

Chapter II

Implementation and Use of the Master Environmental Impact Report

This chapter describes the requirements for: a master environmental impact report (Master EIR) under state law; how this Master EIR meets those requirements; and, the application of a Master EIR to the analysis of subsequent projects.

A. REQUIRED CONTENTS OF A MASTER ENVIRONMENTAL IMPACT REPORT

Public Resources Code (PRC) Section 21157 states that a Master EIR may be prepared for any of a variety of projects, including, as in this case, a general plan. PRC Section 21157(b) describes the required contents of a Master EIR. This Master EIR complies with the requirements of PRC Section 21157(b) as follows.

1. Public Resources Code 21157(b)(1)

a. Requirement

PRC Section 21157(b)(1) states that a Master EIR prepared by a lead agency must include a “detailed statement as required by Section 21100.”

b. How this Master Environmental Impact Report Implements the Requirement

PRC Section 21100 describes the minimum contents of an environmental impact report (EIR). The Master EIR contains all required components, including a summary, a project description, an analysis of environmental impacts, the identification of feasible mitigation measures, and the identification of a reasonable range of alternatives.

2. Public Resources Code 21157(b)(2)

a. Requirement

PRC Section 21157(b)(1) states that a Master EIR prepared by a lead agency must include:

A description of anticipated subsequent projects that would be within the scope of the master environmental impact report, that contains sufficient information with regard to the kind, size, intensity, and location of the subsequent projects, including, but not limited to, all of the following:

(A) The specific type of project anticipated to be undertaken;

- (B) The maximum and minimum intensity of any anticipated subsequent project, such as the number of residences in a residential development, and, with regard to a public works facility, its anticipated capacity and service area;
- (C) The anticipated location and alternative locations for any subsequent development projects; and,
- (D) A capital outlay or capital improvement program, or other scheduling or implementing device that governs the submission and approval of subsequent projects.

These requirements have been clarified by Section 15176(d) of the State CEQA Guidelines. This section provides that, with respect to items A–C above, where the project is a general plan or general plan update, the anticipated subsequent projects are described adequately when the general plan identifies the land use designations and the permissible densities and intensities of use. Regarding item D, above, a Master EIR may explain why common planning considerations render it impractical to identify a capital improvements program or other scheduling device at the time the Master EIR is prepared.

b. How this Master Environmental Impact Report Implements the Requirement

The anticipated subsequent projects for this Master EIR are: private development projects, such as subdivisions and conditional use permits; public development projects, such as capital improvement programs and infrastructure-related items; and, projects, such as Specific Plans that enable future private projects. The types of anticipated subsequent projects are identified later in this chapter and in Chapter VIII of the *City of Modesto Urban Area General Plan* (UAGP).

Referencing the UAGP, the Master EIR identifies permissible densities and intensities of use for each land use designation. Proposed amendments to the UAGP are discussed in Chapter III, *Project Description*. The UAGP is incorporated herein by reference.

The UAGP provides for the phasing of future development of the Planned Urbanizing Area through the adoption of individual Specific Plans. This fulfills the requirements of subdivision D of PRC Section 21157(b)(2). Timing for individual Specific Plans, annexation and development depends on market demand.

3. Public Resources Code Section 21157(b)(3)

a. Requirement

PRC Section 21157(b)(3) states that a Master EIR must include:

A description of potential impacts of anticipated subsequent projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master environmental impact report. This description shall not be construed as a limitation on the impacts which may be considered in a focused environmental impact report.

b. How This Master Environmental Impact Report Implements the Requirement

Each of the discussions of individual environmental issues in Chapter V (e.g., traffic, air quality, et al.) discloses the potential impacts for which sufficient information to support a full assessment is currently unavailable. In addition, the Master EIR establishes the assumptions for determining whether a subsequent project is within the scope of the Master EIR and whether the Master EIR is considered current at the time that project is considered.

B. CITY OF MODESTO URBAN AREA GENERAL PLAN GROWTH STRATEGY

The UAGP Growth Strategy Diagram identifies three subareas within the overall Modesto planning area: the Downtown Area, the Baseline Developed Area, and the Planned Urbanizing Area. These are illustrated in Figure II-1. Application of the Master EIR analyses and mitigating policies varies among these areas. The City's procedures are described as follows.

1. Downtown Area

Downtown has been the focal point of recent planning and zoning efforts, such as establishing the Downtown Zones that facilitate increased development potential both in terms of density / intensity, and in accommodating a broader range of land uses and development types. The purposes of focusing on Downtown for new growth and development are to enhance the economic vitality of the City, reduce costs associated with provision of services and reduce the potentially negative environmental consequences associated with the sprawl-type development patterns that have been commonplace throughout the region over the past century.

Within Downtown, the UAGP would reflect existing zoning. As a result, this area generally would be developed according to the existing zoning designations. If a subsequent project within this area conforms to the proposed UAGP, the initial study for the project would find it to be within the scope of this Master EIR unless there could be a project-specific impact that was not analyzed in the Master EIR. No further environmental review would be required, and the Downtown area would be exempt from traffic Level of Service standards.

All feasible mitigation measures appropriate to the project (as identified in this Master EIR) would be incorporated into the project, and public notice indicating that the City intends to use the Master EIR for the project would be provided. Should the project be approved, including certification of the Master EIR, the City would file a Notice of Determination. (PRC Section 21152)

2. Baseline Developed Area

Within the Baseline Developed Area, the UAGP reflects existing zoning. As a result, this area generally would be developed according to the existing zoning designations. If a subsequent project within this area conforms to the proposed UAGP, the initial study for the project would find it to be within the scope of this Master EIR unless there is a project-specific impact that was not analyzed in the Master EIR. No further environmental review would be required.

All feasible mitigation measures appropriate to the project (as identified in this Master EIR) would be incorporated into the project, and public notice indicating that the City intends to use the Master EIR for the project would be provided. Should the project be approved, including certification of the Master EIR, the City would file a Notice of Determination. (PRC Section 21152)

3. Planned Urbanizing Area

The Planned Urbanizing Area encompasses the Comprehensive Planning Districts (CPDs) identified in Chapter III of the proposed UAGP amendment. This area would accommodate most of the City's growth through 2040. So that development proceeds in an orderly fashion, development in each CPD would be restricted until a Specific Plan(s) for that CPD has been adopted by the City. The Specific Plan would implement the UAGP policies identified in Chapter III of the UAGP and establish development policies specific to that CPD. This includes the policies requiring adoption of one or more specific plans to specify the intensity and location of development within the CPD. In conjunction with the Specific Plan process, additional environmental analyses and documentation would routinely occur.

C. ANTICIPATED SUBSEQUENT PROJECTS

Certification of a Master EIR streamlines the analysis of subsequent projects that are within the scope of that Master EIR. The mitigation measures identified in the Master EIR, in conjunction with the policies of the UAGP, will be applied to those subsequent projects as conditions of approval.

In order to be considered for streamlined environmental review, "anticipated subsequent projects" must be identified in the Master EIR. Twelve (12) types of subsequent projects are hereby declared to be "within the scope of the Master EIR," as defined in PRC Section 21157.1. Unless otherwise stated, the City would be the lead agency for each of these subsequent projects.

Except as may be described in Chapter III, *Project Description*, none of these subsequent projects are being considered in conjunction with the UAGP Amendment being analyzed as part of this Master EIR. At such time as they are considered, these subsequent projects would be subject to the preparation of an initial study that would determine whether they are "within the scope of the Master EIR." The initial study also would determine whether they have been adequately described in the Master EIR or whether a mitigated negative declaration or focused EIR must be prepared.

The Master EIR's use in analyzing subsequent projects is limited once the Master EIR is five (5) years old or if a new project brings to light information that would affect the adequacy of the Master EIR's analyses. These conditions are described in PRC Section 21157.6(a) as follows.

- (1) The certification of the master environmental impact report occurred more than five years prior to the filing of an application for the subsequent project.
- (2) The filing of an application for the subsequent project occurs following the certification of the master environmental impact report, and the approval of a project that was not described in the master environmental impact report, may affect the adequacy of the environmental review in the master environmental impact report for any subsequent project.

PRC Section 21157.6 explains how this limitation can be avoided.



GENERAL PLAN PROGRAM

Figure II-1
PROPOSED GROWTH
STRATEGY DIAGRAM

LEGEND

DESIGNATIONS

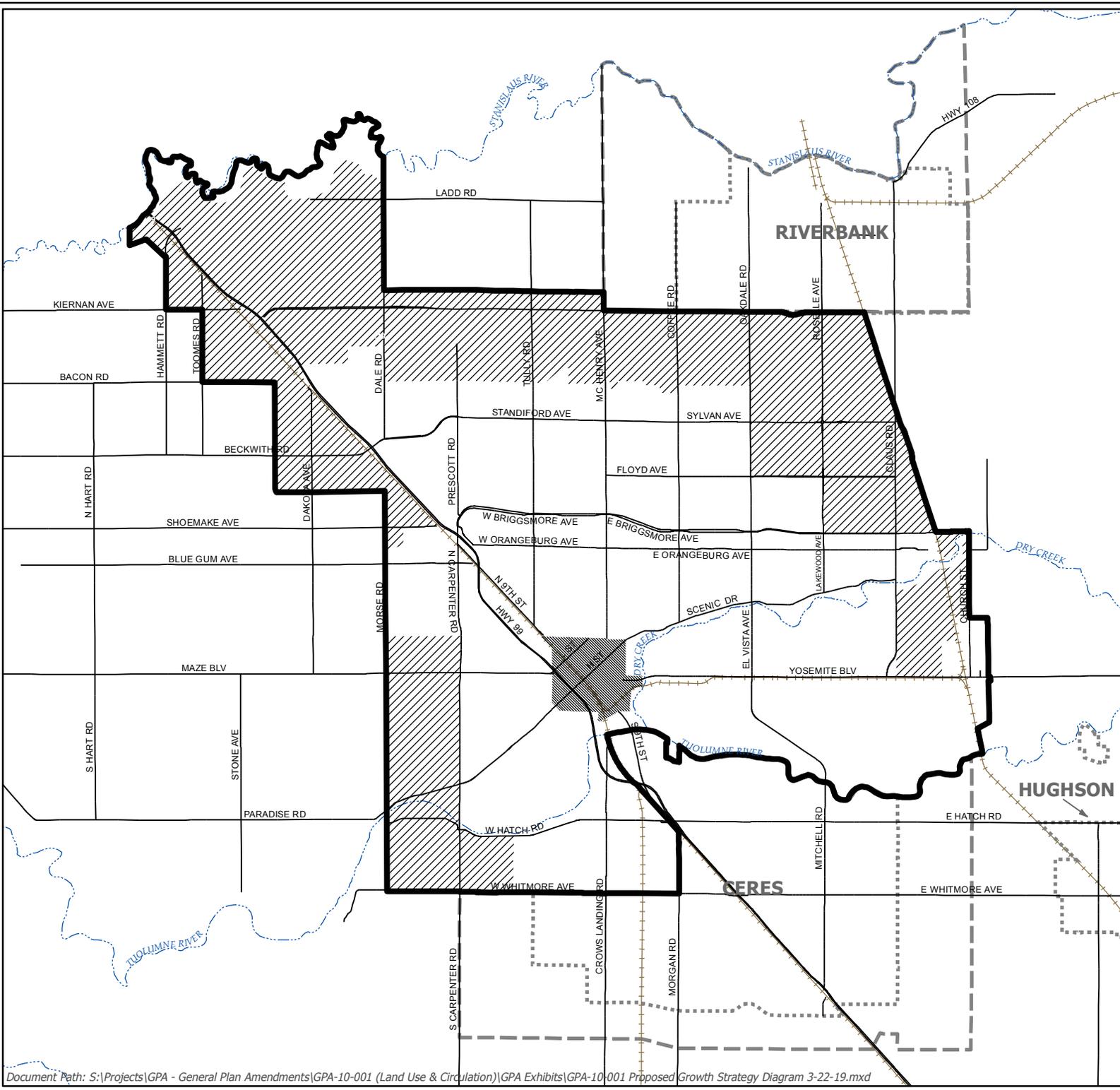
-  BASELINE DEVELOPED AREA
-  DOWNTOWN AREA
-  PLANNED URBANIZING AREA

BOUNDARY LINES

-  GENERAL PLAN
-  ADJACENT COMMUNITY BOUNDARY - GP
-  ADJACENT COMMUNITY BOUNDARY - SPHERE

REFERENCE POINTS

-  RIVER
-  RAILROADS



- (b) A master environmental impact report that was certified more than five years prior to the filing of an application for the subsequent project may be used for purposes of this chapter to review a subsequent project that was described in the master environmental impact report if the lead agency reviews the adequacy of the master environmental impact report and does either of the following:
 - (1) Finds that no substantial changes have occurred with respect to the circumstances under which the master environmental impact report was certified or that no new information, which was not known and could not have been known at the time that the master environmental impact report was certified as complete, has become available.
 - (2) Prepares an Initial Study and, pursuant to the findings of the Initial Study, does either of the following:
 - (A) Certifies a subsequent or supplemental environmental impact report that has been either incorporated into the previously certified master environmental impact report or references any deletions, additions, or any other modifications to the previously certified master environmental impact report.
 - (B) Approves a mitigated negative declaration that addresses substantial changes that have occurred with respect to the circumstances under which the master environmental impact report was certified or the new information that was not known and could not have been known at the time the master environmental impact report was certified.

1. Sphere-of-Influence Amendment

The City's sphere of influence delineates the probable physical boundaries and service area established by the Stanislaus County (County) Local Agency Formation Commission (LAFCo) pursuant to Government Code Section 56425(e). The LAFCo, in determining the sphere of influence, must consider each of the following issues:

- (1) The present and planned land uses in the area, including agricultural and open-space lands;
- (2) The present and probable need for public facilities and services in the area;
- (3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide; and,
- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

The proposed UAGP amendment covers an area larger than the incorporated City limits and Sphere of Influence (SOI). In order to eventually annex those adjoining lands, the City would apply to the LAFCo for amendments to its SOI. Upon annexation to the City, development would occur as outlined in the UAGP.

2. Annexation

Annexation is the inclusion, attachment, or addition of territory to a city (Government Code Section 56017). Like the establishment of a sphere of influence, annexation is subject to review and approval by the LAFCo. Annexation may be initiated by the City or by a petition of property owners, in accordance with the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code Section 56000 et seq.) and LAFCo policy. Annexation to

the City brings the affected land under the land-use controls of the City, in addition to bringing it within the City's service area.

3. Specific Plans

A Specific Plan is a policy document that serves to implement the CPD concept promulgated by Section III-D of the proposed UAGP amendment. A Specific Plan would implement the UAGP by creating a bridge between UAGP policies and the more specific policies that would be applied to individual developments. Ideally, a Specific Plan would direct all facets of future development within the CPD, including the distribution of land uses, the location and sizing of supporting infrastructure, methods of financing public improvements, and standards of development.

The City of Modesto eventually would adopt Specific Plans for all of the CPDs identified in the UAGP. Development under an adopted Specific Plan—whether it is a conditional use permit, subdivision, or rezoning—would be required to conform to the policies and planning diagrams of that plan. Each Specific Plan would conform to the policies of the UAGP. The UAGP explains that one or more specific plans would be adopted within each CPD. The specific plan (or plans), as defined under Government Code Section 65450, would constitute the Specific Plan for that CPD.

4. Zoning

The City's zoning ordinance is Title 10 of the Modesto Municipal Code. Zoning regulates the use of buildings, structures, and land for residences, business, industry, open space, and public uses. It is one means by which the UAGP is implemented. Whereas a general plan establishes policies to guide development, zoning is one of the regulatory methods by which a city puts those policies into action. Under the City's zoning ordinance, each parcel of land is assigned a zoning designation(s) that describes the allowable uses and development standards applicable to that parcel.

5. Miscellaneous Land Use Permits

The City processes a variety of permits that facilitate development. Examples include the following.

a. Development Plan Review (Authorized under Section 10-9.1005 of the Modesto Municipal Code)

Most types of "by-right" development activity (ministerial development projects that are subject only to a staff-level application review / permit issuance process) require a DPR process. DPR applications are reviewed for compliance with the City's various applicable development standards and guidelines. DPR permits are issued routinely and require no public notice, hearing or discretionary approval. DPR application denials may be appealed to the Planning Commission per MMC Section 10-9.301.

b. Conditional Use Permits (Authorized under Section 10-9.701 of the Modesto Municipal Code)

These are discretionary permits through which the City considers whether to approve a particular use of land and what conditions to place on an approval. The range of possible conditional uses is established under the zoning ordinance, as are the requirements for public notice and hearing. Each year the City considers many conditional use permit applications, submitted primarily by private applicants.

c. Variances (Authorized under Section 10-9.601 of the Modesto Municipal Code)

A variance is a limited exception from the standards normally applicable under the zoning ordinance for which special circumstances exist such that the affected property does not enjoy the same benefits as nearby properties in the same zone. The standards by which to judge the validity of a variance request, as well as the requirements for public notice and hearing, are established by the zoning ordinance. Each year the City considers many variance requests, submitted primarily by private applicants.

d. Building Permits (Authorized under Title 9 of the Modesto Municipal Code)

With few exceptions, before construction can be started, a building permit must be obtained from the City. The permit establishes that construction is taking place in accordance with accepted building codes. Building permits are issued routinely and require no public notice or hearing.

6. Subdivisions

The division of land for sale, lease, or financing is governed by the state Subdivision Map Act (Government Code Section 66410, et seq.), as administered by the City's subdivision regulations (Section 4-4.4101 et seq. of the Modesto Municipal Code). The creation of four or fewer lots is a minor, or parcel map, subdivision. The creation of five or more lots is a major subdivision and generally subject to more intensive development standards. Subdivisions are another means of implementing the UAGP and cannot be approved unless consistent with the UAGP.

7. Development Agreements

A development agreement is a contract between the City and a developer that establishes vested rights to develop property in a particular manner under the rules in existence at the time the agreement is entered into. Development agreements are voluntary, so in most cases the City only enters into an agreement if the developer agrees to certain concessions. A development agreement is effective for the period of time established in the agreement (usually ten to 20 years). Government Code Section 65865 et seq. establishes the rules for these agreements.

8. Capital Improvement Program

The City's Capital Improvement Program (CIP) guides the funding and construction of all public improvements constructed by the City, including roads, wastewater treatment facilities, water lines, and parks. Government Code Section 65401 provides that public works projects must be reviewed by the City for conformity with the UAGP. The CIP embodies this review. The CIP would address subsequent projects in all three subareas.

9. Parks Facilities Plans

The City Parks, Recreation and Neighborhoods Department is responsible for constructing and maintaining public parks and recreation facilities throughout Modesto. To guide development of these facilities, the City uses a variety of tools, including park master plans and design development reports for neighborhood, community, and regional parks; *Modesto Non-Motorized Transportation Master Plan*; *Tuolumne River Regional Park Master Plan*; and the *City of Modesto Design Standards for Dual Use Flood Control/Recreation Facilities* manual. As is the case with the CIP, parks facilities plans are subject to review for consistency with the UAGP pursuant to Government Code Section 65401.

10. Household Hazardous Waste Element

Under the California Integrated Waste Management Act, the City is required to adopt a household hazardous waste element. This is not a UAGP element, but rather an element of the County's integrated waste management plan (IWMP). This element identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes that are generated by City households and should be separated from the solid waste stream. PRC Section 41500 requires the Modesto City Council to submit its household hazardous waste element to the County. The household hazardous waste element applies citywide and affects all three planning subareas.

11. Source Reduction and Recycling Element

The Integrated Waste Management Act also requires the City to adopt a source reduction and recycling element (SRRE) to show the methods by which the City will reduce the amount of solid waste being disposed of by city residents. This is also an element of the County's IWMP and must be submitted to the County for inclusion in the plan. The SRRE applies citywide and affects all three subareas.

12. Public Facilities Financing Plans

Local governments have a number of options available for financing public facilities such as streets, sewers, water, drainage, schools, parks, fire and police stations, and public utilities. Examples of these options currently used or contemplated by the City include Mello-Roos community facilities districts, Landscaping and Lighting Act and other assessment districts, Capital Facilities Fees programs, Area of Benefit procedures, and long-range financial plans.

Virtually all of these public facilities are or will be programmed for construction under a policy document such as a master plan or the capital improvements program mentioned in Section C-9 above. Because the environmental review for these facilities will be undertaken with the policy documents, which describe the physical change resulting from the facilities, the financing of these facilities will not trigger subsequent environmental review. The financing is outside the definition of “project” under PRC Section 21065.

D. RESPONSIBLE AGENCIES

Pursuant to PRC Section 21157.1(a), a responsible agency may become the lead agency for a subsequent project under the Master EIR. The following are considered responsible agencies for the purposes of this Master EIR (typical permits or actions that qualify the following as responsible agencies are listed in parentheses).

1. Stanislaus County Local Agency Formation Commission (sphere of influence amendment and annexation)
2. Stanislaus County Planning and Community Development (airport land use plan, IWMP, rezoning, County General Plan, or community plan amendment)
3. California Department of Fish and Wildlife (streambed alteration agreement and incidental “take” permit)
4. California Department of Public Health (water supply permits)
5. California Department of Transportation (road widenings, highway encroachment permits, and airport expansion)
6. State Lands Commission (lease of public trust lands)
7. State Water Resources Control Board (biosolids permits)
8. State Department of Water Resources, Reclamation Board (floodplain and levee encroachment permits)
9. Regional Water Quality Control Board (waste discharge requirements, National Pollutant Discharge Elimination System permits, and Clean Water Act certifications)
10. California Public Utilities Commission (construction or alteration of a railroad crossing)
11. Modesto Irrigation District