

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<ul style="list-style-type: none"> <li>Natural gas burning units for space and water heating in the residential units shall use low-NOx space heaters and water heaters.</li> </ul>	Project Developers	Project developers shall show low-NOx space and water heaters in construction drawings for natural gas burning residential units and implement the measures.	The Building Divisions shall review and approve all construction plans to ensure that low-NOx space and water heaters are included..	Prior to issuance of building permit for any residential building, construction plans shall be provided demonstrating the use of low NOx space and water heaters.
<ul style="list-style-type: none"> <li>All access roads, driveways, and parking areas serving the Business Park (BP) shall be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of use.</li> </ul>	Project Developers	Project developers shall demonstrate access roads, driveways and parking areas are in compliance with the requirements of Regulation VIII for particulate emissions	The San Joaquin Valley Air Pollution Control District shall review and approve plans for access roads driveways and parking areas	Prior to the issuance of a grading permit improvements plans shall be reviewed and approved by the San Joaquin Valley Air Pollution Control District.
<p><b>D.8:</b> The project shall implement the following measures to reduce the project impacts on global climate change:</p> <ul style="list-style-type: none"> <li>For lighting in public streets, parking areas, and recreation areas, use of energy-efficient light and mechanical, computerized, or photocell switches to reduce unnecessary energy use;</li> <li>Use of alternative, non-fossil-fuel-based energy systems;</li> <li>Orientation of lots to maximize natural energy conservation;</li> <li>Provision of bike racks and changing rooms for commercial development;</li> <li>Planting of large-canopy, deciduous shade trees that are designed to fit in planters that are large enough to contain them without disrupting public improvements at project buildout.</li> </ul>	Project Developers	Project Developers shall provide plans demonstrating compliance with global climate change measures to the Community and Economic Development Department for review and approval.	<p>The Planning Division shall review and approve the plans.</p> <p>The Building Division shall ensure development is constructed in accordance with the approved plans.</p>	Plans demonstrating consistency with global climate change measures shall be reviewed and approved prior to development entitlement for any building within the plan area.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<b>Noise</b>				
<p><b>E.2a:</b> To reduce noise levels at significantly impacted proposed residential land uses would require the construction of noise barriers up to approximately six feet in height and properly locating outdoor-use areas to be partially shielded by project proposed buildings. Specific noise barrier heights required to reduce noise levels to a less-than-significant noise level depend on the setback distance and exposure to the adjacent roadway and are to be determined by a qualified acoustical consultant. Noise barriers may need to be constructed at the following locations:</p> <ul style="list-style-type: none"> <li>• Along Healthcare Way</li> <li>• Along The Plaza Way</li> <li>• Along Dale Road</li> </ul> <p>Since noise barriers typically provide noise reduction for receivers at a first-story height, some façades at higher elevations would likely be exposed to noise levels that require sound-rated windows to meet Building Code requirements. With the additional sound insulation to be determined by a qualified acoustical consultant, interior noise levels would achieve the applicable standards of an <math>L_{dn}</math> less than 45 dB.</p>	Project Developers	Project Developers shall submit plans demonstrating compliance with community noise standards by locating buildings and outdoor activity areas for residential land uses outside the 65dBA noise contour, as dimensioned on page IV.E.17 of the EIR; or Project Developers shall commission a noise study, if buildings or outdoor activity areas are proposed within the 65dBA contour, to determine appropriate sound attenuation measures. These measures shall be incorporated into the development plans	<p>The Planning Division shall review development plans and noise studies, where required, to ensure buildings and outdoor activity areas meet community noise standards.</p> <p>The Building Division shall ensure development is constructed in accordance with the approved plans</p>	<p>Prior to development entitlement for any building, development plans demonstrating compliance with community noise standards shall be provided.</p> <p>Prior to building permit issuance for any building, construction plans shall show all noise control features.</p> <p>The noise control features shall be installed prior to certificate of occupancy.</p>
<p><b>E.2b:</b> The City and state do not specify interior noise standards for commercial uses. Commercial land uses located more than approximately 130 feet from the Kiernan Avenue centerline, 50 to 70 feet of the Dale Road centerline (depending on location along Dale Road, see Table IV.E.4), and 45 feet from the Bangs Avenue centerline would be exposed to noise levels interpreted by the City as “Normally Acceptable”, and would be considered less-than-significant impacts. A qualified acoustical consultant should prepare a supplemental noise analysis for any commercial building located at closer distances (i.e., exposed to greater than 70 dB <math>L_{dn}</math>) to these roadways. The noise analysis should include an interior noise goal specific to the building and mitigation necessary to meet the goal.</p>	Project Developers	Project Developers shall submit plans demonstrating compliance with community noise standards by locating buildings for commercial land uses outside the 70dBA noise contour, as dimensioned on page IV.E.17 of the EIR; or Project Developers shall commission a noise study, if buildings are proposed within the 70dBA contour, to determine appropriate sound attenuation measures. These measures shall be incorporated into the development plans.	<p>The Planning Division shall review development plans and noise studies, where required, to ensure buildings and outdoor activity areas meet community noise standards.</p> <p>The Building Division shall ensure development is constructed in accordance with the approved plans</p>	<p>Prior to development entitlement for any building, development plans demonstrating compliance with community noise standards shall be provided.</p> <p>Prior to building permit issuance for any building, construction plans shall show all noise control features.</p> <p>The noise control features shall be installed prior to certificate of occupancy..</p>

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<p><b>E.3:</b> Each development project that involves commercial uses or multi-family residential buildings that would include outdoor mechanical equipment shall carry out the following:</p> <ul style="list-style-type: none"> <li>• Retain a qualified acoustical engineer to prepare a noise study for submission to the City, ensuring that noise levels will not exceed City Standards. The following noise reduction measures should be considered by the acoustical engineer: <ul style="list-style-type: none"> <li>○ Use of acoustical silencers on inlet and discharge openings of mechanical equipment,</li> <li>○ Installation of parapets or enclosures with louvers or other barriers to shield noise,</li> <li>○ Orientation of equipment so that it faces away from sensitive receptors, and</li> <li>○ Orientation or setback of buildings to increase distance from sensitive receptors.</li> </ul> </li> </ul>	<p>Project Developers</p>	<p>Project Developers shall submit a noise report to the Community and Economic Development Department and implement the features where outdoor mechanical equipment is proposed.</p>	<p>The Community and Economic Development Department shall review and approve the noise report.</p>	<p>A noise report shall be provided and approved prior to development entitlement for any commercial or residential building within the plan area.</p> <p>Prior to building permit issuance of each project, construction plans shall show all noise reduction features are included.</p> <p>The noise reduction features shall be implemented prior to certificate of occupancy.</p>
<p><b>E.4:</b> Construction-related pile driving activities shall be conducted in accordance with the following:</p> <ul style="list-style-type: none"> <li>• Limit the operation or use of pile-driving equipment to the hours between 7:00 a.m. and 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.):</li> <li>• Perform vibration measurements at MRI locations during pile driving to assess the potential for interference with the equipment. This should be conducted as a “mock-up” test to assess the potential for vibration impacts. A compatible schedule may need to be developed for pile-driving activities that would allow for the non-impacted operation of the MRI equipment.</li> </ul>	<p>Project Developers</p>	<p>Project Developers shall limit operations of pile driving equipment to between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, and 9:00 a.m. and 9:00 p.m. on holidays and weekends.</p> <p>Project Developers shall perform a vibration measurements test at MRI locations in coordination with Kaiser Medical Center, and, if interference would occur, schedule pile driving activities around the use of MRI equipment.</p>	<p>Project Developers shall perform a vibration measurement test at the location closest to MRI facilities to determine if interference would occur and establish a schedule for review and approval by the building division for pile driving activities. The construction foreman or liaison shall ensure that pile driving only occurs during approved hours.</p>	<p>A pile driving schedule shall be established prior to the issuance of a building permit for the first building within the project area.</p>

<b>Mitigation Measure</b>	<b>Mitigation Responsibility</b>	<b>Monitoring Actions</b>	<b>Monitoring / Reporting Responsibility</b>	<b>Schedule</b>
<p><b>E.5:</b> A qualified acoustical engineer shall be retained to review the site plans and building designs for proposed commercial activities when located adjacent to sensitive residential land uses. The acoustical engineer shall consider the following measures, and shall identify a complete list of measures that will reduce noise levels at the nearest residential property line to an L<sub>dn</sub> of 65 dB:</p> <ul style="list-style-type: none"> <li>• Limiting loading and exterior warehouse activities to daytime hours from 7:00 a.m. to 9:00 p.m.</li> <li>• Requiring loading and trash compacting and collection activities to be fully enclosed.</li> <li>• Location and orientation of parking lot areas with respect to noise sensitive land uses.</li> <li>• Establishing minimum setback distances between common open space for multi-family residential buildings and locations of loading docks, warehousing activity areas, and trash compaction and collection areas in commercial developments.</li> </ul>	Project Developers	Project Developers shall submit a noise report to the Community and Economic Development Department and implement the noise features.	The Community and Economic Development Department shall review and approve final noise report and building plans demonstrating compliance with the identified noise features.	<p>Prior to development entitlement for any commercial building, a noise study shall be reviewed and approved</p> <p>Prior to building permit issuance, construction plans shall show all noise reduction features specified by the noise study.</p> <p>The noise reduction features shall be implemented prior to certificate of occupancy.</p>
<p><b>E.6:</b> Acoustical recommendations prepared to address Impact E.2 should also consider cumulative year 2025 conditions.</p>	Project Developers	Noise studies required as a result of mitigation measures E.2a and E.2b. shall include a cumulative 2025 analysis	The Planning Division shall ensure that a cumulative 2025 analysis is performed on required noise studies	Prior to development entitlement, a noise analysis including cumulative 2025 conditions shall be reviewed and approved by the Planning Division.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<b>Hazards</b>				
<p><b>F.2:</b> Conduct Phase I Environmental Site Assessments, conduct site investigations, and implement remediation as necessary.</p>	<p>Project Developers</p>	<p>Project Developers shall retain a registered environmental assessor to conduct Phase I Environmental Site Assessments on properties where the assessment was not previously prepared, conduct further site investigations, where necessary, and implement the remediation.</p>	<p>The Community and Economic Development Department shall review and approve the Phase I Environmental Site Assessments, other needed site investigations and remediation in collaboration with the Stanislaus County Environmental Review Committee and County Health Services Department.</p>	<p>Conduct Phase I Environmental Site Assessments and other necessary site investigations prior to issuance of grading or building permit, whichever occurs first.</p> <p>Remediation shall be implemented prior to issuance of grading or building permit or as determined by the Phase I ESA and/or other site investigations.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<b>Biological Resources</b>				
<p><b>G.1a:</b> Implementation of formal CDFG guidelines (Staff Report on Burrowing Owl Mitigation) to avoid and minimize impacts to Burrowing Owls. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls should be completed prior to the start of construction. Burrowing Owl habitat on the project site and within a 500-foot (150 m) buffer zone should be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat should be mapped at an appropriate scale, and the following mitigation measures should be implemented:</p> <ol style="list-style-type: none"> <li>1. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, should be completed no more than 30 days prior to the start of construction within suitable habitat. Three additional surveys should also be completed per CDFG guidelines prior to construction.</li> <li>2. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction.</li> <li>3. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This protected area will remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently.</li> <li>4. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.</li> </ol>	Project Developers	Project Developer shall retain a qualified biologist to conduct pre-construction survey for breeding or resident burrowing owls in pastures, fallow fields, canal rights of way and other areas where ground squirrels occupy or have occupied burrows or pipes or other locations that could be used by burrowing owls. If found, establish and implement construction schedule to avoid nesting season, identify buffer areas, and report accidental take to CDFG.	CDFG shall review the habitat assessment and mitigation measures.	Complete survey and establish and implement construction schedule and buffer area prior to issuance of the first grading or building permit, whichever occurs first, and monitor during construction.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p><b>G.1b:</b> Compensation for loss of Burrowing Owl habitat. If pre-construction surveys determine that Burrowing Owls occupy the site and avoiding development of occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat Management (HM) lands comprising existing Burrowing Owl foraging and breeding habitat should be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement with the CDFG, the project applicant should secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would:</p> <ul style="list-style-type: none"> <li>• Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of HM lands;</li> <li>• Provide initial protection and enhancement activities on the HM lands, potentially including, but not limited to, such measures as fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG;</li> <li>• Establish an endowment for the long-term management of the HM lands; and</li> <li>• Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement.</li> </ul>	<p>Project Developers and Project Biologist</p>	<p>If avoidance is not feasible, work with CDFG to secure a habitat mitigation agreement.</p>	<p>CDFG shall review and approve the habitat mitigation plan.</p>	<p>Habitat mitigation agreement shall be secured prior to issuance of the first grading or building permit, whichever occurs first.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p><b>G.2a:</b> Compensation for the disturbance of nesting raptors and migratory birds. To the extent practicable, construction should be scheduled to avoid the nesting season, January through August.</p> <p><b>G.2b:</b> If it is not possible to avoid the nesting season, pre-construction surveys shall be conducted to ensure that no nests of rare or protected species would be disturbed during project implementation. Surveys shall be conducted no more than 14 days prior to construction during the early part of the breeding season (January through April) and no more than 30 days during the late part of the breeding season (May through August). Surveys shall include all potential nest substrates in and adjacent to the construction area. If an active nest is found close enough to a construction area to be disturbed, the project ornithologist, in conjunction with CDFG, shall determine the extent of a buffer-free zone around the nest .</p>	Project Developers	Project Developers shall retain a qualified ornithologist or wildlife biologist to conduct a survey no more that 14 days prior to demolition or construction activities occurring January through April and no more than 30 days prior to demolition or construction activities occurring May through August. The ornithologist, in consultation with the CDFG, shall determine potential for demolition or construction impact to nesting raptors and migratory birds and establish a construction-free buffer zone accordingly in consultation with the CDFG.	CDFG shall review the habitat assessment and proposed construction buffer zone.	Construction-free buffer zone shall be established prior to issuance of the first grading or building permit, whichever occurs first.
<p><b>G.3:</b> Same as Mitigation Measures G.1a and G.1b for burrowing owls; the cumulative loss of habitat for Swainson’s hawks should be mitigated by providing 0.25 acre of off-site HM lands comprising irrigated row crops, ruderal areas, fallow fields, and irrigated pasture. All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to CDFG) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson’s hawks. Management Authorization holders/project sponsors shall provide for the long-term management of HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at a rate agreed upon by CDFG.</p>	Project Developers	Same as Mitigation Measures G1a and G1b, and Project Developers shall provide 0.25 acre of off-site HM lands comprising irrigated row crops, ruderal areas, fallow fields, and irrigated pasture through fee title acquisition or conservation easement, and provide a funding management endowment at a rate agreed upon by the CDFG.	CDFG shall review the habitat assessment and approve the mitigation measures.	Same as Mitigation Measures G.1a, G.1b, and provide 0.25 acre of off-site HM lands and management endowment prior to first grading or building permit, whichever occurs first.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<b>Hydrology and Water Quality</b>				
<p><b>H.1:</b> The project proponent shall prepare an SWPPP for each development project under the Specific Plan (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than 1 acre).The project SWPPP shall include and adequately address all elements in the State General Construction Permit (Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity, State Water Resources Control Board Order Number 99-08-DWQ).</p>	Project Developers	Project Developers shall prepare and implement SWPPP.	The City Engineer shall review and approve the SWPPP.	<p>Complete the SWPPP prior to issuance of a grading or building permit, whichever occurs first, for each project.</p> <p>SWPPP measures shall be implemented during grading and construction for each project.</p>
<p><b>H.3a:</b> As a condition of approval of the final grading and drainage plans for the first project proposed in the Specific Plan area, the developer must acquire written approval from the MID to discharge runoff to the MID Lateral No. 6 (up to 5.0 cubic feet per second), and provide this documentation to the City of Modesto Public Works Department. If approval from MID cannot be obtained then an alternative plan for disposal for stormwater would need to be developed and accepted in accordance with the City of Modesto standards for stormwater runoff.</p>	Project Developers	<p>Project Developers shall secure written approval from MID for discharge into canal</p> <p>Alternative stormwater drainage design must be approved if MID approval is not obtained.</p>	City Engineer shall review and approve the agreement with MID or review and approve an alternative design if necessary.	The MID agreement or alternative design shall be in place prior to issuance of a grading permit for the first development within the plan area.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<p><b>H.3b:</b> As a condition of approval of the final grading and drainage plans for all projects proposed within the Specific Plan area, detailed hydraulic analysis must demonstrate that implementation of the proposed drainage plans will:</p> <ul style="list-style-type: none"> <li>• Include adequately sized detention facilities to accommodate anticipated runoff associated with the 100-year storm event. A licensed professional engineer shall prepare the final drainage plan for the project and plans must be submitted to the City of Modesto Public Works Department for review and approval.</li> <li>• Include drainage components that are designed in compliance with City of Modesto standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the Public Works Department.</li> <li>• Establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets. Any accumulation of sediment or other debris shall be promptly removed. An annual report documenting the inspection and any remedial action conducted shall be submitted to the City of Modesto Public Works Department for review.</li> </ul>	<p>Project Developers</p>	<p>Project Developers shall prepare a drainage plan that demonstrates compliance with City Standards and implement the plan.</p>	<p>The City Engineer shall review and approve the drainage plan.</p>	<p>Prior to issuance of a grading permit for any development within the plan area, or where appropriate as determined by the FMP and IFP, final grading and drainage plans meeting City Standards shall be reviewed and approved</p> <p>Grading and drainage facilities shall be developed and maintained in accordance with the approved plans.</p>
<p><b>H.6:</b> Before a grading plan for development of a particular parcel within the plan area is approved, a well survey shall be conducted by a State-registered geologist or engineer to determine the location and characteristics of each well for that particular parcel. The survey results shall be submitted to the City for review. The water supply wells shall either be:</p> <ol style="list-style-type: none"> <li>1. Properly abandoned in compliance with the California Department of Water Resources, California Well Standards and Stanislaus County Code, Chapter 9.36 prior to final approval of the grading plan, or</li> <li>2. Inspected by a qualified professional to determine whether each well is properly sealed at the surface to prevent infiltration of water-borne contaminants into the well casing or surrounding gravel pack. The California Well Standards require an annular surface seal of at least 20 feet. If any of the wells are found not to comply with this requirement, the applicant shall retain a qualified well driller to install the required seal. Documentation of the inspections and seal installations, if any, shall be provided to the City prior to final approval of the grading plan.</li> </ol>	<p>Project Developers</p>	<p>Project Developers shall conduct a well survey to determine location and characteristics of each well. The survey shall be conducted by a state-registered geologist or engineer, and results shall be submitted to the City Engineer and implemented by the developers.</p>	<p>The City Engineer shall review the well survey and determine whether the well be abandoned or sealed.</p>	<p>The well survey shall be conducted prior to issuance of a grading permit for any development within the plan area and shall be implemented prior to certificate of occupancy.</p>

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
<b>Water Supply</b>				
<p><b>K.2:</b> In order to maintain adequate water pressure in the City’s delivery system, it would be necessary to design and construct project specific, local, and system-wide water facility improvements. There are three categories of improvements:</p> <ul style="list-style-type: none"> <li>• Project-specific improvements funded by the project sponsor,</li> <li>• Localized system improvements that would be funded by the City’s Ongoing Strengthening and Repairing Water Pipelines Program,</li> <li>• System-wide Improvements funded by the City’s Connection Fee Program.</li> </ul> <p>The localized system improvements and system-wide improvements are currently planned to be installed by the City. In addition to the project infrastructure currently proposed by the project sponsor (i.e., 10 inch to 12 inch water distribution pipelines would be installed following the alignments of Healthcare Way, The Plaza Way, Chopra Parkway, and other planned roads within the project site), a 12-inch diameter pipeline should be constructed in Kiernan Avenue along the entire northern boundary of the project site. This pipeline is recommended in order to enhance system reliability to the project by providing a system loop and an alternative route for delivery of water supplies. Installation of the recommended pipeline would not create any new impacts within the Kiernan Business Park Specific Plan Amendment #4 project site.</p>	<p>Project Developers and City of Modesto</p>	<p>Project Developers shall fund and install project specific water facility improvements.</p> <p>The project developer shall pay fair share of localized system improvements through payment of water fees.</p> <p>The City shall construct the localized system improvements and system-wide improvements necessary to serve the project.</p>	<p>City of Modesto Public Works Department</p>	<p>Project-specific improvements shall be approved prior to issuance of a grading permit for any development within the plan area.</p> <p>Project-specific improvements shall be installed prior to certificate of occupancy for any building within the plan area.</p> <p>Modesto Public Works Department to install system-wide improvements as needed</p>
<p>General Notes:</p> <p>The Capital Facilities Fee and other applicable fee programs identify regional infrastructure improvements (such as roads, sewer, water, etc.) that are based on the buildout of the City’s <i>Urban Area General Plan</i>. These projects are identified in the City’s Capital Improvement Program. If a development project occurs in the project area that requires infrastructure improvements be constructed in advance of the CIP schedule, then the development will be responsible to construct the identified improvement. The developer will enter into a reimbursement agreement with the City, construct the project, and will be reimbursed per the terms of the agreement.</p>				