

City of Modesto Capital Facilities Fees Policies and Procedures

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INTENT

In 1987, the City of Modesto established a Capital Facilities Fee (CFF) Program to mitigate the impacts of new development as outlined in §6600 of the California Government Code. The CFF collected may be used for the purchase, construction, expansion, rehabilitation or acquisition of public facilities. New development projects that are assessed a CFF include, but are not limited to, new building and construction projects, commercial building additions and changes of use to more intensive land use categories.

The following policies and procedures (Policies and Procedures) shall guide in the administration of the City of Modesto CFF Program. This administrative manual elaborates upon the administrative directions contained in the Modesto's Municipal Code, California State Code and City Council Resolutions.

ADMINISTRATIVE ORGANIZATION & RESPONSIBILITY

CFF Administrator

The Administrator of Infrastructure Financing Programs shall serve as the CFF Administrator and is charged with the overall administration and oversight of the CFF Program. The CFF Administrator has the responsibility of ensuring all issues relating to the CFF Program are managed in accordance with applicable rules and regulations.

ADMINISTRATIVE REQUIREMENTS

Factors Considered

The City Council has determined that the CFF adopted by the City of Modesto shall be based on the following two factors: (i) reflect full cost allocation to each category of new development of capital facilities necessary to serve growth; and (ii) be reviewed annually to consider an escalation to account for inflation.

Annual Report

Annual reporting of a local agency's impact fee program is required by Government Code §66006. The impact fees collected must be segregated from general and other funds containing fees collected for other improvements. Interest on each impact fee fund or account must be credited to that fund or account and be used only for the purpose for which the impact fee was collected.

California Government Code §66006(b) requires that a local agency make the following information available to the public for each separate impact fee fund on an annual basis and that the local agency review that information at a public meeting. The law also requires the annual report include the following information for the prior fiscal year and be made available within 180 days after the last day of each fiscal year:

- Description of the type of impact fee in the account or fund.

- Identification of the amount of the impact fee.
- The beginning and ending balance of the account or fund.
- The amount of impact fees collected and interest earned.
- Identification of each public improvement on which impact fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with the impact fee.
- Identification of an approximate date by which the construction of the public improvements will commence, if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete.
- Description of each interfund transfer or loan made from the account or fund, including the public improvements on which the transferred or loaned impact fees were expended, and, in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.
- The amount of refunds made due to sufficient funds being collected to complete financing on incomplete public improvements, and the amount of reallocation of impact funds made to administrative costs of refunding unexpended revenues exceeding the amount to be refunded.

In addition to the requirements above, the City Council has determined that the annual report should also contain the following information:

- The cumulative inventory of exempt residential units and the percent of anticipated total exempt units at build-out.
- A comparison of cumulative exempt units to total units built since 1989. During recessions and other times of low production of market-rate housing, it is acknowledged that the cumulative, exempt units may exceed two percent (2%) of the total units built.

Five-Year Report

California Government Code §66001(d) also requires that the local agency make all of the following findings every fifth year with respect to that portion of the account remaining unexpended, whether committed or uncommitted:

- Identify the purpose to which the impact fee is to be allocated.
- Demonstrate a reasonable relationship between the impact fee and the purpose for which it is charged.
- Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements.
- Designate the approximate dates on which the funding is expected to be deposited into the appropriate account or fund.
- In any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable

relationship between the amount of the impact fee and the cost of the public facility or portion of the public facility attributable to the development on which the impact fee is imposed.

Annual Inflationary Adjustments

In an effort to ensure that all fees collected are adequate, an annual inflationary adjustment is applied each year to the CFF Program. The annual inflationary adjustments are:

- Administratively adjusted annually by the CFF Administrator or his/her designee for all land use categories to account for inflation or deflation.
- Based on the annual change in the San Francisco Bay Area Engineering News Record Construction Cost Index through the month of December the year preceding each inflationary adjustment.
- Becomes effective on or about July 1st of each year.

The City will provide at least one (1) meeting with stakeholders and other interested parties at least sixty (60) days in advance of the effective date of the adjustment. While the annual adjustment is an administrative function, the item should be submitted to the City Council for their information.

CFF Program Updates

The imposition of development impact fees requires identification of the facilities to be provided and the fee amounts imposed must not exceed the cost of the necessary facilities. To fulfill this requirement, the City shall undertake periodic studies to identify the facilities needed and their costs.

Land Value Updates

In an effort to keep pace with market conditions affecting the City's ability to construct public facilities, the City shall annually update the land values of its CFF Program. The intent of the annual updates is to ensure that new development pays for its share of future infrastructure necessary to serve the needs of the City.

DETERMINATION OF CFF

CFF is based on specific land use categories. As a matter of policy, a broad range of uses have been generally categorized as being residential, commercial, office or industrial. Table 1 identifies the approved land use categories. Full definitions of approved land use categories can be found in Appendix A. Undefined uses, as outlined in Table 2, are charged at rates that are determined by the CFF Administrator using similar land use determinations.

COLLECTION OF FEES

Calculation and Collection of CFF

As codified in the Modesto Municipal Code, the CFF is collected at the time of building permit issuance. For fee assessments, the Director of the Community and Economic Development Department has the final authority on the determination of land use.

Payments

CFF is collected by the Building Safety Division prior to issuance of a building permit. In the event the payment subsequently proves to be invalid due to insufficient funds, improper execution or for any other reason, the Finance Department shall notify the fee payer, the contractor, and the property owner and a hold shall be placed on the permit and subsequent inspections until the required CFF is paid.

Refunds

If a building permit expires, is revoked, voluntarily surrendered or voided, and no construction or improvement of land has commenced, then the fee payer is entitled to a refund, without interest and less a two and one-half percent (2.5%) administrative fee. Requests for refunds must be made in writing and addressed to the CFF Administrator. Refunds shall be issued within four (4) weeks of the written request.

Protests

In the event a fee payer agrees to pay CFF in protest at the time of building permit issuance, a notification of the protested payment must be made in writing to the CFF Administrator at the time the fees are paid. The protest shall be scheduled for review by the CFF Review Committee and a written response shall be sent to the fee payer.

Appeals

Any individual calculation of the CFF made may be appealed in accordance with the Modesto Municipal Codes 1-4.01 – 1.4.05. Appeals shall be limited to disputes regarding the calculation of CFF due.

EXEMPTIONS, DEFERRALS AND CREDITS

The City of Modesto supports economic development through the growth of Modesto businesses. It also encourages the construction Very Low and Low Income Housing development projects within the City. CFF deferral, credit and exemption programs benefit economic growth and development by allowing the deferral, credit and/or waiver of impact fees.

Credits and Exemptions

In some situations, credits are provided to acknowledge that the expansion, replacement or reconstruction of a building will have no additional impact on facilities needed as a result of

new development. Exemptions are also provided to foster the development of Very Low and Low Income Housing units. CFF Credit and Exemption descriptions, qualifications and requirements are provided in Table 3. With respect to Very Low and Low Income Housing exemptions, the total number of housing exemptions granted are not to exceed two percent (2%) of the cumulative total CFF program housing units. However, it is acknowledged that during recessions and other times of low production of market-rate housing, the cumulative, exempt units may exceed two percent (2%) of the total units built.

Deferrals

The CFF Program allows for two types of deferrals. The first allows non-residential developers to pay a portion of the CFF at the time of building permit issuance and defer payment of the balance over a five (5) year period. The second deferral allows developers of Low Income Housing units to defer payment of CFF for a period of time. Table 4 identifies the CFF deferral program guidelines for Low Income Housing and non-residential development projects. All deferrals require an agreement with the City prior to building permit issuance.

DEVELOPMENT DEDICATIONS

Residential Streets

The collector and local streets required by new development shall be dedicated and improved by the abutting developer in accordance with City Standard Specifications.

Expressways

Expressway improvements shall be constructed as required by the conditions of approval.

- The developer shall be reimbursed the cost of said improvements and right-of-way dedication pending the availability of CFF funds and provided funding for said improvements are included in the CFF Program.
- All reimbursements shall be detailed in a CFF Reimbursement Agreement in advance of construction or dedication in accordance with the municipal code.
- When ***interim improvements*** are required to facilitate current development prior to future expressway improvements, the interim improvements shall be funded and provided by the abutting developer.
- When ***extra facilities*** are required specifically for a particular development at hand (i.e.: deceleration/acceleration lanes, slip ramps, etc.), the extra facilities shall be funded and provided by the abutting developer without reimbursement.

Arterial & Major Collector Streets

Arterial and major collector streets shall be constructed per City Standard Specifications. A standard width of forty (40) feet shall be dedicated and improved to City Standard Specifications. ***In all cases described in this section, the forty (40) foot width shall be measured from the new property line on each side of the street towards the street***

centerline. This dedication is a requirement of development and not subject to reimbursement.

- When a developer is required to dedicate and improve more than the required forty (40) feet, the cost of right-of-way and improvements in excess of forty (40) feet shall be reimbursed to the developer pending the availability of CFF funds and provided funding for said improvements are included in the CFF Program.
- All reimbursements shall be detailed in a CFF Reimbursement Agreement in advance of construction or dedication in accordance with the municipal code.
- When there is an **existing street**, where the forty (40) feet dedication and improvements have been previously made, any additional dedication and improvements shall be subject to appropriate reimbursement to the developer.
- When there is an **existing street** and if the streets have not been previously improved to City Standard Specifications, only the dedication or improvements in excess of forty (40) feet will be subject to the appropriate reimbursement.
- When **extra facilities** are required specifically for a particular development at hand (i.e.: deceleration/acceleration lanes, slip ramps, etc.), the extra facilities shall be funded and provided by the abutting developer without reimbursement.

The City's Standard Specifications can be found online at www.modestogov.com. Appendix B details the City's Street Exaction Policy.

REIMBURSEMENT & OTHER RELATED AGREEMENTS

The planning contained in the City's Capital Improvement Program (CIP) and the CFF Program shall guide the amount and the schedule of reimbursements to be paid from CFF funds for reimbursement. Prior to commencement of any work that is eligible for reimbursement, a Reimbursement Agreement between the developer and the City must be approved per Modesto Municipal Code §8-3.102. A Reimbursement Agreement will be required where the development occurs fronting a planned CFF fund project, or which required CFF funded work off-site. All such work shall be done by developer advances and will be subject to reimbursement pursuant to the terms of the Reimbursement Agreement.

Initial Request for Reimbursement

It is the obligation of the developer, landowner and/or the developer's engineer to submit a request to the CFF Administrator for reimbursement. Requests will not be granted if the dedication or improvements have already been made or started prior to execution of a Reimbursement Agreement. Each request shall include:

- An Engineer's Estimate of the work to be performed that is eligible for reimbursement.
- All exhibits relating to the improvements or right-of-way including the plat and, where applicable, closure calculations.

- Design costs incurred prior to the execution of the Reimbursement Agreement for completed and accepted City-funded facilities as determined and approved by the CFF Administrator.

Reimbursement Agreement

Prior to the issuance of a construction permit and recording of a final map for dedication, the developer will be required to enter into all necessary agreements in a form provided by the City and consistent with these Policies and Procedures. All agreements will be reviewed and approved as to form by the CFF Administrator, City Attorney and others as the City deems appropriate. City Council approval shall be required for all reimbursements over \$49,999.

Timing

The planning contained in the CFF Program and the City's annual adopted Capital Improvement Program shall guide the amount and the schedule of reimbursements to be paid from CFF funds. Furthermore, the CFF Administrator shall determine the fiscal year(s) in which funds will become available and appropriate for reimbursement.

Notice to Proceed

Once the appropriate agreement(s) are executed, a Notice to Proceed shall be issued by the CFF Administrator to the developer to commence construction of reimbursable improvements.

Reimbursement Payments

Upon completion, verification of invoices and acceptance of improvements, reimbursements shall be issued from the applicable CFF fund in the manner set forth in the Reimbursement Agreement.

CONSTRUCTION CONTRACTOR REQUIREMENTS

In retaining construction contractors for work which is reimbursable by the City of Modesto and where a Reimbursement Agreement (or other similar agreement) with the City is less than \$300,000.00, the developer shall abide by the following bid process:

Three Competitive Bids

The developer shall provide three (3) competitive bids. If the developer desires to award to a contractor other than the low bidder, a written request must be submitted to the City. The City may allow this if the developer can provide adequate justification.

Licensing

The developer shall make sure that all contractors and subcontractors are licensed in accordance with §7000 through §7145 inclusive, of the California Business and Professions Code and maintain adequate insurance for any work or services performed. Developer, its

contractors and subcontractors shall have and maintain a City business license during the term of any agreement.

Payment of Prevailing Wages

In accordance with California Labor Code §1770, developer shall require the payment of prevailing wages based on the rates determined by the California Director of Industrial Relations. Unless otherwise directed by the City, developer's construction schedule shall provide adequate time for completion of the work such that no holiday or overtime labor shall be required. The City shall not reimburse developer for any labor costs which exceed the normal and customary straight time rates as described in the City of Modesto General Provisions, §4.19, for the work performed unless the City authorizes the use of overtime or legal holiday time, in advance and in writing.

The developer shall maintain certified payroll records for all labor costs incurred on all City reimbursable work for a minimum period of four (4) years from the issuance of the Notice of Completion. Said payroll records shall be made available to the City or any state regulatory agency for review, audit and inspection or copying upon request.

Indemnification

Developer shall indemnify and hold the City harmless for ensuring that the project is bid and constructed in accordance with City standards, and in compliance with all applicable local, state and federal laws. Developer shall also indemnify and hold the City harmless for any damages, claims or actions arising out of said construction activities in a form approved by the City Attorney and the Risk Manager.

Overtime & Change Orders

The City shall retain the right to be in attendance to inspect all bids and change orders. Any extra work or charges during construction for which reimbursement is sought shall be justified and documented. Except in the case of an emergency, any such charges shall be approved by the City in advance and in writing. In the case of an emergency, any such charges may be authorized by the City if the developer provides adequate justification that an emergency existed and that the extra work or charges incurred were reasonable. Said justification shall be provided within a reasonable time after the emergency ends and prior to reimbursement for any such charges.

TABLE 1 - CFF LAND USE CATEGORIES

CATEGORY	DESCRIPTION
RESIDENTIAL	
Single-Family	Single-family detached homes on individual lots. Density of development is typically ten (10) dwellings per acre or less.
Multi-Family	Multiple-family dwelling units and multi-family residential planned unit developments greater than a density of ten (10) units per acre.
	<ul style="list-style-type: none"> ▪ Duplexes ▪ Triplexes ▪ Mobile Homes ▪ High & Low Rise Apartments ▪ High & Low Rise Condominiums ▪ Medium-Density Developments
Senior Housing	Retirement communities restricted to adults or senior citizens, congregate care facilities, and similar residential uses.
Hotel	Hotel and motel rooms
COMMERCIAL	
Retail	<p><u>Retail, including, but not limited to:</u></p> <ul style="list-style-type: none"> ▪ Convenience Markets ▪ Supermarkets ▪ Drug Stores ▪ Department Stores ▪ New & Used Car Sales ▪ Nursery Sales/Displays ▪ General Merchandise ▪ Building Materials ▪ Lumber Stores ▪ Specialty Retail Stores ▪ Racquetball Courts ▪ Discount Stores ▪ Paint Stores ▪ Hardware Stores ▪ Video Arcades ▪ Health Club ▪ Locker Rooms and Showers <p><u>Restaurants, including, but not limited to:</u></p> <ul style="list-style-type: none"> ▪ Fast Food ▪ Sit Down Restaurants ▪ Bars ▪ Cocktail Lounges ▪ Drinking Establishments ▪ Covered and Enclosed Patio Dining <p><u>Banks:</u></p> <ul style="list-style-type: none"> ▪ Banks ▪ Savings & Loans ▪ Credit Unions <p><u>Other:</u></p> <ul style="list-style-type: none"> ▪ Storage facilities, also known as “mini” storage facilities for personal items and not associated with industrial use.
COMMERCIAL - OTHER	
Church	Structures primarily designed as a place for worship. Also includes church multi-purpose rooms.
Daycare & School	An educational, vocational, daycare facility or gyms for private schools.
Hospital	Structures designed for healing services, both in-patient and out-patient, that includes surgical care of the sick, injured, or physically ill and/or therapeutic treatment for the mentally ill. Included as an integral part of a hospital are laboratories, out-patient departments, training facilities, central service facilities, and hospital staff offices on the same site. The preceding ancillary uses are considered “professional offices” if located off-site, unless a multi-site campus is covered by a P-D zone or hospital uses. Separate sets of offices on the same site for physicians are considered “professional offices”.

CATEGORY	DESCRIPTION
COMMERCIAL - OTHER	
Nursing Home	Structures designed for use as a convalescent hospital, retirement home, or a twenty-four (24) hour care center for seven (7) or more persons in addition to members of the family.
OFFICE	
Medical Office	Offices and clinics devoted to the practice of medical professions or providing medical services, including pseudo-medical services, but excluding hospitals and nursing homes which are treated separately.
General Office	All other types of general and professional offices.
INDUSTRIAL	
Manufacturing, Light Industrial, & Industrial Park	<p>Facilities in which the primary activity is the production of finished items through manufacture, fabrication, processing, packaging, or treatment of raw materials or parts, except heavy industrial uses. Uses which are considered include:</p> <ul style="list-style-type: none"> ▪ Electronics Assembly ▪ Paper Products ▪ Metal Fabricator ▪ Bottling Plant ▪ Cabinet Shop ▪ Machine Shop ▪ Sheet-Metal Shop ▪ Pulp/Paper Mill ▪ Welding Shop ▪ Wholesale Shop ▪ Recycling Facility ▪ Rock Crushing ▪ Stockyard ▪ Tannery ▪ Equipment Rental Yard ▪ Food Processor, Brewery, or Bakery ▪ Junk Handling, Processing, or Storage ▪ Septic Tank and Cesspool Storage ▪ Vehicle Salvaging and Wrecking ▪ Burning Operations for Wood and Lumber Products ▪ Landfill, Waste Product Disposal, and Transfer Stations ▪ Reduction, Processing, Storage of Offal, Dead Animals, Bones, or similar materials ▪ Manufacture, Fabrication, Processing, Treatment of Explosives, Great Products, Chemicals, Chemical Products, and Oil ▪ Material Testing, Labor Manufacturer <p><i>Note: When a development proposal contains more than an incidental mixture of mixed industrial uses, the general type of uses should be segregated and treated separately.</i></p>
	Warehousing, Distribution, & Heavy Industrial

TABLE 2 - CFF UNDEFINED LAND USES

BUILDING USE	DESCRIPTION
Shell Buildings	<p>Builders will often apply for a building permit to construct the “shell” of a building.</p> <ul style="list-style-type: none"> ▪ The shell use shall be determined at the time of building permit issuance. ▪ The first tenant improvements to the shell building shall be charged according to land use.
Roof Structures	<p>When an open area exists and a roof structure is added, 100% of the total CFF shall be charged if the structure is supported by the addition of one (1) or more side walls. 50% of the total CFF shall be charged if the structure has no side walls.</p>
Multiple Use Structures	<p>With the exception of commercial uses, if there is more than one (1) primary land use within a building, and the applicant can document that a secondary land use accounts for more than fifteen percent (15%) of the gross floor area of the structure, then the CFF shall be calculated separately for each use and the results summed.</p>
Canopy Construction	<p>When an open area exists and a canopy structure is added, 100% of the total CFF shall be charged if the canopy is enclosed on three (3) or more sides and 50% of the total CFF shall be charged if the canopy is enclosed on one (1) or two (2) sides. Canopied business or storefront entryways and freestanding membrane canopies with no sides are exempt.</p>
Mezzanines	<p>When a second floor open area or balcony exists, 100% of the total CFF shall be charged.</p>
Change of Use for Existing Buildings	<p>With the exception of shell buildings, any alteration or change of use to an existing building does not trigger the payment of CFF provided that no additional square footage is added. If additional square footage is added, the CFF shall be charged based on the additional square footage and land use. Should the change of use fall within a lower land use category, no refunds or credits for the previously paid CFF shall be made.</p>
Ancillary Recreation Buildings	<p>The CFF paid on the dwelling unit or room basis is deemed adequate for ancillary recreation buildings such as mobile home clubhouses, cabanas, weight rooms, lounges, or activity buildings which are primarily oriented to the residential development.</p>

TABLE 3 - CFF CREDITS AND EXEMPTIONS

TYPE	DESCRIPTION & QUALIFICATIONS	REQUIREMENTS (Prior To Issuance of a Building Permit)
Single-Family Granny Flats	Second dwelling unit located adjacent or connected a single-family dwelling unit.	<ul style="list-style-type: none"> ▪ No Charge
Very Low and Low Income Housing	<ul style="list-style-type: none"> ▪ Any Very Low and Low Income housing units constructed or expanded by the Housing Authority of the County of Stanislaus or by any entity in which the Housing Authority is a major partner. 	<ul style="list-style-type: none"> ▪ Application
CHDO Housing	<ul style="list-style-type: none"> ▪ Housing constructed or expanded by a CHDO Organization found to be affordable to households earning sixty (60%) or less of the Area Median Income. ▪ Exemption valid for the term the home meets CHDO Housing qualifications. ▪ If a resale or refinance occurs within the ten (10) year period, the new buyer will be allowed to assume the remainder of the exemption if the buyer meets the CHDO Housing criteria. ▪ Staff reports for exemption request shall indicate the cumulative inventory of exempt units and the percent of anticipated total exempt units at build out. The staff report shall also provide a comparison of units to total units built since 1989. ▪ <i>Exception: If a resale or refinance occurs within the ten (10) year period and the new buyer does not qualify for the exemption, full payment of CFF would become due, with no interest thereon.</i> 	<ul style="list-style-type: none"> ▪ Application ▪ Agreement ▪ CH & CDC Approval ▪ CC Approval (includes 10-day public notice)
Very Low Income Housing	<ul style="list-style-type: none"> ▪ Housing constructed or expanded by any person or entity found to be affordable to households earning fifty (50%) or less of the Area Median Income. ▪ Exemption valid for the term the home is deemed Very Low Income. ▪ If a resale or refinance occurs within the ten (10) year period, the new buyer will be allowed to assume the remainder of the exemption if the buyer meets the Very Low Income criteria. ▪ Staff reports for exemption request shall indicate the cumulative inventory of exempt units and the percent of anticipated total exempt units at build out. The staff report shall also provide a comparison of units to total units built since 1989. ▪ <i>Exception: If a resale or refinance occurs within the ten (10) year period and the new buyer does not qualify for the exemption, full payment of CFF would become due, with no interest thereon.</i> 	<ul style="list-style-type: none"> ▪ Application ▪ Agreement ▪ CH & CDC Approval ▪ CC Approval (includes 10-day public notice)
Shelters	<ul style="list-style-type: none"> ▪ Any facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for special populations of the homeless. (Examples include emergency shelters, transitional housing and Safe Havens) 	<ul style="list-style-type: none"> ▪ No Charge
Recreational Buildings	<ul style="list-style-type: none"> ▪ For residential projects, the CFF on a dwelling unit or room basis are deemed adequate for ancillary recreation buildings that are oriented and primary to the residential development. ▪ Mobile home park club houses, cabanas, weight rooms, lounges, and activity buildings. 	<ul style="list-style-type: none"> ▪ No Charge
Alterations & Additions	<ul style="list-style-type: none"> ▪ Any alteration or addition to a residential structure provided that no new dwelling units are created. 	<ul style="list-style-type: none"> ▪ No Charge
Single-Family Replacement & Reconstruction	<ul style="list-style-type: none"> ▪ Any replacement or reconstruction of a residential structure that has been destroyed or demolished provided that no new dwelling units are created. ▪ Satisfactory documentation must be presented to the CFF Administrator of the existence of the previous residential structure. ▪ Non-transferrable. ▪ The residential structure is located on the same property of the demolished or abandoned residential structure. 	<ul style="list-style-type: none"> ▪ No Charge
Multi-Family Replacement & Reconstruction	<ul style="list-style-type: none"> ▪ Any replacement or reconstruction of a multi-family residential structure that has been destroyed or demolished provided that the square footage of the new structure is equal to or less than that of the previous structure and the number of units in the new structure is equal to or less than that of the previous structure. ▪ Satisfactory documentation must be presented to the CFF Administrator of the existence of the previous multi-family residential structure. ▪ Non-transferrable. ▪ The new multi-family residential structure is located on the same property of the demolished or abandoned multi-family residential structure. 	<ul style="list-style-type: none"> ▪ No Charge

TABLE 3 - CFF CREDITS AND EXEMPTIONS (Con't.)

TYPE	DESCRIPTION & QUALIFICATIONS	REQUIREMENTS (Prior To Issuance of a Building Permit)
RESIDENTIAL	<p>Replacement due to Eminent Domain</p> <ul style="list-style-type: none"> ▪ Any replacement of an existing building that has been or shall be vacated due to eminent domain proceedings, or the threat of such proceedings. ▪ Building permit for replacement structure must be applied for within two (2) years after the transfer of title or within two (2) years after the property has been vacated. ▪ No additional dwelling units are created and no additional square footage is added. ▪ Use is not devoted to a higher-density capacity and/or does not result in the generation of additional peak hour trip ends. ▪ Satisfactory documentation must be presented to the CFF Administrator of the existence of the previous building and land use type. ▪ The new building is located on the same property of the demolished or abandoned building. ▪ Non-transferrable. ▪ <i>Exception: If the new building is CFF Land Use that is intensified from the CFF Land Use of the previous building, the incremental difference between the new building CFF Land Use and the previous building CFF Land Use shall be due at building permit issuance.</i> ▪ <i>Exception: Additional square footage added shall be subject to payment of applicable CFF at building permit issuance.</i> 	<ul style="list-style-type: none"> ▪ No Charge ▪ Time Sensitive
COMMERCIAL	<p>Sales & Construction Trailers</p> <ul style="list-style-type: none"> ▪ Maximum term use of two (2) years. 	<ul style="list-style-type: none"> ▪ No Charge
	<p>All Other Trailers</p> <ul style="list-style-type: none"> ▪ All other types of temporary trailers are charged the full CFF. The CFF is refundable (less 2.5% administrative fee) if requested, in writing, within six (6) years of payment of the CFF. 	<ul style="list-style-type: none"> ▪ CFF Charged ▪ Refundable
	<p>Truck Loading Bays</p> <ul style="list-style-type: none"> ▪ Canopied and enclosed and not used as staging area for storage or protection or product. 	<ul style="list-style-type: none"> ▪ No Charge
	<p>Parking Garages</p> <ul style="list-style-type: none"> ▪ Public and private garages. 	<ul style="list-style-type: none"> ▪ No Charge
	<p>Agricultural</p> <ul style="list-style-type: none"> ▪ Shade structures, lath houses, and netted areas. 	<ul style="list-style-type: none"> ▪ No Charge
	<p>Outdoor Dining Patio</p> <ul style="list-style-type: none"> ▪ Uncovered and enclosed dining areas. 	<ul style="list-style-type: none"> ▪ No Charge
	<p>Commercial Replacement & Reconstruction</p> <ul style="list-style-type: none"> ▪ Any replacement or reconstruction of a non-residential structure that has been destroyed or demolished. ▪ New building is located on the same property as the destroyed or demolished building. ▪ Based on prior CFF Land Use and building square footage. ▪ Non-transferrable. ▪ Satisfactory documentation must be presented to the CFF Administrator of the existence of the previous building and land use type. ▪ The new building is located on the same property of the demolished or abandoned building. ▪ <i>Exception: Additional square footage added shall be subject to payment of applicable CFF at building permit issuance.</i> 	<ul style="list-style-type: none"> ▪ No Charge
<p>Tenant Improvements (excluding Shell Buildings) and Changes of Use</p> <ul style="list-style-type: none"> ▪ Any alteration or change of use to an existing building, if no new square footage is added. ▪ No refunds for diminished use capacities or reduced square footage. ▪ <i>Exception: Additional square footage added shall be subject to payment of applicable CFF at building permit issuance.</i> 	<ul style="list-style-type: none"> ▪ No Charge 	

TABLE 3 - CFF CREDITS AND EXEMPTIONS (Con't.)

TYPE		DESCRIPTION & QUALIFICATIONS	REQUIREMENTS (Prior to Issuance of a Building Permit)
COMMERCIAL	Tenant Improvements in Shell Buildings and Changes of Use	<ul style="list-style-type: none"> ▪ Tenant improvements within a shell building if the improved use is (1) devoted to the same CFF Land Use that the Shell Building paid or (2) is devoted to a CFF Land Use with a lower impact. ▪ No refunds for diminished use capacities or reduced square footage. ▪ <i>Exception: If tenant improvements are for a CFF Land Use that is intensified from what was paid for the Shell Building, the incremental difference between the Shell Building CFF Land Use and the Tenant Improvement CFF Land Use shall be due at building permit issuance.</i> ▪ <i>Exception: Additional square footage added shall be subject to payment of applicable CFF at building permit issuance.</i> 	<ul style="list-style-type: none"> ▪ No Charge
	Replacement due to Eminent Domain	<ul style="list-style-type: none"> ▪ Any replacement of an existing building that has been or shall be vacated due to threat of/or eminent domain proceedings. ▪ Building permit for replacement structure must be applied for within two (2) years after the transfer of title or within two (2) years after the property has been vacated. ▪ No additional dwelling units are created and no additional square footage is added. ▪ The use is not devoted to a higher-density capacity and does not result in the generation of additional peak hour trip ends. 	<ul style="list-style-type: none"> ▪ No Charge ▪ Time Sensitive
	Commercial/Industrial Relocation Credit	<ul style="list-style-type: none"> ▪ Transfer of CFF credit from existing building to a new building. ▪ Project involves commercial and/or industrial job retention of at least twenty-five (25) jobs or redevelopment of blighted area. ▪ Beneficiary of the relocation credit must be the owner of the existing building or the existing building was demolished and paid CFF when rebuilt. 	<ul style="list-style-type: none"> ▪ No Charge ▪ CC Approval

TABLE 4 - CFF DEFERRALS

TYPE	DESCRIPTION	QUALIFICATIONS	REQUIREMENTS (Prior to Issuance of a Building Permit)
Low Income Housing	<ul style="list-style-type: none"> ▪ Payment of CFF is deferred for twenty (20) years (“Deferral Period”). No payments are due during the first five (5) years. Annual payments of principal and simple interest begin in the sixth (6th) year. ▪ Interest will not accrue during the first five (5) years. ▪ In the sixth (6th) year, simple interest will be calculated at the rate of 5%. ▪ A lien is placed on the property. ▪ If the property is sold or refinanced within the Deferral Period, the new buyer will be allowed to assume the Deferral Payment Agreement if the buyer meets the Low Income criteria. ▪ If the property is sold or refinanced within the Deferral Period and the buyer does not qualify to assume the Deferral Payment Agreement, the full CFF deferral, including interest, would become due immediately. ▪ Interest penalties apply if fees are not paid within the Deferral Period. 	<ul style="list-style-type: none"> ▪ Any Low Income Housing unit constructed by any person or entity. ▪ The home must be purchased by a homebuyer earning between fifty-one and eighty percent (51 – 80%) of the Area Median Income who will use it as their principal place of residence for the duration of the deferral time period. 	<ul style="list-style-type: none"> ▪ Application ▪ Deferred Payment Agreement and Notice of Lien ▪ CH&CDC Approval ▪ CC Approval (includes 10-day public notice) ▪ Promissory Note ▪ City Deed of Trust ▪ Recordation Fee (Agreement) ▪ Recordation Fee (Removal of Lien)
Commercial, Industrial and Multi-Family	<ul style="list-style-type: none"> ▪ Twenty percent (20%) of total CFF paid at building permit issuance. ▪ Remaining eighty percent (80%), plus interest, paid annually over five (5) years. ▪ Interest is equal to the Wall Street Journal Prime Rate in effect at the time of Agreement execution. ▪ A lien is placed on the property. ▪ If the property is sold or transferred within the deferral period, payment of the full CFF deferral, including interest, would become due immediately. ▪ Interest penalties apply if fees are not paid within the deferral period. 	<ul style="list-style-type: none"> ▪ Any commercial, industrial or multi-family development project in which CFF is being assessed. ▪ For those projects where a mitigated negative declaration or an Environmental Impact Report (EIR) has been certified, no CFF deferral shall be allowed to the extent that one (1) or more of the mitigation measures consists of payment of CFF or construction or installation of a public improvement, the cost of which, subject to funding availability, may be eligible for reimbursement of CFF. 	<ul style="list-style-type: none"> ▪ Application ▪ Deferral of CFF, Water Connection and/or Wastewater Capacity Agreement and Notice of Lien ▪ \$250 Administrative Fee ▪ \$500 Title Report Fee ▪ \$12 Recordation Fee (Removal of Lien)

TABLE 5 - CFF FEE SCHEDULE

2011 CFF PROGRAM - Development within City Limits										
Fee Category	Unit Measure Per	Streets	Public Transp.	Air Quality	Police	Fire	Parks	General Gov't.	Admin	Total
Single-Family Residential	Dwelling Unit	\$ 6,268	\$ 91	\$ 548	\$ 852	\$ 363	\$ 5,193	\$ 479	\$ 272	\$ 14,066
Multi-Family Residential	Dwelling Unit	4,342	64	722	513	167	3,228	294	146	9,476
Senior Housing	Dwelling Unit	3,782	34	705	500	164	3,148	288	104	8,725
Hotel/Motel	Room	3,259	57		194	64		111	82	3,767
Retail <50,000 SF	1,000 SF	9,423	187		231	76		133	255	10,305
Retail 50,000-100,000 SF	1,000 SF	7,823	154		231	75		132	212	8,627
Retail 100,000-300,000 SF	1,000 SF	6,603	130		232	76		133	180	7,354
Retail >300,000 SF	1,000 SF	6,160	120		231	75		133	168	6,887
Medical Office	1,000 SF	11,903	238		386	126		221	328	13,202
General Office	1,000 SF	5,760	102		386	126		222	148	6,744
Hospital	1,000 SF	8,347	147		385	126		222	207	9,434
Daycare	1,000 SF	4,609	81		386	126		222	120	5,544
Church	1,000 SF	982	17		391	127		225	34	1,776
Nursing Home	1,000 SF	1,438	25		389	127		224	45	2,248
Industrial (Manufacturing)	1,000 SF	2,233	39		165	54		95	57	2,643
Industrial (Warehousing)	1,000 SF	1,566	28		166	54		95	42	1,951

2011 CFF PROGRAM - Development within City's Sphere of Influence										
Fee Category	Unit Measure Per	Streets	Public Transp.	Air Quality	Police	Fire	Parks	General Gov't.	Admin	Total
Single-Family Residential	Dwelling Unit	\$ 6,815	\$ 72	\$ 1,382					\$ 176	\$ 8,445
Multi-Family Residential	Dwelling Unit	4,904	52	876					120	5,952
Senior Housing	Dwelling Unit	2,870	31	958					95	3,954
Hotel/Motel	Room	3,435	36						51	3,522
Retail <50,000 SF	1,000 SF	9,802	103						143	10,048
Retail 50,000-100,000 SF	1,000 SF	8,161	86						120	8,367
Retail 100,000-300,000 SF	1,000 SF	6,918	73						102	7,093
Retail >300,000 SF	1,000 SF	6,463	69						95	6,627
Medical Office	1,000 SF	12,463	132						183	12,778
General Office	1,000 SF	6,100	64						93	6,257
Hospital	1,000 SF	8,729	92						130	8,951
Daycare	1,000 SF	4,922	52						76	5,050
Church	1,000 SF	1,178	12						25	1,215
Nursing Home	1,000 SF	1,661	17						31	1,709
Industrial (Manufacturing)	1,000 SF	2,374	25						36	2,435
Industrial (Warehousing)	1,000 SF	1,694	18						27	1,739

APPENDIX A - DEFINITIONS

The intent and meaning of the terms that are used shall be as defined in these CFF Policies & Procedures except as specifically noted, revised or added.

Definitions – A

Applicant. The applicant for a building permit for which an impact fee is due pursuant to the provisions of these CFF Policies and Procedures.

Arterial. A moderate or high-volume street with four (4) to six (6) travel lanes which carries large volumes of traffic between areas in urban centers, with flow usually consisting of large, signaled intersections with other arterials and many collector roads.

Definitions – B

Banks. Full service banking institutions with or without drive up windows.
(*CFF Rate = Retail*)

Building Inspection. The Building Safety Division of the Community & Economic Development Department for the City of Modesto.

Building Safety Division. The Building Safety Division of the Community & Economic Development Department for the City of Modesto.

Definitions – C

Capital Facilities Fee. Impact fees established to mitigate the impacts of new development as outlined in §66000 of the California Government Code for the purchase, construction, expansion, rehabilitation, or acquisition of public facilities.

Certificate of Occupancy. Final sign off of a building permit.

CHDO Housing. Shall mean housing found to be affordable to households earning sixty percent (60%) or less of the Area Median Income as determined from time to time by the United States Department of Housing and Urban Development.

CHDO Organization. A specific type of nonprofit organization that has been certified by HOME Investment Partnership Program (HOME) as a Community Housing Development Organization.

CFF Administrator. The Administrator of the Infrastructure Financing Programs for the City of Modesto.

Church. Structures primarily designed or used as a place of public worship.
(*CFF Rate = Church*)

City. The City of Modesto.

City Attorney. The City Attorney, or his or her designee, of the City of Modesto.

City Council. The City Council of the City of Modesto (CC).

City Engineer. The City Engineer, or his or her designee, of the City of Modesto.

Collector. A low or moderate-capacity road, usually consisting of a mixture of signaled intersections with arterial roads and signals, circles or stop signs with other collector and local roads.

Commercial. Commercial and retail uses. (*CFF Rate = Retail*)

Community & Economic Development. The Community & Economic Development Department of the City of Modesto.

Convenience Markets. Convenience markets, with or without on-site pumps and open 24 hours or extended hours. (*CFF Rate = Retail*)

Definitions – D

Daycare/School. An educational, vocational or daycare facility.
(*CFF Rate = Daycare*)

Development Project. Any project undertaken for the purpose of development. Development projects include projects involving issuance of a permit for construction or reconstruction but not a permit to operate.

Developer. See Applicant.

Director. Director of Community and Economic Development.

Definitions – E

Expressway. A high-volume, access-controlled roadway with three classes consisting of four (4) to six (6) lanes where spacing between interchanges with arterial roadways is limited to one mile.

Definitions – F

Facilities. See Public Facilities

Fee. A monetary exaction other than a tax or special assessment whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad-hoc basis, that is charged by a local agency to the applicant in conjunction with approval of a development project for the

purposes of defraying all or a portion of the cost of public facilities related to the development project. This does not include fees specified in §66477, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements adopted pursuant to Article 2.5 (commencing with §65864) of Chapter 4, or fees collected pursuant to agreements with redevelopment agencies which provide for their development of property in furtherance or for the benefit of a development project for which a redevelopment plan has been adopted pursuant to the Community Redevelopment Law (Part 1 (commencing with §33000) of Division 24 of the Health and Safety Code).

Fee Payer. See Applicant.

Finance. The Finance Department of the City of Modesto.

Definitions – G (Reserved)

Definitions – H

Hospital. A structure designed for health services, both inpatient and outpatient; that includes surgical care of the sick, injured or the physically ill and/or therapeutic treatment for the mentally ill. Included as an integral part of a hospital are laboratories, outpatient departments, training facilities, central services facilities, and hospital staff offices on the same site. The preceding ancillary uses are considered “professional offices” if located off-site unless a multi-site campus is covered by a P-D Zone or hospital uses. A separate set of offices on the same site for physicians is considered “professional offices.” (*CFF Rate = Hospital*)

Definitions – I

Improvements. See Public Facilities.

Industrial Land Use. (*CFF Rate = Industrial(Manufacturing)*)

Manufacturing, Light Industrial & Industrial Parks Uses:

- Electronic assembly, paper products
- Metal fabricator
- Bottling plant
- Cabinet shop
- Machine shop
- Sheet-metal shop
- Welding shop
- Wholesale shop
- Printing plant
- Mini-warehouse
- Materials testing labors manufacturer
- Food processor, brewery, bakery

- Recycling facility
- Burning operations for lumber and wood products
- Junk handling, processing and storage
- Landfill and waste products disposal or transfer station
- Manufacture, fabrication, processing, packaging and treatment of explosives, oil, great products, chemicals, and chemical products.
- Rock crushing
- Pulp and paper mill
- Reduction, processing, and storage or offal, dead animals, bones or similar materials
- Septic tank and cesspool services
- Stockyard
- Tannery
- Vehicle salvaging and wrecking

Mixed Industrial Uses

When a development project contains more than an incidental mixture of uses, the general types of uses should be segregated and treated separately for the purposes of calculating development fees.

Definitions – L

Low Income Housing. Housing found to be affordable to households earning fifty-one to eighty (51 - 80%) percent of the Area Median Income as determined from time to time by the United States Department of Housing and Urban Development.

Definitions – M

Medium Density Residential. Duplex or triplex buildings located on a single lot designated for occupancy by two (2) or three (3) families. *(CFF Rate = Multi-Family Residential)*

Multi-Family Residential. Multiple family dwelling units of several types, including high and low rise apartments, high and low rise condominiums, and multi-family residential planned unit developments greater than a density of ten (10) units per acre. The category also applies to mobile homes. *(CFF Rate = Multi-Family Residential)*

Definitions – N

Nursing Home. Structures designated for use as a convalescent hospital, retirement home, or a twenty-hour care center for seven (7) or more persons in addition to members of the family. *(CFF Rate = Nursing Home)*

Definitions – O

Office (General). General and professional offices excluding medical offices. (*CFF Rate = General Office*)

Office (Medical). Offices and clinics devoted to the practice of medical and dental professions or providing medical or dental services, including pseudo-medical services, but excluding hospitals and nursing homes which are treated separately. (*CFF Rate = Medical Office*)

Definitions – P

Parks, Recreation & Neighborhoods. The Parks, Recreation & Neighborhoods Department of the City of Modesto.

Public Facilities. Public buildings include the following:

- Public buildings including park, recreation, police, fire and administration buildings.
- Facilities for storage, treatment, and distribution of nonagricultural water.
- Facilities for the collection, treatment, reclamation and disposal of water.
- Facilities for the collection and disposal of storm waters and for flood control purposes.
- Facilities for the generation of electricity and the distribution of gas and electricity.
- Facilities for the distribution of information, including radio and communication like towers and satellite dishes.
- Transportation and transit facilities, including but not limited to streets and supporting improvements, roads, overpasses, bridges, harbors, ports, airports, parkways and related facilities.
- Parks and recreation facilities, including bike trails, public landscape areas and community centers.

Public Works. The Public Works Department of the City of Modesto.

Definitions – Q (Reserved)

Definitions – R

Recreational Buildings. Ancillary recreational buildings that are oriented primarily to a residential development.

Restaurants (Fast Food). Fast food restaurants with or without sit-down facilities and with or without drive up windows. Generally food is ordered and taken to be consumed outside the restaurant building, however some on-site seating is usually provided. (*CFF Rate = Retail*)

Restaurants (Sit-Down – high turnover). Sit-down restaurants where food is ordered and consumed in the restaurants and customers generally stay less than one (1) hour. Sit-down restaurants typically serve breakfast, lunch or dinner and also include drinking establishments such as bars and cocktail lounges.

(CFF Rate = Retail)

Restaurants (Sit-Down – low turnover). Sit-down restaurants which generally have turnover rates of one (1) hour or longer and typically do not serve breakfast, and may or may not serve lunch. *(CFF Rate = Retail)*

Retail. Includes a wide range of retail service uses, both freestanding and in shopping centers, including but not limited to supermarkets, drug stores, department stores, general merchandise, building materials or lumber stores, specialty retail stores, discount stores, hardware/paint stores, video arcades, and new and used car sales, auto repair shops, and car washes. *(CFF Rate = Retail)*

Definitions – S

Savings & Loans. Includes thrift and credit unions, with or without drive-up windows and which typically offer fewer financial services than banks and are smaller in gross floor area than banks. If a given Savings & Loan is 5,000 gross feet or more, or provides full banking services, it should be treated as a bank. *(CFF Rate = Retail)*

Senior Housing Residential. Retirement communities restricted to adults or senior citizens, congregate care facilities, and similar residential uses.

(CFF Rate = Senior Housing Residential)

Shelter. Any facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for special populations of the homeless.

Single-Family Residential. Single-family detached homes on individual lots, such as in residential subdivisions, but could also be in planned developments. Density of development may vary, but is typically ten (10) dwellings per acre or less. *(CFF Rate = Single-Family Residential)*

Square Foot (sf). As used for the calculation of impact fees is the same as the square footage for determination of the issuance of building permits.

Definitions – T (Reserved)

Definitions – U

Utility Planning & Projects. The Utility Planning & Projects Department of the City of Modesto.

Definitions – V

Very Low Income Housing. Shall mean housing found to be affordable to households earning fifty percent (50%) or less of the Area Median Income as determined from time to time by the United States Department of Housing and Urban Development.

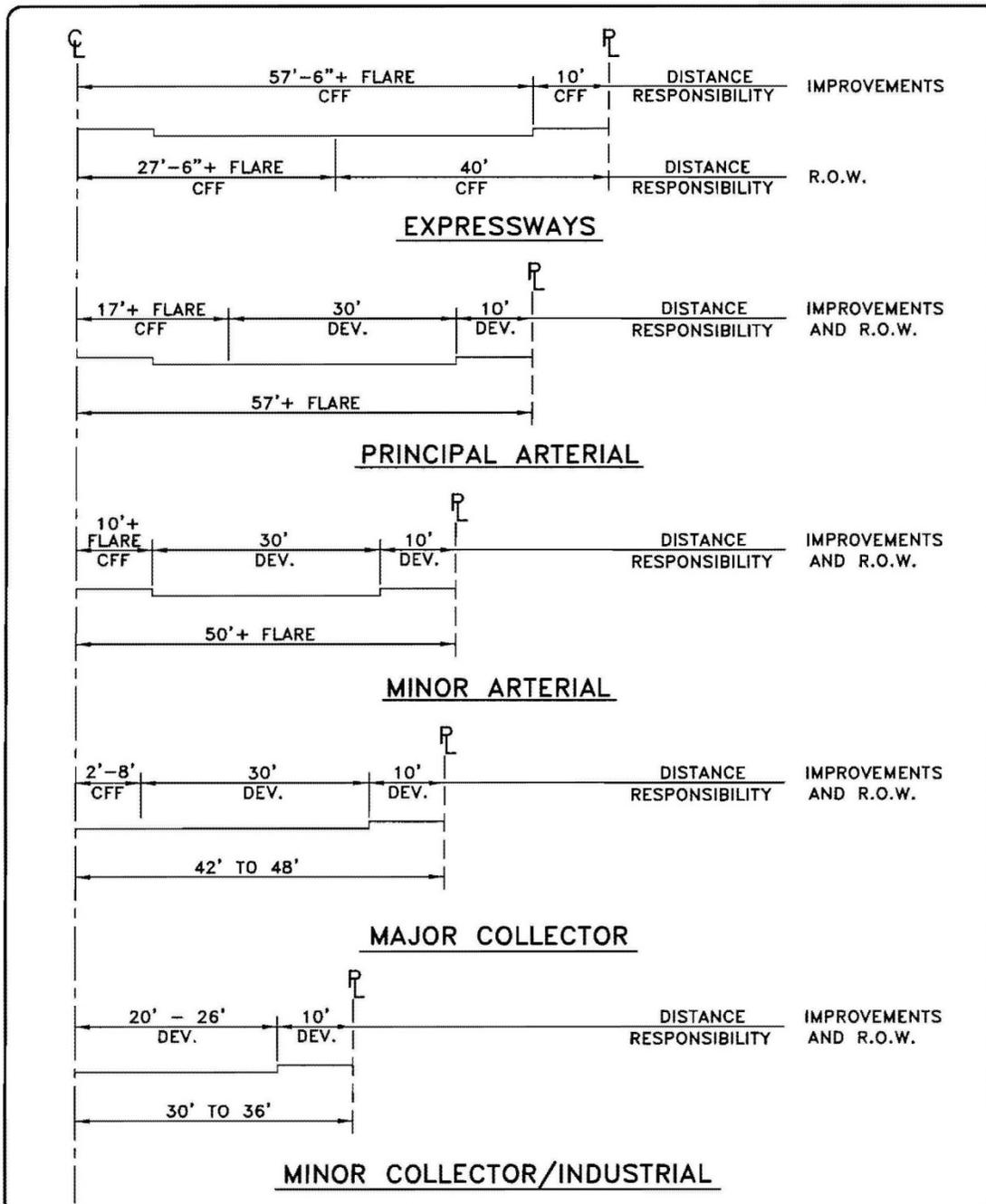
Definitions – W

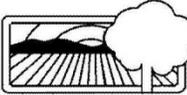
Warehouse Distribution & Heavy Land Use. Facilities in which the primary activity is the storage of materials or in which the primary activity is receiving and shipping of materials. Uses which are considered to be in this category include freight, warehousing, corporation yard, freight yard, equipment rental yard, moving and storage services, bulk feed storage and lumberyard.

(CFF Rate = Industrial (Warehousing))

Definitions X,Y, & Z (Reserved)

APPENDIX B - STREET EXACTIONS POLICY



APPROVED BY CITY COUNCIL RESOLUTION NO. 2006-284	STREETS STREET EXACTIONS POLICY	 CITY of MODESTO
APPROVED BY THE CITY ENGINEER: <i>Richard D. Uls</i>		