

**MODESTO CITY COUNCIL
RESOLUTION NO. 2008-582**

A RESOLUTION TO MAKE CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, MAKE FINDINGS CONCERNING ALTERNATIVES, ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS, AND CERTIFY THE FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE URBAN AREA GENERAL PLAN (SCH No. 2007072023)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto re-certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, the City's Community and Economic Development Department ("City") prepared an amendment to the Urban Area General Plan ("Project"), and

WHEREAS, the City, on July 8, 2007, published a Notice of Preparation for the Project, which identified potentially significant environmental impacts attributable to the Project, on which basis the City determined that an Environmental Impact Report ("EIR") was required for the Project, and

WHEREAS, on July 18, 2007, the City held a public scoping meeting to receive public comments on the scope and content of the Master EIR, and

WHEREAS, the City published and distributed a Draft Master EIR for the Project (SCH No. 2007072023) for public comment on March 24, 2008, in accordance with Section 21091 of the California Environmental Quality Act ("CEQA"), and

WHEREAS, the Draft Master EIR was available for public comment for a period of 45 days as required by Section 21091 of CEQA, the close of the public comment period being May 9, 2008, and

WHEREAS, during the 45-day public comment period the City received thirteen letters commenting on the Draft Master EIR, and

WHEREAS, the City prepared written responses to all written comments received on the Draft Master EIR, said responses being contained in a Final Master EIR for the Urban Area General Plan Update (SCH No. 2007072023) ("Final MEIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the Final MEIR was published and distributed on August 4, 2008, and consists of the Draft EIR, a list of commentors, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft Master EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, and

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

WHEREAS, a public hearing on the Project was held by the Planning Commission on September 8, 2008, at 7:00 p.m. in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission has received and considered the Final MEIR for the Urban Area General Plan Update (SCH No. 2007072023) that analyzed the potential environmental effects of the proposed Project and adopted a resolution recommending the City Council make certain findings, adopt a statement of overriding considerations, and certify the Final Master Environmental Impact Report, and

WHEREAS, a public hearing on the Project was held by the City Council on October 14, 2008, at 5:30 p.m., in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence, both oral and documentary, was received and considered, and

WHEREAS, the City Council has received and considered the Final MEIR for the Urban Area General Plan Update (SCH No. 2007072023) that analyzed the potential environmental effects of the proposed Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council, that it hereby has reviewed and analyzed the Final MEIR and other information in the record, and has taken such other actions as are necessary and appropriate to make the following findings in respect to the Final MEIR, and make said findings:

1. That the Final MEIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the Final MEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the Final MEIR and the Project, prior to acting upon or approving the Project; and that the Final MEIR represents the independent judgment of the City of Modesto; and
2. That the Findings and recommendations set forth in **Exhibit "A"**, and incorporated herein by reference, are made by the City Council as the City's findings under the California Environmental Quality Act ("CEQA") (Pub. Resources Code § 21000 *et seq.*) and the CEQA Guidelines (Cal. Code Regs., title 14, §15000 *et seq.*) relating to the Project. The Findings provide the written analysis and conclusions of the City Council regarding the Project's environmental impacts, mitigation measures and alternatives to the Project.
3. That pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 *et seq.*, the City Council of the City of Modesto adopts and makes the following statement of overriding considerations regarding the remaining unavoidable impacts of the Project and the anticipated economic, social and other benefits of the Project.

a. Significant Unavoidable Impacts

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

- i. that the Project will cause significant, unavoidable impacts to Traffic and Circulation, Generation of Noise; Agricultural Lands, Archaeological and Historical Sites, and Energy, as described in **Exhibit B**.
- ii. that the Project will contribute to significant, unavoidable cumulative impacts to Air Quality, Generation of Noise, Agricultural Lands, Long-Term Water Supplies, Sensitive Wildlife and Plant Habitat, Storm Drainage, Energy, Visual Resources, and Climate Change, as described in **Exhibit B**.

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

b. Overriding Considerations

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

c. Benefits of Proposed Project

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

- i. The stabilization of City finances by collecting revenues in accordance with State law sufficient to fund construction and maintenance of public infrastructure and services; and
- ii. Accurately reflect the practices and policies of the City Council and provide improved guidance for future development; and
- iii. Incorporate new policies and information from the most recent sewer, water, and storm drainage master plans into the Urban Area General Plan; and
- iv. Incorporate new information from the traffic model into the Urban Area General Plan; and
- v. Update the 1995 Urban Area General Plan, as amended, to allow its continued use until such time as a comprehensive general plan update is undertaken and completed.

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

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

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

BE IT FURTHER RESOLVED by the City Council that it hereby certifies the Final Master Environmental Impact Report for the Urban Area General Plan Update (SCH No. 2007072023), **attached as Exhibit "C"**.

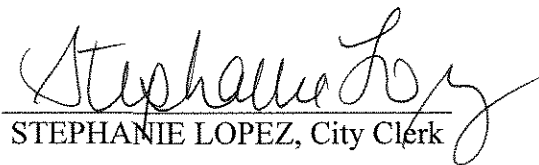
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"

**STATEMENT OF FINDINGS OF SIGNIFICANT IMPACTS
AND REJECTION OF ALTERNATIVES**

EXHIBIT "B"

STATEMENT OF OVERRIDING CONSIDERATIONS

STATEMENT OF FINDINGS OF SIGNIFICANT IMPACTS AND REJECTION OF ALTERNATIVES

Pursuant to Public Resources Code Section 21081 and Section 15091 of the State CEQA Guidelines (14 California Code of Regulations 15000, et seq.), the City of Modesto cannot approve a project for which an Environmental Impact Report (EIR) has been certified which identifies significant effects on the environment unless it adopts findings with respect to each significant effect. Prior to approving the project, the City must also find that there are specific considerations that make infeasible the project alternatives identified in the EIR.

In Section A below, the City will make the following finding for each of the significant effects identified in the Master EIR:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Section 15091 provides that when a project will have a significant and unavoidable impact, the following finding is to be made relative to mitigation measures:

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible *the mitigation measures identified in the EIR*. (emphasis added)

This Master EIR contains no discrete mitigation measures. Instead, it relies upon the policies being proposed as part of the Urban Area General Plan (UAGP) to limit potential impacts. Since there are no mitigation measures identified in the Master EIR, this finding cannot be made.

In Section B below, the City will make the following finding regarding each of the alternatives identified in the Master EIR.

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Master EIR.

Section 21081 provides that the City may also find that “changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.” That finding does not apply to any of the significant effects identified in the Master EIR.

A. FINDINGS REGARDING SIGNIFICANT IMPACTS

Traffic and Circulation Needs Impact: The project will result in an increase in traffic, with a related reduction in the level of service (LOS) to below LOS D on various streets within the planning area.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The city has not adopted discrete mitigation measures as part of the Master EIR. However, proposed UAGP update policies described as items TC-17 through TC-64 in Chapter V of the Master EIR will mitigate these effects. In particular, these include policies for efficient use of existing roadways, requirements for enhancing and improving roadways to meet increased demand due to growth, preparation of a Citywide Transportation Improvement Plan, and provision and improvement of facilities for non-auto transportation, including walking, biking, and transit to reduce auto trips.

The Initial Study prepared for each subsequent project under the Master EIR (as required by Public Resources Code Section 21157.1) will determine whether the projected traffic from the subsequent project would exceed the applicable LOS standard under the UAGP and, if so, would require an analysis and mitigation of the excess traffic.

City policies identified as items TC-42 through TC-46 in Master EIR Chapter V applicable in the Redevelopment and Baseline Developed Areas and TC-50 in the Planned Urbanizing Area require that subsequent projects that will exceed the allowable LOS D standard will be subject to additional analyses. Where the project would take place on a road segment projected for LOS F and would cause further substantial degradation of traffic conditions, or would involve adoption of a Specific Plan within a Comprehensive Planning District (CPD), a comprehensive traffic study will be required if the project generates more than 100 peak-hour trips greater than the number of trips expected to occur with development consistent with the UAGP and the MEIR or which requires a general plan amendment in order to assess the level of impact of the project. Under certain circumstances, individual site-specific development will be required to prepare a site access study to identify potential impacts.

These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

The anticipated increase in traffic giving rise to this potential impact is the result of social and economic conditions that favor continued automobile-dependent growth within California and Stanislaus County. State Planning Law, in particular the requirements for housing elements, requires Modesto to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). The City cannot choose to restrict housing opportunities below those identified in its regional housing need allocation. Accordingly, the City is legally bound to plan for additional growth.

Traffic and Circulation Needs Cumulative Impact: The project will contribute to the substantial cumulative impacts of the proposed Stanislaus County Regional Transportation Plan (RTP) road network improvements.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

City policies identified as items TC-17 through TC-64 in Chapter V of the Master EIR would reduce the UAGP's contribution to the cumulative impacts. Nonetheless, there will be cumulative impacts to which Modesto development will make a considerable contribution. These policies will reduce the impact, but not to a less-than-significant level. No further feasible mitigation is available to reduce this impact to a less-than-significant level, and the impact remains significant and unavoidable.

The UAGP traffic and circulation element and the amendments being proposed are consistent with the RTP. StanCOG's current population projection for Modesto in 2025 is 439,750. This is within about 2 percent of the City's estimated capacity under the UAGP of approximately 428,000 residents.

The EIR prepared for StanCOG's 2007 RTP analyzed the potential impacts of the proposed RTP road network improvements. StanCOG analyzed future traffic volumes to 2025 based on its travel demand model. Significance findings were based on whether the RTP projects would result in an LOS in excess of LOS D in urban areas and LOS C in rural areas of the county. StanCOG identified numerous significant and unavoidable impacts that would result from its 2007 RTP.

The anticipated increase in traffic giving rise to this potential cumulative impact is the result of conditions that favor continued automobile-dependent growth within California and Stanislaus County. State Planning Law, in particular the requirements for housing elements, requires the County and its cities, including Modesto, to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). Neither the County nor the city may choose to restrict housing opportunities.

Degradation of Air Quality Cumulative Impact: The SJVAB is an air quality non-attainment area for ozone and particulate matter. Any contribution to air pollution in a non-attainment area is considered a significant cumulative air quality impact. Motorized traffic from development in the City of Modesto would contribute, with motorized traffic from other new development in the County and region, toward a cumulative increase in roadside air pollutant levels on major roads and highways throughout the County. Within the City itself, the traffic analysis and corresponding traffic air pollutant analysis takes into account cumulative traffic volumes and is inherently cumulative in nature:

The traffic study data includes cumulative traffic volumes which were utilized as an input to the air quality modeling analysis.

Due to the size of Modesto and the future growth projected under its General Plan, it will make a considerable contribution to this cumulative effect. The San Joaquin Valley Air Basin is an air quality non-attainment area for ozone and particulate matter. Planned growth in Modesto under the amended UAGP will make a considerable contribution to the cumulative air quality impact within the Air Basin.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Activities within the City of Modesto are subject to regulation by the SJVAPCD. These regulations are designed to improve regional air quality over time so that the basin will reach air quality attainment. However, in the shorter term, these measures do not avoid the cumulative effect. The City of Modesto policies described as items AQ-1 through AQ-56 in Chapter V of the Master EIR will reduce the UAGP's contribution to the cumulative impact, but not to a less-than-significant level. No further feasible mitigation is available to reduce this impact to a less-than-significant level, and the impact remains significant and unavoidable.

Generation of Noise Impact: Traffic noise levels under future conditions have the potential to result in exceedances of the City's noise significance standards.

Findings:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Implementation of the UAGP policies will reduce construction-related, transportation related, and industrial/commercial noise impacts, with the exception of aircraft noise, to less-than-significant levels.

The City has adopted, as part of its Urban Area General Plan, various policies, described as items N-1 – N14 in Chapter V of the Master EIR, which moderate the effects of increased traffic and growth on noise. These include the Modesto City Noise Ordinance, which limits noise to daytime hours and prohibits the production of loud noises from stationary engines, and General Plan policies requiring mitigation of noise in new development in the existing City limits and Planned Urbanizing Area through setbacks, building standards, and noise buffers. These policies are implemented through the Initial Study analysis that is applied to all discretionary projects undertaken under the General Plan. With implementation of these policies, the impact is reduced to a less-than-significant level.

Generation of Noise Impact: Aircraft noise levels under future conditions after 2015 have the potential to result in exceedances of the City's noise significance standards.

Findings:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP Policies described as items N-11 and N-12 in Chapter V of the Master EIR require specific studies of airport and aircraft noise and development of mitigation measures for new construction to meet the noise compatibility standards of the UAGP. However, since the airport master plan has not yet been completed, future airport operations are not sufficiently known to allow full analysis of impacts and the development of specific mitigation measures, compatible with Federal Aviation Administration regulations. These policies will reduce the impact, but not to a less-than-significant level. No further feasible mitigation is available to reduce this impact to a less-than-significant level, and the impact remains significant and unavoidable.

Generation of Noise Impact: Traffic from development in the City of Modesto would contribute, with traffic from new development in the County and region, toward a cumulative increase in roadside noise levels on major roads and highways throughout the County. Within the City itself, the traffic analysis and corresponding traffic noise analysis take into account cumulative traffic volumes. The traffic study data includes cumulative traffic volumes, which were utilized as an input to the noise modeling analysis. Noise level projections based on the traffic levels anticipated in the UAGP indicate that noise will exceed the UAGP and noise ordinance standards. This is a significant cumulative effect. The development allowable under the UAGP will make a considerable contribution to that effect.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Although the policies of the UAGP will reduce noise impacts, cumulative future noise is projected to exceed UAGP standards, even with implementation of the UAGP policies described as items N-11 and N-12 in Chapter V of the Master EIR. No further feasible mitigation is available and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid increases in noise associated with additional growth (including traffic). Individual project contributions, although moderated by the City Noise Ordinance and General Plan policies described above, would be sufficient to result in a cumulative exceedance of City noise standards in some situations.

Effects on Agricultural Land Impact: The Urban Area General Plan will convert land from agricultural to urban use, particularly in the Planned Urbanizing Area. This impact is less-than-significant in the Baseline Developed and Redevelopment Areas since this conversion has already taken place. Development under the UAGP would convert substantial areas of farmland to urban uses within the Planned Urbanizing Area.

The UAGP would also place urban uses in proximity to existing agricultural activities, creating a potential conflict between urban and agricultural land uses, which could indirectly result in the conversion of additional areas of farmlands from agricultural uses to other uses.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The UAGP policies described as items AL-15 through AL-21 in Chapter V of the Master EIR require the orderly conversion of agricultural land as available developable land is occupied within the city. The City has adopted policies intended to encourage compact growth, including the policies of Section III.C.3 of the Urban Area General Plan. While these policies will result in higher densities of development than would otherwise occur without those policies, thereby reducing the total amount of farmland that would otherwise be converted to meet growth projections, the existing built area of the City cannot absorb the projected increase in City population during the planning period. These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid conversion of agricultural land associated with additional growth. Individual project contributions, although moderated by the General Plan policies described above, would be sufficient to result in conversion of agricultural lands.

Effect on Agricultural Land Impact: Modesto's growth will contribute to the cumulative impact of County-wide growth on agricultural lands.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid the conversion of agricultural land associated with additional growth (including traffic). The City has adopted policies intended to encourage compact growth, including the policies of Section III.C.3 of the Urban Area General Plan. While these policies will result in higher densities of development than might occur without those policies, thereby reducing the total amount of farmland that must be converted to meet growth projections, the existing built area of the City cannot absorb the projected increase in City population during the planning period. These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

Increased Demand for Long-Term Water Supplies Impact: Future development under the Urban Area General Plan will contribute to the cumulative impact of future (2020) groundwater overdraft within the San Joaquin River basin during drought years.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The population of Stanislaus County is projected to increase at a rate similar to Modesto. The California Department of Finance (DOF) estimates that the county population, approximately 521,500 persons in 2007 will reach approximately 857,900 persons by 2030 (Finance does not have a 2025 projection). This will result in substantial additional demands on the available water supplies. Cumulative impacts to water supplies could occur from increased groundwater extraction adjacent to the Modesto planning area boundaries that may result in overdrafting of the aquifer.

Starting in 2005, the City began retrofitting single-family, flat-rate customers to meters at a rate of 6% per year. Based on the City's metering plan, existing single-family flat-rate customers will be gradually converted to metered rates once all non-metered, flat-rate customers have been converted to metered use. Charging customers by their level of water consumption rather than at a flat rate will ultimately decrease the amount of per capita water use.

However, during drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

Implementation of the UAGP policies described as items WS-10 – WS-37 in Chapter V of the Master EIR, which include requirements for water conservation, obtaining new surface water supplies, and implementing a conjunctive groundwater/surface water management program, will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and water consumption associated with additional growth. Individual project contributions, although moderated by the General Plan policies described above, would be sufficient to result in this impact.

Loss of Sensitive Wildlife and Plant Habitat Impact: Development under the Urban Area General Plan will result in the loss or degradation of sensitive wildlife and plant habitat, and may result in impacts on valley foothill riparian, riverine, fresh emergent wetland and vernal pool habitats in the Planned Urbanizing Area.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid these significant effects on the environment.

Supporting Evidence:

Except for lands within the designated riparian corridors (protected from development under the Urban Area General Plan's Comprehensive Planning District [CPD] policies, and specifically UAGP Policy VIII.E.3[c]), lands within the Baseline Developed Area and the Redevelopment Area are of limited habitat value. Impact within these areas are less-than-significant.

Within the Planned Urbanizing Area, development will be subject to further environmental review through CEQA, as well as the federal Clean Water Act, the state and federal Endangered Species Acts, and the California Fish & Game Code, when CPDs are proposed for development. During the preparation of the specific plan for each CPD, appropriate measures will be required, including urban design and development standards, to avoid taking of listed species. Urban Area General Plan policies, including policies VII-E.3a, b, and c (and requiring implementation of Table 7-1 of the Master EIR) and measures in the Tuolumne River Regional Park (TRRP) Master Plan will protect sensitive habitats. With implementation of these policies, the impact is reduced to a less than significant level.

Loss of Sensitive Wildlife and Plant Habitat Impact: Development under the Urban Area General Plan will contribute to the cumulative loss of sensitive wildlife and plant habitat.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Within the Planned Urbanizing Area, development will be subject to further environmental review through CEQA, as well as the federal Clean Water Act, the state and federal Endangered Species Acts, and the California Fish & Game Code, when CPDs are proposed for development. During the preparation of the specific plan for each CPD, appropriate measures will be required, including urban design and development standards, to avoid taking of listed species. Urban Area General Plan policies, including policies VII-E.3a, b, and c (and requiring implementation of Table 7-1 of the Master EIR) and measures in the TRRP Master Plan will protect sensitive habitats. These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and thereby avoid loss of some habitat lands. The amount of growth that is forecast to arrive in the San Joaquin Valley, Stanislaus County, and Modesto by the year 2020 portends significant losses of habitat within the region.

Potential Disturbance of Archaeological or Historical Sites Impact: Substantial changes to existing historical resources and structures resulting from Zoning Ordinance requirements such as parking and landscaping, or demolition of such a structure could have a significant effect.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Known historical resources are primarily located within the Baseline Developed Area, which is already developed. Impacts of new construction, therefore, apply to development within 100 feet of a structure more than 50 years old because activities may affect that structure. If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years old, the impacts may be significant. The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of UAGP policies described as items AH-3

through AH-17 in Chapter V of the Master EIR. In particular, UAGP policies AH-4 through AH-8 require protection of existing archaeological and historical resources within the planning area through implementation of existing federal and state regulations, preparation inventories of significant resources, requiring specific evaluation of potential resources prior to construction, and adopting flexible zoning regulations for historic structures.

Demolition of a significant building cannot be mitigated to a less-than-significant level, and, even with implementation of the policies, the impact would be significant and unavoidable.

Potential Disturbance of Archaeological or Historical Sites Impact: Construction could result in impacts to currently unknown archaeological resources within and outside of riparian corridors.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Implementation of the UAGP policies described as items AH-3 – AH17 in Chapter V of the Master EIR, which require investigation and assessment of potential archaeological or historic resources at the time of application for development involving effects on structures of 50 years of age or more or earthmoving, will reduce this effect to less-than-significant levels. The General Plan policies require protection of archaeological and historical resources within the planning area.

Increased Demand for Storm Drainage Impact: New development will require improvements to existing stormwater drainage systems.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The potential impacts on storm drainage that could occur from the project were qualitatively evaluated with respect to several factors, including the extent of the projected increase in urban surface area compared to undeveloped ground, the magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions, the regulatory criteria and guidelines, and professional judgment. Based on the above threshold of significance, the potential impacts of the UAGP on storm drainage are considered less than significant because the UAGP includes policies that require new development in all three sections of the planning area to install approved drainage facilities. These policies are identified as items SD-2 through SD-17 in Chapter V of the Master EIR.

New development is required under the policies of the UAGP to install storm drainage facilities that restrict the amount of post-development runoff from exceeding predevelopment conditions. In the Planned Urbanizing Area, this will include the installation of dual-use facilities that will provide recreational opportunities as well. Additionally, the UAGP includes policies for the City to maintain and upgrade storm drainage facilities as needed. Pursuant to the RWQCB's recent directive to the City to incorporate Low Impact Development (LID) design elements into new development policies, small, onsite infiltration will be utilized wherever possible, allowing large, regional basins and other storm drainage structures to be downsized. Implementation of the UAGP policies will reduce the impact to a less than significant level.

Increased Demand for Storm Drainage Impact: Development in Modesto and the County will contribute to a cumulative impact on the capacity of Modesto Irrigation District and Tuolumne Irrigation District canals to convey drainage waters.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

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

This impact is considered significant. While implementation of the UAGP policies described above and described as items SD-2 – SD-17 in Chapter V of the Master EIR will reduce the impact, it will not be reduced to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and thereby avoid increased volumes of storm drainage water.

Flooding and Water Quality Impact: Increased development could contribute to runoff, contributing to flooding problems in the urban area. Development of urban areas could increase discharges of erosion and wastes to surface waters through urban runoff, affecting surface water quality.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP policies described as items FWQ-5 – FWQ-10 in Chapter V of the Master EIR, including policies to restrict development in the floodplain and thus avoiding exposing persons and property to flood hazards, and requiring new development under the UAGP install stormwater drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions will reduce this impact to a less than significant level.

City policies and capital improvement projects for stormwater drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES stormwater permit require new development to implement an appropriate selection of permanent pollution control measures. Implementation of the UAGP policies will reduce erosion and water quality impacts to a less than significant level.

Flooding and Water Quality Impact: Cumulative impacts could occur from the project's contributions to runoff and discharges of waste and erosion.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP policies described as items FWQ-5 – FWQ-10 in Chapter V of the Master EIR, including policies to restrict development in the floodplain and thus avoiding exposing persons and property to flood hazards, and requiring new development under the UAGP install stormwater drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions will reduce the project's contribution to the cumulative impact to less than cumulatively considerable.

City policies and capital improvement projects for stormwater drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES stormwater permit require new development to implement an appropriate selection of permanent pollution control measures. Implementation of the UAGP policies will reduce the project's contribution to the cumulative impact to less than cumulatively considerable.

Increased Demand for Parks and Open Space Impact: Increased population under the Urban Area General Plan would increase demand for park and open space facilities, requiring new facilities to be constructed in the Planned Urbanizing Area and contributing to a significant cumulative impact.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP goals and policies described as items POS-2 – POS-46 in Chapter V of the Master EIR, including the goals and policies in UAGP sections V-G.2 , V-G.3, and V-G.4, require the provision of park facilities as new development occurs in the Planned Urbanizing Area. The required minimum acreages can be met through the application of existing policies and regulations, including also Government Code Section 66474, which enables the City to require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. With implementation of the UAGP policies, the direct impact on the demand for parks and open space in the Planned Urbanizing Area will be reduced to less than significant and the UAGP's contribution to a cumulative impact will be reduced to less than cumulatively considerable.

Increased Demand for Police Services Impact: Additional demand for police services/facilities will be created by increased population under the Urban Area General Plan.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Complying with the UAGP policies described as items PS-2 – PS-15 in Chapter V of the Master EIR, particularly the policy that requires a long-range financing strategy for each Comprehensive Planning District, will allow the City to provide the resources necessary to extend service to the newly growing Planned

Urbanizing Area and maintain services in the Baseline Developed Area. Implementation of the UAGP policies will reduce impacts related to police services to a less-than-significant level through increased staffing and better building design and site planning.

Increased Demand for Fire Protection Services Impact: Annexations under the Urban Area General Plan could contribute to a cumulative impact on fire protection services.

Finding:

The City disagrees with the conclusion of the drafters of the Master EIR that the project could contribute to a cumulative impact on fire protection services. Specifically, the drafters concluded that cumulative impacts on fire services may occur should some or all of the existing fire protection districts become insolvent as a result of the loss of property tax revenues due to annexation of territory to the City. The City disagrees with this conclusion for the following reasons. First, the insolvency of one or more rural fire protection districts due to annexation of their territory to the City is not a significant environmental impact appropriate for environmental review under CEQA. Under CEQA, a significant environmental effect is defined as a substantial or potentially substantial adverse change in the environment. See Pub. Resources Code § 21100(b)(1); CEQA Guidelines § 15126, 15126.2. While the economic effects of City annexations on the finances of rural fire protection districts is undoubtedly a significant policy consideration for the City and LAFCO when evaluating possible annexations, it is not a “significant environmental effect” requiring evaluation under CEQA. Second, any indirect effects of currently-proposed and future annexations on the ability of rural fire protection districts to maintain levels of service to their territories are adequately addressed by current City and LAFCO policies applicable to City annexations. Among other things, these policies require:

- The City’s Fire Chief and the Fire Chiefs of adjoining rural fire protection districts to meet on an as-needed basis to discuss the financial impacts of annexations on the rural fire protection districts and how to prevent the erosion of fire protection and emergency services provided by those districts.
- Property tax allocation agreements between the City and all affected rural fire protection districts, which agreements are subject to the approval of the governing board of the fire protection district and of the City Council.
- A ‘plan for services’ as part of any annexation application demonstrating how existing levels of service will be maintained.
- Denial of any annexation application that would reduce existing levels of service in the annexation areas.

The City hereby finds that the appropriate implementation of these policies by the City and LAFCO will reduce any indirect impacts on fire protection services to less-than-significant levels, and ensure that the project’s contribution to any cumulative impact on fire protection services is not cumulatively considerable.

Generation of Hazardous Materials Impact: Impacts from the generation, transportation, storage, and disposal of hazardous materials within the Baseline Developed Area and the Planned Urbanizing Area could contribute to the cumulative impact of past activities where spills or contamination have occurred.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Urban Area General Plan policies as described as items HM-3 - HM-26 in Chapter V of the Master EIR, including policies V-M.2 and V-E.3, require avoidance of impacts in new development. In addition, federal and state laws regulating the transportation, storage, disposal, and clean-up of hazardous materials and wastes, including those programs administered by Stanislaus County, are described in Section V-16 of the Master EIR. Together, these reduce the UAGP's contribution to the cumulative impact to less than cumulatively considerable.

Geologic Hazards Impact: New construction could be subject to hazards from expansive soils.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Impacts related to the location of new development on expansive soils within the Modesto planning area would be assessed through the City's development review process and mitigated through UAGP Policy VI-B.2 [a], which requires conformance with the most recent UBC standards; and UAGP Policy VI-E.1 [a], which requires the preparation of site-specific geotechnical studies for new subdivisions. With these policies and their outcomes in place, impacts related to expansive soils would be reduced substantially, and any residual impact is considered less than significant.

Energy Impact: Continued development in the Planned Urbanizing Area would increase demand for energy.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Continued development within the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of the increase in population of 1.7 times that of the current population. UAGP Policies described as items E-6 through E-42 in Chapter V of the Master EIR would promote energy-saving strategies and would help to reduce energy-related impacts resulting from continued development of the Modesto planning area. Title 24 CCR (California Building Standards – including energy efficiency standards) also would reduce energy use and infrastructure impacts by ensuring that continued development in the UAGP would not exceed local, state, and federal energy standards for new construction. Additionally, the City, in partnership with the Modesto Irrigation District, is in a better position to manage its own energy supply portfolio and ensure that supplies are adequate for its users than are similar cities that do not have access to hydroelectric power. However, these measures cannot be quantified in order to determine whether the impact has been reduced to a less than significant level on a direct or cumulative level. No additional feasible mitigation is available to reduce this impact to a less than significant level or to reduce the UAGP's contribution to the cumulative impact to less than considerable, and the impacts remain significant and unavoidable.

Visual Impact: Continued development in the Planned Urbanizing Area would alter the visual character of the area.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The UAGP would allow urban development on currently flat or vacant land or land that is developed with agricultural uses. Such new development would change the visual character of the land. Implementation of UAGP Policy III-C.1 (h) would help to ensure the visual compatibility of new development: “Establish and maintain an orderly and compatible land use pattern. Evaluate land use compatibility, noise, traffic, and other environmental hazards when making land use decisions.”

Overall, the UAGP incorporates policies described as items VR-2 – VR10 in Chapter V of the Master EIR place value on the preservation of visual resources and important vistas and viewsheds. The proposed planning principles encourage the visual enhancement of neighborhoods, planning districts, and parks. The UAGP has specific policies guiding the visual quality of riverside parks under the proposed River Greenway Program, which emphasizes the preservation of views from these parks, which would include the City's two river parks, Dry Creek Park and the TRRP. With implementation of these policies, the impact is reduced to a less than significant level.

Visual Impact: Continued development in the Planned Urbanizing Area would increase light and glare and contribute to a cumulative impact.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Adoption of the Growth Strategy Diagram for the Planned Urbanizing Area, as presented in Chapter II of the Master EIR, would lead to new development in areas that are currently vacant or used for agricultural purposes. This would lead to the introduction of light and glare in areas that are not illuminated currently. Additionally, the adoption of proposed UAGP actions and policies that would lead to an expanded street system and enhanced transit system would increase light and glare in the planning area. The City has adopted Guidelines for Small-Lot Single-Family Residential Developments and Design Guidelines for Commercial & Industrial Development that include standards for the design of outdoor lighting fixtures. These standards (UAGP Policy III-C.3[j]) limit the size of fixtures and require that fixtures focus their light to avoid spilling onto nearby properties. This will reduce the potential for light and glare impacts from new development in the Planned Urbanizing Area, however, the impacts will not be reduced to a less than significant level. No additional feasible mitigation is available to reduce the UAGP's contribution to the cumulative impact to less than considerable.

Climate Change Impact: Continued development in the Planned Urbanizing Area would increase energy consumption and vehicle miles traveled (VMT) in the City and region, increasing the volume of greenhouse gas (GHG) emissions generated in the City and region and contributing to a cumulative impact.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Increased energy use and VMT from future development under the amended UAGP will contribute GHG emissions that add to the existing problem. As part of the traffic analysis prepared for the Master EIR, VMT in the planning area is estimated to reach 12,447,000 by 2025. This represents an 82 percent increase over the estimated 2005 VMT. Therefore, future development under the UAGP will make a cumulatively considerable contribution to global climate change. UAGP policies described as items CL-3 – CL-24 in Chapter V of the Master EIR will reduce the levels of GHG emissions that might otherwise result from the projected level of growth; however, these will not reduce the UAGP's contribution to the cumulative impact to less than considerable, and its contribution to this cumulative impact will remain significant and unavoidable.

Because the state has not adopted its full slate of regulations intended to reduce GHG emissions to 1990 levels, there is no guidepost by which to measure whether local general plans would interfere with the ability to meet that objective. However, the level of GHG emissions reduction needed (73 million metric tons or 15 percent below the 2007 emissions level) in the face of an anticipated 17 percent increase in California's population by 2020 establishes a formidable target. The extent of reductions required will necessitate utilizing local land use regulations to minimize new GHG emissions by improving energy conservation and reducing VMT through sensitive urban design and planning.

Growth-Inducing Impact: The Urban Area General Plan will have a growth-inducing impact by removing regulatory obstacles to growth.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

State Planning Law requires each city and county to adopt a general plan for its future development. This general plan must consider land use, transportation, housing, conservation, open-space, noise, and safety issues. Under the Housing Element, State Law requires the City of Modesto, to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). Fair share housing need allocations are assigned on the basis of population projections for the region. The California Department of Finance projects that the population of Stanislaus County will increase by approximately 56.6 percent by the year 2020 (*Interim County Population Projections* -- June 2001).

State law prohibits the City from adopting a general plan that does not provide for this future growth.

As described in Chapter VI of the Master EIR, the City has adopted a number of policies intended to control the rate of its growth, and to encourage higher-than-usual density of development so that the urban area will develop compactly. These policies will channel the direction and form of growth, but will not prevent it. The impact is significant and unavoidable.

B. FINDINGS SUPPORTING REJECTION OF ALTERNATIVES

The Final MEIR discussed and evaluated a range of alternatives as required by CEQA Guidelines Section 15126.6. In order to reject an alternative, the City must find:

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Master EIR.

Following are the findings supporting rejection of each of the alternatives.

Alternative 1. No Project Alternative: The No-Project Alternative is the continuation of the 1995 UAGP, as amended, into the future. The No-Project Alternative would not include any of the new policies being added to the UAGP with the current update.

Finding for rejection:

Specific legal and fiscal considerations make infeasible the alternative identified in the Master EIR.

Supporting Evidence:

The California Planning and Zoning Law (Government Code Section 65300, et seq.) requires each City to adopt a long-term general plan for its physical development. The general plan is expected to be comprehensive, internally consistent, and have a long-term perspective (Chapter 1, *State General Plan Guidelines*. Office of Planning and Research. 1998) Furthermore, the provisions of the circulation element must be “correlated” with the land use element (Government Code Section 65302(b)). In addition, in a charter city such as Modesto, subdivisions of land, specific plans, development agreements, capital improvement plans, and comprehensive plans must be consistent with the general plan (Government Code Sections 66474, 65454, 65867.5, 65103, and 65300.5, respectively). Generally, a city is expected to update its general plan at least every ten years. The current UAGP Amendment responds to changes in federal, state, and local policies that have occurred since the General Plan was adopted by the Modesto City Council in 1995 and amended in 2003. It is not a comprehensive update to the UAGP. No major land use changes are proposed as part of the amendment. The horizon of the UAGP remains 2025. The amendment to the UAGP would extend the useful life of the UAGP until a comprehensive update is completed.

Since the 1995 adoption of the Urban Area General Plan, the City has revised its job generation estimates, refined its traffic model, and identified numerous cultural resources, among other things. These will change the way in which the City considers land use projects. Accordingly, these changes must be represented in revisions to the General Plan roadway network (in order to maintain correlation with the land use element), cultural resources section, and other policies in the Urban Area General Plan so that they may be reflected in the review of subdivisions, specific plans, and other City actions that require consistency with the General Plan. In order to ensure that the general plan consistently reflects proposed changes to the City’s roadway network, cultural resources preservation policies, and other policies described in Chapter III (Project Description) of the Master EIR, the City is required to incorporate these proposed changes into the General Plan itself.

The California Environmental Quality Act provides that a Master EIR must be examined within 5 years of its original certification to ensure that it continues to reflect the environment and current information about environmental effects

(Public Resources Code Section 21157.6). Since the certification of the Master EIR for the Urban Area General Plan in 1995, the City has consistently cross-referenced new information from later environmental analyses, such as the EIR prepared for the Kaiser Medical Center and the Master EIR for the Wastewater Master Plan, to the Urban Area General Plan Master EIR. Furthermore, the “No Project” alternative would not allow the City to address climate change and State legislative actions by adopting climate change policies into the Urban Area General Plan and implementing them. In order to ensure that its Master EIR meets the spirit, as well as the letter, of the law Modesto is updating its General Plan and certifying this update of its Master EIR.

Alternative 2: No Changes to Street Designations

The proposed UAGP update includes revisions to the currently planned configurations of six streets, Dale Road, Bangs Avenue, Claratina Expressway, Carpenter Road, Claus Road, and Sylvan Avenue. Under Alternative 2, the City would not revise the designations of these streets, and they eventually would be constructed as currently planned. This would reduce noise impacts along those streets in comparison to the proposed UAGP.

Finding:

Specific legal and technical considerations make infeasible the alternative identified in the Master EIR.

Supporting Evidence:

This alternative would reduce proposed transportation improvements proposed in the draft UAGP. Under this alternative greater transportation impacts along those roads would occur than under the proposed project (the draft UAGP). Additionally, the transportation improvements that would not occur would reduce opportunities for non-auto transportation, an essential part of addressing key impacts on traffic, air quality, and climate change, and the objective of many of the policies of the UAGP.

Government Code Section 65300.5 states that “the general plan and elements and parts thereof [must] comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.” Alternative 2 is rejected because it would not provide for bicycle transportation in that it would not alter the designation of Carpenter Road to a principal arterial with bike lanes and would not allow for improved bicycle facilities on some of the other affected roadways. This would make the UAGP internally inconsistent in not complying with policies such as UAGP Policy V-B.6, concerning transportation demand management and encouraging non-auto forms of transportation.

STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code Section 21081 and Section 15093 of the State CEQA Guidelines (14 California Code of Regulations 15000, et seq.), the City of Modesto cannot approve a project for which an Environmental Impact Report (EIR) has been certified which identifies significant unavoidable effects on the environment, unless it adopts a statement of overriding considerations that finds that specific overriding economic, legal, social, technological or other benefits of the project outweigh its significant effects on the environment.

A. SIGNIFICANT UNAVOIDABLE IMPACTS

The Master EIR identified the following adverse effects of the project that cannot be mitigated below a level of significance:

- Traffic and Circulation Needs (direct and cumulative impacts)
- Degradation of Air Quality (cumulative impacts)
- Generation of Noise (direct and cumulative impacts)
- Loss of Productive Agricultural Land (direct and cumulative impact)
- Increased Demand for Long Term Water Supplies (cumulative impact)
- Loss of Sensitive Wildlife and Plant Habitat (cumulative impact)
- Potential Demolition of Significant Historical Structures (direct impact)
- Increased Demand for Storm Drainage (cumulative impact)
- Increased Demand for Energy (direct and cumulative impact)
- Increased Light and Glare (cumulative impact)
- Climate Change (cumulative impact)
- Growth-Inducement

B. STATEMENT OF OVERRIDING CONSIDERATIONS

The City Council has determined that the update Modesto Urban Area General Plan should be approved and that any remaining unmitigated environmental impacts attributable to the Modesto Urban Area General Plan are outweighed by the following specific benefits.

Overriding Considerations Relating To All Significant And Unavoidable Impacts (direct and cumulative impacts)

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The California Department of Finance projects that the population of Stanislaus County will increase by approximately 33 percent by 2020, increasing to 699,144 from its current population of 525,903 and 63 percent by 2030 (projected 2030 population - 857,893) (*State of California, Department of Finance, Population Projections for California and Its Counties 2000-2050, Sacramento, California, July 2007; and State of California, Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — January 1, 2007 and 2008. Sacramento, California, May 2008*). The level of development proposed under the proposed Urban Area General offers the planning benefit of directing how the expected population increase will be efficiently located within the City through compact

development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs. State laws and the countywide growth rate combine to limit the ability of the City to restrict growth. The contributions of individual projects to cumulative impacts, although moderated by policies contained in the Urban Area General Plan, would still result in environmental impacts.

The development associated with the Urban Area General Plan would result in approximately 130,000 new employment opportunities in total within the planning area in the planning horizon year. The increased number of local jobs has the benefit of reducing chronic local unemployment levels that are currently at 10.9 percent (*California Employment Development Department Labor Market Information Division July 18, 2008 REPORT 400 M - Monthly Labor Force Data for California Counties and Metropolitan Statistical Areas June 2008 – Preliminary*), which is more than one and a half times the current statewide average of 7.0 percent. The increase in housing will economically, socially and legally benefit the community by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

The City of Modesto's Redevelopment Plan, adopted in 1991, contains numerous goals and policy statements, which would not be achieved without the promotion of significant employment opportunities. The proposed project benefits the City economically by enabling the creation of nearly 45,000 new employment opportunities and new housing opportunities for 5,700 residents in the central city area.

Primary among these redevelopment goals are the following:

- The replanning, redesign and development of undeveloped areas, which are stagnant or improperly utilized.
- The strengthening of retail and other commercial functions in the Project Area.
- The strengthening of the economic base of the Project Area and the community by the installation of needed site improvements to stimulate new commercial expansion, employment and economic growth.
- The expansion of the supply of housing for low- and moderate-income persons.

Additional Overriding Considerations Relating to Traffic and Circulation Needs, Noise, and Air Quality (direct and cumulative impacts)

The proposed Urban Area General Plan traffic and circulation element and the amendments being proposed are consistent with the Stanislaus County Regional Transportation Plan. Thus, although the project will exceed Level of Service standards along numerous road segments within the Planning Area and contribute to regional cumulative traffic impacts, the it will also contribute to improvements in the movement of goods and people throughout the region and ensure internal consistency within the General Plan and correlation of the Circulation and Land Use elements, as required under Government Code Section 65300.5.

Overriding Considerations Relating to Loss of Productive Agricultural Land (direct and cumulative impact)

Agriculture is a leading industry in Stanislaus County and San Joaquin County; the value of Stanislaus County's agricultural commodities totaled approximately \$1.98 billion in 2005, and San Joaquin County's totaled \$1.74 billion (California Department of Food and Agriculture 2006). The agriculture, forestry, and fishing industries rank second only to the public sector in number of jobs in the San Joaquin Valley, with 181,300 jobs in 2007. In 2005, Stanislaus and San Joaquin Counties ranked as the sixth and seventh most agriculturally productive counties in California, respectively, based on the value of agricultural products sold (California Department of Food and Agriculture 2006). Nonetheless, agriculture is a seasonal occupation and is one reason for Stanislaus County's relatively high unemployment rate. High unemployment rates are common among the agricultural-dependent counties of the San Joaquin Valley, as well as Imperial County (*Civilian Labor Force, Employment and Unemployment*. Employment Development Department. January 15, 2003).

As explained above, the project has the social and economic benefits of encouraging significant new employment opportunities outside of agriculture, as the business parks identified in the Urban Area General Plan are developed. In the planning horizon year, the plan would allow up to 130,000 new employment opportunities in total within the planning area. This will create a more diversified job market. It will also enable the City to meet the economic development goals of its general plan calling for diversification of its economic base and provision of economic development opportunities (Policy II-B.1[a]).

Additional Overriding Considerations Relating to Increased Demand for Long Term Water Supplies (cumulative impact)

The General Plan and Urban Water Management Plan (UWMP) identify a number of actions that the City is currently conducting or planning to implement to reduce demands on the water supply. These measures include Urban Area General Plan policies described as items WS-10 through WS-37 in Chapter V of the Master EIR, which include requirements for water conservation, obtaining new surface water supplies, and implementing a conjunctive groundwater/surface water management program. The project facilitates the City's efforts to implement these actions to conserve and more efficiently utilize the City's existing and future water supplies.

Additional Overriding Considerations Relating to Loss of Sensitive Wildlife and Plant Habitat (cumulative impact)

The policies of the Urban Area General Plan relating to the CPDs and protection of special status species within the riparian corridors and the Planned Urbanizing Areas offer the benefit of enabling the City to undertake comprehensive planning of large areas. This will provide opportunities for programmatic, large-scale approaches to the protection of special status species and their habitats.

Additional Overriding Considerations Relating to Potential Demolition of Significant Historical Structures (direct impact)

Urban Area General Plan policies described as items AH-4 through AH-8 in Chapter V of the Master EIR require protection of archaeological and historical resources within the planning area through implementation of existing federal and state regulations, preparation inventories of significant resources, requiring specific evaluation of potential resources prior to construction, and adopting flexible zoning regulations for historic

structures. The identified impact is associated only with those future projects that may affect existing historic structures. Most historic structures in the City are located in the existing urban core. Effects on existing historic structures would likely occur as a part of the redevelopment and intensification of the existing urban core, consistent with Urban Area General Plan policies directed toward creating more compact development, reducing auto travel, and encouraging non-auto travel including pedestrian and transit modes.

Additional Overriding Considerations Relating to Increased Demand for Storm Drainage (cumulative impact)

Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The level of development proposed under the proposed Urban Area General Plan offers the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

The Urban Area General Plan CPD policies give the City the opportunity to undertake comprehensive planning of large areas identified for future development. This provides the benefit of being able to develop large-scale drainage facilities as part of these plans, in cooperation with other affected agencies. This has the planning benefit of creating programmatic solutions to drainage within those CPDs. The City is currently completing a *Stormwater Master Plan* that will describe the schematic layout of future storm drainage systems in all of the Planned Urbanizing Area. In addition, the City is participating with MID and other local agencies on the preparation of an *Integrated Water Resources Management Plan* that will address water resources planning and management in the region for surface water, groundwater, wastewater, and storm drainage.

Additional Overriding Considerations Relating to Increased Demand for Energy and Air Quality (direct and cumulative impacts)

Urban Area General Plan Policies described as items E-6 through E-42 in Chapter V of the Master EIR would promote energy-saving strategies and would help to reduce energy-related impacts resulting from continued development of the Modesto planning area. Title 24 CCR (California Building Standards – including energy efficiency standards) also would reduce energy use and infrastructure impacts by ensuring that continued development in the Urban Area General Plan would not exceed local, state, and federal energy standards for new construction. Energy use would, however necessarily increase as housing, jobs, and population increase in the City and the region.

Additional Overriding Considerations Relating to Increased Light and Glare (cumulative impact)

The City has adopted *Guidelines for Small-Lot Single-Family Residential Developments* and *Design Guidelines for Commercial & Industrial Development* that include standards for the design of outdoor lighting fixtures. These standards (UAGP Policy III-C.3[j]) limit the size of fixtures and require that fixtures focus their light to avoid spilling onto nearby properties. This will reduce the potential for light and glare impacts from new development in the Planned Urbanizing Area. However, as land uses change from rural and agricultural to urban, light and glare would necessarily increase.

Additional Overriding Considerations Relating to Climate Change and Air Quality
(cumulative impacts)

Development under the proposed Urban Area General Plan will, as it increases vehicle travel and energy use, contribute to the cumulative impact generation of greenhouse gases has been determined to have on climate change. The Urban Area General Plan includes policies and land use design elements designed to reduce the City's use of energy and to reduce auto trips. Given the existing setting and available technology, new development, including construction of housing and public services, and economic activity, will necessarily increase trips and energy use.

EXHIBIT "C"

**FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE URBAN
AREA GENERAL PLAN UPDATE**

<http://www.modestogov.com/ced/projects/gp-meir.aspx>

Original Exhibit "C" kept on file and available from the Modesto
City Clerk's office upon request.