

## **Section VIII Implementation**

Previous chapters focused on the analysis and issues of providing public infrastructure, facilities, and services needed to serve the Kiernan Business Park Specific Plan. The purpose of this chapter is to provide for the implementation of the Kiernan Business Park Specific Plan that addresses the provision of public infrastructure, facilities and services. Various implementation policies and procedures are established for the area of Public Infrastructure, Public Facilities and Service.

### **A. Overview**

The implementation of the Kiernan Business Park Specific Plan must insure that public infrastructure is constructed in a timely and logical manner. Public infrastructure must be provided prior to or concurrent with development. Section 3.E-F Public Facilities Infrastructure Concept Plan describes the conceptual infrastructure plan for the Kiernan Business Park Specific Plan. Prior to Project development, a Facilities Master Plan (FMP), and Infrastructure Financing Plan (IFP) providing details of the required major public infrastructure will be adopted. This section provides the means by which these plans may be established and implemented.

### **B. Modesto General Plan Policies**

This chapter of the Kiernan Business Park Specific Plan is consistent with the stated goals and policies of the City of Modesto General Plan including applicable overall implementation and financing policies listed below:

### **C. Overall Public Infrastructure**

The provision of public infrastructure includes the necessary on-site and off-site facilities. Right-of-ways and easements needed for the infrastructure shall be provided to the public consistent with City standards and policies. The major or "backbone" infrastructure is defined as infrastructure that benefit the broader specific plan area and is further defined below. The "backbone" infrastructure is financed generally by a combination of fees, project-wide financing program, and developer

funding. The "project specific" infrastructure is defined as infrastructure that primarily benefit the project site such as the local streets and the required utility lines. The "project specific" infrastructure is the responsibility of the developer to install. The types of public infrastructure that must be provided with development are generally described as follows:

**1. Streets**

The street system includes arterial, collector, local, and private streets. The specific improvements include but are not limited to pavement, curb, gutter, sidewalk, separated bike paths, landscaping, traffic control devices, gateways, and other traffic related accessories. The landscaping is included within the street right-of-way, landscape lots, and gateways.

**2. Sewer**

The sewer system includes, but is not limited to, sewer plant and on- and off-site improvements to sewer trunk lines, sewer interior lines, lift stations, and other sewer system accessories.

**3. Water**

The water system includes, but is not limited to, on- and off-site improvements to water transmission lines, interior water mains, other water distribution lines, water supply wells, and other water system accessories.

**4. Storm Drainage**

The storm drainage system includes a combination of on-site drainage for private property and street drainage via vegetative swales and infiltration trenches.

**5. Utilities**

Different utility companies provide electricity, gas, telephone, and cable services. These utilities are generally provided within the street right-of-way or next to the street within a public utility easement. Utilities are planned and installed with the construction of the street.

## **6. Other Facilities**

Police and Fire Department facilities and other community buildings and sites, if determined to be necessary.

Development of "backbone" infrastructure in Kiernan Business Park Specific Plan shall comply with the following policies:

1. No entitlements such as, but not limited to, Final Development Plan, and Tentative Map may be approved until the Facilities Master Plan and Infrastructure Financing Plan are adopted by the City Council.
2. Backbone and project specific infrastructure shall be constructed prior to or concurrent with development.
3. Backbone infrastructure phasing shall be established by the approved Facilities Master Plan and Infrastructure Financing Plan.
4. A funding mechanism (such as formation of or annexation to a Community Facilities District or Assessment District) as determined by the Infrastructure Financing Plan to finance the backbone infrastructure and maintenance of appropriate infrastructure shall be in place prior to the recordation of any Final Map, or the issuance of a building permit, whichever occurs first.

### **D. *Facilities Master Plan and Infrastructure Financing Plan***

A Facilities Master Plan (FMP) provides a detailed analysis and description of the infrastructure required to serve the Specific Plan area. The FMP includes calculations and engineering drawings that provide the sizing and capacity of facilities and the layout in relation to the properties. The infrastructure components as broadly described above are street system, sewer, water, storm drainage and public utilities. The FMP is based on the infrastructure concepts of Section III of this Specific Plan.

The Infrastructure Financing Plan (IFP) identifies costs and provides the funding mechanism to construct the public infrastructure identified in the FMP. The primary funding

mechanisms for the infrastructure shall be the creation of a bonded Community Facilities District (CFD) and existing city fees. The IFP coordinates the developer's improvement responsibility and existing fees when establishing the financing plan for infrastructure.

The FMP and IFP are separate "stand alone" documents from the Specific Plan

**E. *Phasing / Sequence of Infrastructure and Improvements***

The Specific Plan contains four distinct development areas: Kiernan East (bounded by Kiernan, Dale Bangs and American), Kiernan South (bounded by Bangs, Dale, Pelandale and American) Kaiser Area (bounded by Kiernan, the western boundary of the City, MID Lateral 6 and Dale), and Kiernan West (The remainder of the Specific Plan Area, as described). Each area roughly constitutes a separate phase of development. However, The FMP and IFP will define the phasing for the "backbone" infrastructure. There may be more than four phases for the provision of the "backbone" infrastructure as determined by the Facilities Master Plan and Infrastructure Financing Plan.

**F. *Volunteer Land Dedication Program***

The Facilities Master Plan and Infrastructure Financing Plan will also quantify the right-of-way or other public lands needed to construct the "backbone" infrastructure. Since each area in the Kiernan Business Park Specific Plan cannot individually or independently construct a self contained infrastructure system, a Volunteer Land Dedication Program, or VLDP, may be considered for the Specific Plan area.

The primary purpose of the VLDP is to identify the acreage of public lands required for construction of the "backbone" infrastructure and establish a program to aid in the reduction of public land costs. The VLDP is a mechanism used to calculate the acreage that each landowner who develops property in Kiernan Business Park Specific Plan is required to provide to the community as his or her own fair share of "volunteered" contribution for the benefit and privilege of developing their property. The VLDP will

analyze gross developable acreage, the amount of public land needed to develop the KIERNAN BUSINESS PARK SPECIFIC PLAN, create a fair share contribution percentage, and provide a mechanism for equalizing the dedication responsibilities across the project.

Fully developed properties within the Specific Plan, including any fully developed residential areas, will be excluded from any VLDP. Any VLDP will need to be adopted by ordinance, and will be a companion to the FMP and IFP. In the event a VLDP is not adopted, other options of land dedication and/or purchase will be considered.

#### **G. Infrastructure Funding Mechanisms**

The following funding mechanisms are available for Kiernan Business Park Specific Plan area:

##### **1. Community Facilities Districts**

The City intends to create Community Facilities Districts ("CFDs") or similar funding mechanism to fund construction and maintenance of backbone infrastructure, community facilities and possibly community services necessary to serve the Kiernan Business Specific Plan Area. The purpose of this funding mechanism will be to ensure the City is collecting all funds necessary to construct and maintain the regional, backbone infrastructure and community facilities necessary to serve the Specific Plan Area. This CFD may include police and fire services as well. The FMP/IFP and subsequent documents shall establish the cost allocation and tax or fee structure for all properties within the Specific Plan area. It is the policy of the City Council that no new development may occur without forming or annexing to the applicable CFD(s) or other capital and maintenance funding mechanisms adopted by the City at the applicable rate(s), and by paying all applicable fees and taxes.

No area plan, final map, final development plan, building permit or other development entitlement for any property within the Specific Plan area shall be deemed consistent with this Specific Plan until and unless the affected parcel is required to form or

annex to the applicable CFD(s) or other funding mechanism at the applicable rate(s) and pay all applicable taxes and fees. As a condition of approval for development of any parcel within the Specific Plan area, the property owner and/or developer shall be required to take all actions necessary to secure and establish a City Mello-Roos CFD for the Kiernan Business Park Specific Plan for capital improvements and ongoing maintenance (the CFD may include police and fire services) as set forth in the adopted FMP/IFP for the Specific Plan area or, if said CFD has been established for the Kiernan Business Park Specific Plan, the property owner and/or developer shall take all actions reasonably necessary to annex its property to said CFD, which shall actually result in annexation of its property to said CFD at the tax rate for the zone of said CFD to which the property is ultimately annexed; or, alternatively, in the event a CFD is not formed or complete annexation of the property does not occur for any reason, the property owner and/or developer may provide a funding mechanism for said capital improvements and ongoing maintenance (and possibly police and fire services) to the same general standard as other similar capital improvements, ongoing maintenance and community services financed by said CFD, subject to approval of the funding mechanism by the City, which approval shall not be unreasonably withheld. Payment of the CFD tax(es) shall be required prior to issuance of a building permit. Each parcel shall also be required to pay all CFF, sewer and water capacity charges and other development fees applicable to the property in accordance with City ordinances, resolutions, regulations, policies and procedures. Undeveloped properties may be required to annex to the CFD in accordance with the FMP/IFP for the Specific Plan Area. It is essential to provide the necessary backbone infrastructure and community facilities at the earliest possible opportunity in order to ensure orderly development, mitigate potential traffic issues, and maintain appropriate service standards for the Specific Plan area. Debt financing in the CFD for the Specific Plan area may be considered for funding the construction of backbone infrastructure and community facilities necessary to serve the Specific Plan area. Developers of properties that proceed ahead of the infrastructure sequencing plan contained in the FMP/IFP may be required to install and fund the costs of extending

backbone infrastructure to their projects, subject to future reimbursement in accordance with the sequencing and prioritization contained in the FMP/IFP. Some developments may need to construct roads, sanitary sewer, water and storm drainage facilities through areas that remain undeveloped.

## **2. Capital Facilities Fees**

Capital Facilities Fees pay for citywide improvements for streets, transit, police and fire facilities, parks, air quality, general government, and administration.

## **3. Water Fees**

There are three primary water fees that Kiernan Business Park Specific Plan developers will have to pay for the project's fair share of water service to the project. Water Capacity Charge pays for pump stations, wells, fire hydrants, and water mains 10 inches or larger. Water Connection for Main Extension Fee pays for new water main to an existing live main for connecting a new subdivision to an existing water main. The Water Service Installation Charge pays for installing the water service from the water main to the property line.

## **4. Sewer Fees**

There are several primary sewer fees that will apply to new development for the project's fair share of sewer service. The Sewer Capacity Charge pays for the Wastewater Treatment Plant and sewer trunk system throughout the City. The Subtrunk Charge pays for the construction and maintenance of subtrunk lines. The Lateral Charge pays for specific sewer laterals that extend from the street or alley to the specific property.

The near term wastewater treatment system improvements needed to serve the TSP include the installation of the Dissolved Air Flotation (DAF) system and the first phase of the tertiary treatment facility. The DAF is needed for existing deficiencies and the first phase of the tertiary treatment facility is needed for new near term development. The DAF may allow capacity for development to proceed in advance of the Phase 1A

tertiary completion. These improvements would provide a total capacity of 5.3 million gallons per day to serve the new near term development within the City of Modesto including the development of the TSP. The City updated the sewer rates and connection fees in the Summer of 2007 and bond for the first phase tertiary treatment facility based on the updated fees. If funding is not available in a timely manner, then the project sponsors would be required to fund and construct the necessary improvements to serve the project and some of the cost may be subject to reimbursement.

#### **5. Developer Installation**

Developers are responsible to install the project infrastructure including street dedication and improvements within the Plan Area and those necessary off-site improvements. The size, location, and design of the project infrastructure will be determined at the time of Tentative Map, Final Development Plan and/or Administrative Final Development Plan approval.

#### **6. Other Financing Options**

The IFP will consider other financing options that may include, but are not limited to: Landscape and Lighting Districts, Assessment Districts, Area of Benefit Districts, and/or other Long-Range Financing Strategies.

### **H. *Public Infrastructure Design Standards***

Required Kiernan Business Park Specific Plan public infrastructure and other public facilities, including, but not limited to streets, sewer, water, storm drainage and community landscaping shall be in accordance with the City of Modesto Standard Specifications, 2006 Edition, or as amended by the City of Modesto and as amended by the KBPSP. The applicable standards shall be those in effect at the time of vesting. Landscape Design shall be in accordance with Chapter 1 of Title 12 of the Modesto Municipal Code and the Kiernan Business Park Specific Plan. Standards in the Kiernan Business Park Specific Plan prevail where there is a conflict. Prior to development of the Specific Plan area, developer shall install, repair, replace or upgrade all public infrastructure necessary to serve existing

development so that it substantially complies with current City standards.

## **I. *Infrastructure Maintenance***

### **1. *Public Facilities***

Sewer, water, storm drainage and roadways will be owned and maintained by the City of Modesto upon acceptance of improvements. A CFD is authorized to finance the services authorized by California Government Code Section 53313, et seq, as may be amended from time to time. Services may include maintenance of parkways, and open space, and storm drainage and flood control facilities. All applicable properties must participate in the maintenance CFD. The IFP identifies what eligible public facilities will be maintained by the CFD or other funding mechanisms.

The Modesto Irrigation District (MID) currently owns and maintains a number of irrigation facilities which pass through or serve the project site. During the development of the Kiernan Business Park Specific Plan, these facilities will be avoided, relocated, or replaced, as determined necessary as part of the individual project review and approval process. Whether the facilities remain in place as they currently exist, or are relocated or replaced, MID owned facilities will continue to be maintained by the MID. Dry utility facilities will be owned and maintained by the respective utility companies.

### **2. *Private Facilities***

Includes but is not necessarily limited to maintenance of the private parking lots, sidewalks, /pathways, and common landscape areas within the Specific Plan will be the responsibility of the landowner(s).

## **J. *Other Public Facilities And Services***

### **1. *Public Safety Services***

Provision of public safety, particularly police and fire services is provided through the City General Fund. The

City is currently considering whether public safety services should be financed through a new financing mechanism. If it is determined that a new financing mechanism should be established to fund public safety services, The TSP will be expected to participate in the new financing mechanism. Provision of public safety, particularly police and fire services, may be funded through a CFD, as authorized by the California Government Code Section 53313, et seq, as may be amended from time to time.

## **2. Public Safety Facilities**

Provision of public safety facilities must be addressed by new development. Public Facilities are funded through the CFF program. Other funding mechanisms may also be considered.