MODESTO CITY COUNCIL
RESOLUTION NO. 2015-81

RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH DATA PATH, INC., MODESTO, CA, A PROFESSIONAL FIRM, TO PROVIDE INTERIM CHIEF INFORMATION OFFICER SERVICES FOR THE CITY FOR A NOT TO EXCEED AMOUNT OF $128,000, AND TO APPOINT JOHN DICKEY AS INTERIM CHIEF INFORMATION OFFICER, EFFECTIVE MARCH 24, 2015

WHEREAS, on February 24, 2015, the City Council approved the re-establishment of the position of Chief Information Officer, and

WHEREAS, the City Council needs to appoint an Interim Chief Information Officer to fill the role of Chief Information Officer within City service, and

WHEREAS, the City Manager’s Office contacted various firms to determine their availability to provide said services, and

WHEREAS, the City Manager’s Office is recommending contracting with Data Path, Inc., a Modesto-based Information Technology consulting firm to provide interim Chief Information Officer services and seeking authorization to negotiate and execute an agreement with Data Path, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and authorizes the City Manager or his designee to negotiate and execute a professional services agreement consistent with City’s policies, and as approved by the city attorney with Data Path, Inc., a professional firm, to provide interim Chief Information Officer services with the City, and appoint John Dickey as Interim Chief Information Officer. The contract amount shall not exceed ONE HUNDRED TWENTY-EIGHT THOUSAND (128,000) DOLLARS.
BE IT FURTHER RESOLVED that terms of the Agreement shall be consistent with the Scope of Work to this Resolution as Exhibit A-1.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney

03/24/2015/CM/Lopez/Item 5 2 2015-81
Long-term friends and Central Valley residents, James Bates and David Darmstandler founded Data Path in June of 2005. In 2004, James and David started meeting regularly to write their business plan for Datapath. They met with local business and organization leaders in the area to discover what their experience was with their current IT departments and IT consulting companies. They found that leaders were frustrated with their IT support not understanding their organization, being unresponsive to needs, not planning for the future and were unable to view decisions with a “return-on-investment” mindset.

With these discoveries, James and David built the Datapath service model to address and overcome the negative experience leaders were having. Through unmatched customer service, support and provision of innovative IT solutions, Data Path quickly grew to be one of the regions highest-regarded and most awarded IT consulting firms.

Data Path currently supports and manages more than 6,000 computers and 600 servers, overseeing the support and resolution of more than 1,500 support requests per month, with daily exposure to various software packages, network equipment and computer systems spread across a diverse client base.

**Number of Clients:** 350+
**Number of Public Sector Clients:** 40+
**Length of time in business of providing proposed services:** 9 years
**Number of full-time personnel:** 35
**Technical Engineers:** 28
**Sales, marketing and administrative support:** 6
**External Consultants and Coaches:** 2
**Location for service and headquarters:** 318 McHenry Ave., Modesto, California 95354

**Legal Name:** Data Path, Inc.
**Physical Address:** 318 McHenry Ave., Modesto, CA 95354
**Phone:** 209-521-0055  **Fax:** 888-499-1959
Exhibit “A-1”

Scope of Work

Data Path, Inc. services include everything required to support a local government executive.

Our full services include the following:

Interim Services

The CIO will support senior management by providing transitional or long term leadership and management for programs, projects, infrastructure or operations and has the experience to deliver the results you need. For instance:

Strategic Planning

The CIO will aid the city in building a solid strategic foundation by designing and managing creative, collaborative strategic planning processes. He will assist in defining government’s technology and business process objectives, actions and timetables linked to mission and financial projections and plans. He will also facilitate decisions by all stakeholders resulting in plans that are actionable and client-owned.

Enterprise Systems (ERP, HRIS, Finance, CAD, Supply Chain, Logistics...)

The CIO will support the due diligence process of requirements definition, solution identification, validation, inspection, selection, negotiation, implementation planning, provisioning, configuring, testing, training and production. Having successfully directed this process for small, medium and large organizations, he has the necessary experience to ensure your success as well.

Lean Business Processes

Process identification, value-stream mapping, streamlining and/or automation can be daunting. The CIO knows Process Engineering inside out and can assist you in:

- Identifying your key business processes in need of improvement
- Identifying the critical people, actions and communications needed in each process flow
- Mapping both current and future states
- Developing the plans to implement
- Optimizing new processes and measuring their effectiveness
**eGovernment**

The CIO will help you analyze your organization’s potential for on-line success, define your requirements, metrics, as well as develop an egovernment strategy, design your information architecture, wireframes, process flows and site maps. He’ll also assist in selecting the best third party developers and integrators when needed.

**IT Governance and Staffing**

The CIO can evaluate strengths and opportunities of staff as well as professional development needs. He will help determine appropriateness of the City’s IT organization’s alignment in support of the various entities and missions of concern. He is also an expert at team building, establishing customer focus, responsiveness and mentoring prospective leaders. He will help rationalize or establish best practices in IT governance from portfolio management to customer-based prioritization.

**Architecture/Infrastructure Optimization**

The CIO will work with customers and IT Service providers to establish best service levels and associated architectural configurations as well as rational migration plans.

**Partnerships**

The CIO is adept at establishing constructive professional relationships with senior executives and other leaders across the organization.

**Understanding of the Engagement**

We understand the City of Modesto is in need of interim Chief Information Officer services. The City will be recruiting for a permanent Chief Information Officer, which is likely to take four to six months. During the recruitment period, the City is in need of expert consulting assistance by Data Path, Inc. in the chief information officer.

This engagement anticipates approximately four days a week, with some weeks being more and others less, depending on need. In addition, given the level of service needed, the engagement will involve electronic communications for regular contacts with staff, elected officials and others. We will assign John Dickey to this engagement. His qualifications are attached. John will work for and at the direction of Data Path, Inc., while providing expert consulting advice and services to your satisfaction. Data Path, Inc. will provide all insurance, training and administrative support (including company equipment) as necessary during the assignment. Our commitment is to provide continuous and seamless management services to you during this transition period.

**Fee Proposal**

Data Path, Inc. will provide interim executive officer consulting services at a rate of $16,000 per month plus expenses. Per Diem charges may apply for travel outside of the local area.
John Dickey – Bio
(209) 549-6758
John@nextstep.bz

John has a 30 year career in Technology and Operations Management as well as Lean Enterprise solutions with a broad base of experiences ranging from emergency restoration of critical communications on Air Force One, to teaching graduate students the best of breed management solutions in technology, to holding Chief Information Officer and other senior executive responsibilities with healthcare, manufacturing, distribution, retail, software and logistics firms.

His entrepreneurial skills brought forth a mobile marketing company with products that changed the way consumer product manufacturers interact with their end customers and are presently sold as a part of the solution set of one of the world’s largest technology enterprises.

Appointed by the Governor of Indiana to lead the state’s higher education technology infrastructure development forum, he managed the senior tech and distance learning directors from eight universities to consensus on the standards that enabled great strides in the delivery of on-line studies.

As CIO/VP and part of a turn-around team for the nation’s largest food ingredient manufacturer, he led the rational replacement and/or upgrade of more than 20 systems as well as implementing lean manufacturing principles taking on the additional role of VP for the planning and logistics divisions.

As a Management, Technology and Operations consultant, he has established an outstanding reputation with privately held businesses in California.

John’s technology background is impressive but his perspective on it is unusual in that his passion is really for people and their businesses. For him, empowering people to grow their businesses with the most appropriate tools and processes in a practical and yet visionary way is far more interesting than playing with the latest smartphone version. He has an uncanny ability to see opportunities within myriad business settings and to know where technology and the tech industry are headed as well as what’s driving the market.

Education
MS, BS - Electrical Engineering/Computer Science
Auburn University
BS - Business Admin and Marketing
Southern Oregon University
BA - Humanities, Southern Oregon University
PMI certification

Professional Services Experience:
Booz Allen Hamilton – 1990 – 1992

International Business Experience: 14 countries
Foreign Languages: Conversational French and Spanish
Security Clearance: TS/SCI inactive

Partial Client List
Basic American Foods
Methodist Hospital Indianapolis
Eli Lilly & Co.
Northern Refrigerated Transportation
Stewart & Jasper
Union Bank
University of Tennessee
AT&T
Trend Micro
Sevemart Superstores
Raley’s
St. Luke’s Family Practice
Harry & David’s
Starlite Trucking
RESOLUTION ADOPTING A POSITION OF SOLIDARITY WITH THE
NATION OF IRAQ AND ITS INDIGENOUS ASSYRIAN POPULATION AND
CONDEMNING THE AGGRESSIVE INVASION AND PERSECUTION
BROUGHT AGAINST THEM

WHEREAS, the Assyrians, the indigenous people of Mesopotamia including the
area now known as Iraq or Occupied Assyria, were among the first Christians in the First
Century A.D.; and

WHEREAS, the Assyrians were a minority long before coming to the United
States. Without a country of their own, they have been a linguistic, political, religious as
well as an ethnic minority in the now-Muslim majority countries of Iran, Iraq, Turkey,
Lebanon and Syria; and

WHEREAS, as long ago as 1867 an Assyrian came to California from what was
then known as Persia. But not until early in the twentieth century did Assyrians come to
California to stay. And in 1911 Dr. Isaac Adam and a group of about forty five arrived in
Delhi seeking a rural area which might be similar in climate and crops to their native
Middle East. The sophisticated atmosphere of populous cities was an extreme contrast to
their agricultural background. Thus, the Assyrian settlement in Stanislaus County began
with the dawn of the 20th Century; and

WHEREAS, during the years of World War I, following the merciless genocide
of Assyrians and other Christians in what was at that time land controlled by the Ottoman
Empire, many more Assyrians fled their homeland with some settling in Turlock and
Modesto seeking opportunities in agriculture; and
WHEREAS, now an integral part of the Stanislaus County mosaic, the Assyrian community concerns itself with preserving its heritage and the land of its forefathers, wanting peace and prosperity for that region; and

WHEREAS, the Assyrian community in the Modesto area, through its church, youth, cultural and philanthropic organizations such as the Bet Nahrain Cultural Center, Assyrian Church of the East parishes, and the Assyrian American Civic Club of Turlock, has contributed in an extraordinary manner to all facets of life in Stanislaus County, and most importantly, to the unique sense of community which exists in Modesto; and

WHEREAS, in defense of freedom, the United States authorized the use of military force against Iraq to effectuate the purposes of regime change, subsequently leading to the start of the Iraq War on March 19, 2003 and the hunt for Saddam Hussein; and

WHEREAS, on December 18, 2011, the last U.S. troops left Iraq, ending an 8 year war on terror and thereby restoring hope of religious freedom amongst the Assyrian people; and

WHEREAS, in the years following the war, the Assyrians have enjoyed a period relatively free from oppression and religious persecution while consistently striving to ensure democracy and prosperity for all of the country's citizens; and

WHEREAS, any semblance of peace, prosperity and religious freedom restored throughout Iraq after the Iraq War was fleeting; and

WHEREAS, on June 9, 2014, Mosul, Iraq's second largest city and home to thousands of Assyrian and Iraqi Christians, fell captive to the Islamic State of Iraq and Syria (ISIS); and
WHEREAS, ISIS seized control of government offices, police stations and the airport, forcing approximately 500,000 Assyrians to flee their indigenous land; and

WHEREAS, all Assyrians remaining in ISIS-controlled parts of Iraq have been given three options; leaving their native land, converting to Islam, or death; and

WHEREAS, the violence has since intensified, and the barbaric, unspeakable acts of ISIS have driven out close to all of the Assyrian population from the country; and

WHEREAS, ISIS has destroyed numerous churches and Christian institutions throughout Iraq, with all church services in Mosul ceasing for the first time in sixteen hundred years; and

WHEREAS, Assyrians now turn to neighboring lands seeking refuge from the genocide that is spreading like wildfire across Iraq; and

WHEREAS, the acts of terror carried out by ISIS have now impacted America, with the death of journalist James Foley on August 19, 2014, et al, and multiple other U.S. citizens being held captive in Iraq and suffering the same fate as the thousands of Assyrian in the Middle East; and

WHEREAS, the Assyrians of Stanislaus County have already demonstrated in San Francisco, Modesto, Turlock, Washington, D.C. and the United Nations to raise awareness of this tragedy, and look to people around the world to recognize these atrocities and support all future efforts to bring them to an end;

NOW THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto pauses in its deliberations to express solidarity with the Assyrian community in their desperate struggle for religious freedom and dignity during this crisis;
AND BE IT FURTHER RESOLVED, that the Council of the City of Modesto stands in solidarity with the Assyrian community and calls upon all citizens of Modesto and the world to respect their personal liberty and the right to practice their faith, and to condemn the aggressive invasion, persecution and religious purging at the hands of the Islamic State of Iraq and Syria;

AND BE IT FURTHER RESOLVED, that copies of this resolution, suitably engrossed, be transmitted to the Assyrian American Civic Club of Turlock, the Bet Nahrain Cultural Center in Ceres, the Assyrian Church of the East parishes in Stanislaus County, all other Assyrian church congregations and organizations in Stanislaus County, Congressman Jeff Denham, California State Senator Anthony Cannella, California Assemblywoman Kristin Olsen, and the United Nations Human Rights Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 7451 RIVER NINE DRIVE IN DEL RIO (APN: 004-093-011) TO CONNECT TO THE CITY OF MODESTO'S EXISTING WATER SYSTEM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council approved Resolution No. 2012-202 that amended City Council Policy 5.001, and

WHEREAS, on June 5, 2012, the City Council approved final adoption of Ordinance No. 3566-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language which required that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water services into unincorporated areas, and

WHEREAS, on November 25, 2014, the City Council approved Resolution No. 2014-472 that amended City Council Policy 5.001, and

WHEREAS, on December 9, 2014, the City Council approved adoption of Ordinance No. 3611-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language allowing the City Manager upon the recommendation of the Director responsible for utility system planning, to approve standard agreements of service for extension of water services into certain unincorporated areas that are located within the former Del Este Water Service Area without City Council approval, and
WHEREAS, the majority of the Del Rio area is included in the former Del Este Water Service Area and would not require City Council approval, the subject parcel is located in a small portion of the Del Rio area that is outside of the former Del Este Water Service Area and therefore requires City Council approval, and

WHEREAS, the property located at 7451 River Nine Drive, is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and outside the former service area of the Del Este Water Company, and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to extend water service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees are paid and associated permits be obtained prior to connecting to the City water system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve letter for the property located at 7451 River Nine Drive in Del Rio.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Will Serve letter.
The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND GARY D. HUFF, AND AVA M. HUFF, TRUSTEES OF THE G&A HUFF 2000 REVOCABLE TRUST, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 7451 RIVER NINE DRIVE IN DEL RIO (APN: 004-093-011), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 7451 River Nine Drive is not connected to the City's water system, and

WHEREAS, this property is located outside Modesto City limits, and outside the former service area of the Del Este Water Company, and

WHEREAS, if it is determined that it is reasonable for the City to extend water service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees will be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, that the property owner enters into an Outside Service Agreement for water with the City, as required for water service outside of City limits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Outside Service Agreement for the property located at 7451 River Nine Drive in Del Rio (APN: 044-093-011).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.
The foregoing documents were introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson,
who moved its adoption, which motion being duly seconded by Councilmember
Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE 2015-2016 ANNUAL ENGINEER’S REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1

WHEREAS, Resolution No. 88-935 adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 ("LMAD No. 1") for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, LMAD No. 1 was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly, and

WHEREAS, the annual assessment for LMAD No. 1 has remained the same since 1996, and

NOW, THEREFORE, BE IT RESOLVED that the Community Development Manager is designated by this Council as the Engineer of Work for LMAD No. 1, and is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE 2015-2016 ANNUAL ENGINEER’S REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2

WHEREAS, Resolution No. 89-460, adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Maintenance Assessment District No. 2 (“LMAD No. 2”) for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7 through 10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 and 2, and

WHEREAS, LMAD No. 2 was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly, and

WHEREAS, the annual assessment for LMAD No. 2 has gradually increased since July 2000, and

NOW, THEREFORE, BE IT RESOLVED, that the Community Development Manager is designated by this City Council as the Engineer of Work for LMAD No. 2, and is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE 2015-2016 ANNUAL ENGINEER’S REPORT FOR THE SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT

WHEREAS, on June 29, 1999, the County of Stanislaus formed the Shackelford Landscape and Lighting District (“Shackelford LLD”) for the purpose of administering the maintaining seventy-seven (77) 200-watt high-pressure sodium streetlights, and

WHEREAS, the Shackelford LLD was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, the Shackelford LLD is comprised of approximately 153 acres, includes 496 lots with both residential and commercial development, and is bounded by Crows Landing Road on the west, East Hatch Road on the south, Union Pacific Railroad on the east, and State Route 99 on the north, and

WHEREAS, on July 1, 2012, the City of Modesto assumed jurisdiction of the Shackelford Landscape and Lighting District from the County of Stanislaus, and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there are no proposed new improvements or any substantial changes in existing improvements in Shackelford LLD.
BE IT FURTHER RESOLVED that the Community Development Manager is designated by this Council as the “Engineer of Work” for the Shackelford LLD, and is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE LETTER AGREEMENT DATED FEBRUARY 10, 2015 WITH MPVCA MODESTO, LLC, REGARDING LOT 18 OF PARCEL MAP 56-PM-33 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, MPVCA MODESTO, LLC, is the OWNER of Lot 18 of Parcel Map 56-PM-33 as recorded with Stanislaus County, and

WHEREAS, On December 27, 2013, construction of a building was completed on the parcel, and

WHEREAS, on February 24, 2014, it was brought to the City’s attention that the building was constructed about two feet into a public storm drainage easement, and

WHEREAS, there is an existing storm drain pipe located within the easement and

WHEREAS, the City of Modesto and the OWNER have agreed to relocate the storm drain pipe that is close to the building, and

WHEREAS, the OWNER agrees to pay $44,000 toward the relocation of the SD pipe and needed summary vacation, and

WHEREAS, the City has agreed to relocate the storm drain pipe, and

WHEREAS, City staff recommends that the City Council approve the Letter Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves this Letter Agreement dated February 10, 2015 with MPVCA Modesto, LLC, regarding Lot 18 of Parcel Map 56-PM-33.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Letter Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-89

RESOLUTION APPROVING THE SUMMARY VACATION OF A PORTION OF THE EXISTING STORM WATER DRAINAGE SYSTEM EASEMENT LOCATED AT LOT 18 OF 56-PM-33, AND AUTHORIZING THE CITY CLERK TO CERTIFY THE EASEMENT VACATIONS AND RECORD BOTH ITEMS WITH THE STANISLAUS COUNTY RECORDER’S OFFICE

WHEREAS, MPVCA MODESTO, LLC, is the OWNER of Lot 18 of Parcel Map 56-PM-33 as recorded with Stanislaus County, and

WHEREAS, On December 27, 2013, construction of a building was completed on the parcel, and

WHEREAS, on February 24, 2014, it was brought to the City’s attention that the building was constructed about two feet into a public storm drainage easement, and

WHEREAS, this situation is preventing the owner from selling the property, and

WHEREAS, the California Streets and Highways Code Division 9, Part 3, Chapter 4 Article 1, Section 8333(c) authorizes a local agency to summarily vacate a public service easement if the easement has been superseded by relocation and there are no other public facilities located within the easement, and

WHEREAS, the City of Modesto and the OWNER have agreed to relocate the storm drain pipe, and

WHEREAS, the OWNER will pay $44,000 toward the relocation of the SD pipe, and

WHEREAS, the City of Modesto has agreed to relocate the pipe, and

WHEREAS, the storm drain easement can be modified as described in Exhibit “A”, and
WHEREAS, the California Streets and Highways Code Division 9, Part 3, Chapter 4 Article 1, Section 8336 requires that a certified copy of this Resolution of Vacation be recorded in the office of the recorder of Stanislaus County.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said summary vacation is approved; and that the City Clerk be authorized to certify this resolution on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT “A”
Legal Description for Abandonment of a portion of
Public Street Storm Water Drainage System Easement
A.P.N. 078-069-008

Being a portion of Lot 18 as shown on the Parcel Map for The Bridges Business Park – Phase II, recorded in Book 56 of Parcel Maps, Page 33, Stanislaus County Records, lying in the northeast quarter of Section 2, Township 3 South, Range 8 East, Mount Diablo Meridian, situate in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Abandonment Area No. 1:
Commencing at the southwest quarter of said Lot 18: thence along the west line of said Lot 18, North 00°11'18" West, 20.00 feet to the northerly line of an existing Public Street Storm Water Drainage System Easement as shown on said Parcel Map; thence along said northerly line, North 89°32'30" East, 50.91 feet to the Point of Beginning; thence continuing along said northerly line, North 89°32'30" East, 15.76 feet; thence South 78°23'17" West, 15.68 feet; thence North 07°32'29" West, 3.06 feet to the point of beginning.

Abandonment Area No. 2:
Commencing at the southwest quarter of said Lot 18: thence along the west line of said Lot 18, North 00°11'18" West, 20.00 feet to the northerly line of an existing Public Street Storm Water Drainage System Easement as shown on said Parcel Map; thence along said northerly line, North 89°32'30" East, 92.39 feet; thence continuing along the northerly line of said easement, North 77°52'13" East, 27.91 feet; thence continuing along the northerly line of said easement, North 34°52'31" East, 3.31 feet to the Point of Beginning; thence continuing along said northerly line, North 34°52'31" East, 7.06 feet; thence South 11°47'35" East, 5.23 feet; thence South 82°28'21" West, 5.15 feet to the point of beginning.

This real property description was prepared by me or under my direction, in conformance with the Professional Land Surveyors’ Act.

Sean Harp, L.S. 7823
Date 1-16-2015
LOT 18 (56-PM-33)
A.P.N. 078-069-008

EXISTING BUILDING FOUNDATION AT GROUND LEVEL

NORTHERLY LINE OF EXISTING PUBLIC STREET STORM WATER DRAINAGE SYSTEM EASEMENT
(56-PM-33)

POINT OF BEGINNING ABANDONMENT AREA NO. 1

SEE DETAIL "B" ON SHEET 2

SEE DETAIL "A" ON SHEET 2

N. 89'32'30" E  154.67'

NORTH LINE HEALTH CARE WAY & SOUTH LINE OF LOT 18

HEALTH CARE WAY

LINE TABLE

<table>
<thead>
<tr>
<th>LINE</th>
<th>BEARING</th>
<th>DISTANCE</th>
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<tr>
<td>L2</td>
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<tr>
<td>L3</td>
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<td>27.91'</td>
</tr>
</tbody>
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SHEET 1 OF 2

SEAN HARP
No. 7823

THE BRIDGES BUSINESS PARK
PHASE II - LOT 18
EASEMENT ABANDONMENT

GDR ENGINEERING, Inc.
ENGINEERING/SURVEYING/PLANNING
19550 MICHELSON DRIVE, SUITE 310
Irvine, California 92612
949-342-5570

Date: 1/18/2013
Scale: 1" = 20'
Job No. 15912
RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF CIRCLE CLAMPS, GASKETS, PIPE COUPLINGS AND TAPPING SLEEVES FOR THE UTILITIES DEPARTMENT, WATER DIVISION TO GROENIGER/ FERGUSON CO., MODESTO, CA, AND PACE SUPPLY CORP., STOCKTON, CA, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER OR HIS DESIGNEE TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF $188,344, AND OVER FIVE (5) YEARS OF $941,720

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of circle clamps, gaskets, pipe couplings and tapping sleeves, and

WHEREAS, the Purchasing Division issued RFB No. 1415-11 Circle Clamps, Gaskets, Pipe Couplings and Tapping Sleeves to fifteen (15) prospective bidders, five (5) of which were local companies, and posted the RFB on the City’s website, and

WHEREAS, bids were formally opened in the City Clerk’s Office. Four (4) companies chose to respond, two (2) of which were local companies, and,

WHEREAS, all four (4) companies responding provided responsive and responsible bids, and

WHEREAS, Modesto Municipal Code 8-3.206 Support of Local Vendors (SLV) allows the lowest bid or quote submitted by a local business that is within five (5) percent of the lowest bid, the opportunity to match the lowest bid price. Groeniger/Ferguson Co., Modesto, CA, qualified for SLV on a list of inventory items and agreed to match lowest bid price for those items, representing an additional $58,000 of products purchased annually with the local vendor, and
WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of circle clamps, gaskets, pipe couplings and tapping sleeves for the Utilities Department, Water Division to Groeniger/Ferguson Co., Modesto, CA, and Pace Supply Corp., Stockton, CA, for a one-year agreement with four (4) one-year extension options at the sole discretion of the City, for an estimated annual cost of $188,344, and over five (5) years of $941,720, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of circle clamps, gaskets, pipe couplings and tapping sleeves for the Utilities Department, Water Division to Groeniger/Ferguson Co., Modesto, CA, and Pace Supply Corp., Stockton, CA, conforms to Modesto Municipal Code 8-3.203.

WHEREAS, funds are budgeted in Fiscal Year 2014-15 in Appropriation Unit: 4100-45040-53150.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids for the purchase of circle clamps, gaskets, pipe couplings and tapping sleeves for the Utilities Department, Water Division to Groeniger/Ferguson Co., Modesto, CA, and Pace Supply Corp., Stockton, CA, for a one-year agreement with four (4) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase agreements for an estimated annual cost of $188,344.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A DUMP TRUCK WITH 14 YARD CAPACITY FOR THE UTILITIES DEPARTMENT, STORMWATER COLLECTIONS DIVISION THROUGH THE FLEET SERVICES DIVISION, TO INTERSTATE TRUCK CENTER LLC, STOCKTON, CA FOR AN ESTIMATED TOTAL COST OF $132,628

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The dump truck with 14 yard capacity was included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the dump truck with 14 yard capacity will be used by the Stormwater Collections Division. The Stormwater Collections Division has developed a new type of storm system called a “Drywell”. Stormwater Collections has completed several drywell installations in areas with chronic flooding. This program has had great success and enabled the City to address local flooding issues. To build on this success, Stormwater Collections requested an additional construction crew to install new drywells. The approved budget request included equipment and personnel required to staff this second drywell crew, and

WHEREAS, The Purchasing Division issued RFB 1415-22 for the purchase of a dump truck with 14 yard capacity to eight (8) prospective bidders, one of which was a local company and posted the RFB on the City’s website, and

WHEREAS, bids were formally opened in the City Clerk’s office. Four (4) companies chose to respond. The local vendor did not submit a bid. All four (4) companies provided responsive and responsible bids, and
WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of a dump truck with 14 yard capacity, to Interstate Truck Center LLC, Stockton, CA, for a total estimated cost of $132,628, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2014-15, in account # 4480-44222-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of a dump truck with 14 yard capacity to Interstate truck Center LLC, Stockton, CA, conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of a dump truck with 14 yard capacity for the Utilities Department, Stormwater Collections Division, through the Fleet Services Division to Interstate Truck Center LLC, Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of $132,628.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

3 2015-91
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-92

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF ROADWAY CRACK SEALANT FOR THE PUBLIC WORKS DEPARTMENT, STREETS DIVISION TO MAXWELL PRODUCTS, INC., SALT LAKE CITY, UT, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER OR HIS DESIGNEE TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF $137,459, AND OVER FIVE (5) YEARS OF $687,295

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of roadway crack sealant, and

WHEREAS, the Purchasing Division issued RFB No. 1415-09 for the purchase of roadway crack sealant to ten (10) prospective bidders, one of which was a local company, and posted the RFB on the City’s website, and

WHEREAS, bids were formally opened in the City Clerk’s Office. Five (5) companies chose to respond, one of which was a local vendor, and

WHEREAS, all five (5) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff

recommends the award of bid for the purchase of roadway crack sealant for the Public Works Department, Streets Division to Maxwell Products, Inc., Salt Lake City, UT, for a two (2) agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $137,459, and over five (5) years of $687,295, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services
to be formally bid. The award of bid for the purchase of roadway crack sealant for the Public Works Department, Streets Division to Maxwell Products, Inc., Salt Lake City, UT, conforms to Modesto Municipal Code 8-3.203, and

WHEREAS, funds are budgeted in Fiscal Year 2014-15 in Appropriation Unit: 1700-53130-53150.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of roadway crack sealant for the Public Works Department, Streets Division to Maxwell Products, Inc., Salt Lake City, UT, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of $137,459.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE PURCHASE OF A COMBINATION CRIME SCENE AND COMMAND VEHICLE FOR THE MODESTO POLICE DEPARTMENT, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, BY “ACCESSING THE TERMS” OF A COMPETITIVELY BID CONTRACT WITH THE GENERAL SERVICE ADMINISTRATION (GSA) TO SIRCHIE FINGER PRINT LABORATORIES, MEDFORD, NJ, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $152,738

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The Combination Crime Scene and Command Vehicle is included in the vehicles and equipment list authorized by the City Manager, and

WHEREAS, the Combination Crime Scene and Command Vehicle is a replacement police vehicle for the Police Department. The Combination Crime Scene and Command Vehicle has been subjected to a thorough evaluation and has met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, the General Service Administration (GSA) went through a competitive proposal process for the purchase of Emergency Preparedness and First Responder Equipment and issued contract #GS-07F-9464G F to Sirchie Finger Print Laboratories, Medford, NJ, and

WHEREAS, there are no local vendors for this type of equipment. Taking advantage of this process and awarding a contract by “accessing the terms” of the GSA contract # GS-07F-9464G is an efficient and effective way to purchase the Combination
Crime Scene and Command Vehicle, and saves the time and expense for the City to formally solicit RFB’s, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code, and

WHEREAS, one exception provided for in MMC Section 8-3.204(d), is available where the Purchasing Manager in his or her discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase due to the cost savings of staff time and the limited number of competitors. The purchase of a Combination Crime Scene and Command Vehicle, by “accessing the terms” of the GSA contract with Sirchie Finger Print Laboratories, Medford, NJ, will conform to MMC Section 8-3.204(d), and

WHEREAS sufficient funds are budgeted in Fiscal Year 2014-15, in the following appropriation unit: 1341-19998-57003-100776 – 2013-14 SLESF.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of a Combination Crime Scene and Command Vehicle for the Modesto Police Department through the Public Works Department, Fleet Services Division, by “accessing the terms” of a competitively bid contract with the GSA contract # GS-07F-9464G with Sirchie Finger Print Laboratories, Medford, NJ.
BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $152,738.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
A RESOLUTION APPROVING AN AGREEMENT WITH EMERGENCY SERVICES CONSULTING INTERNATIONAL SERVICES TO DEVELOP A MASTER AND STRATEGIC PLAN FOR THE MODESTO FIRE DEPARTMENT IN AN AMOUNT NOT TO EXCEED $59,231 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, The current Modesto Fire Department’s (MFD) Strategic Plan was approved by the Modesto City Council on August 14th, 2007, and

WHEREAS, This plan was developed for years 2008-2012, the last time a Master Plan was completed was in 1990, and

WHEREAS, the new Master Plan will provide long-term (10 years) planning, projections and opportunities while the Strategic Plan will serve as a short-term, annually updated implementation tool that aides in the establishment of an MFD mission, vision, goals and objectives, and

WHEREAS, the plan will guide the future development of the department. It will act as guide to the City Council to identify proper levels of service for Fire Protection, EMS, Fire Prevention, support services, Station and apparatus maintenance/replacement and other fire department responsibilities. The plan will identify current and potential future funding needs to finance these services. It will identify needs for capital and operational expenses as demands for services increase, and

WHEREAS, the Request for Proposals (RFP) was advertised on January 15, 2015 through the Daily Dispatch website, in addition to RFP’s being sent out to other well-known agencies that provide Fire Department consulting services, and

WHEREAS, three proposals were received on February 4, 2015 and distributed for review to three City staff members. Staff, reviewed and ranked the consultants with
Emergency Services Consulting International Services being selected as the most qualified,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Emergency Services Consulting International Services to develop a Master and Strategic Plan for the Modesto Fire Department in an amount not to exceed $59,231.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT WITH FOUR FIVE-YEAR OPTIONS TO EXTEND THE LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND SACRAMENTO-VALLEY LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS FOR THE PLACEMENT OF A CELLULAR TOWER AT CHRYSLER PARK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT

WHEREAS, Sacramento-Valley Limited Partnership desires to lease a cellular tower site located at Chrysler Park for a period of five years with four (4), five (5)-year options to extend the leases, for the installation of cellular telephone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of the Chrysler Park to Sacramento-Valley Limited Partnership for the said use for the sum of $1,700 per month with a rental increase of 2.5% on each anniversary of Commencement date, and

WHEREAS, Sacramento-Valley Limited Partnership further agrees to pay the City of Modesto a one-time, non-refundable payment of $10,000 within thirty (30) days of Commencement date, and

WHEREAS, Sacramento-Valley Limited Partnership will install a stealth cellular tower at Chrysler Park and place cellular equipment on the ground in the vicinity of the pole, and

WHEREAS, Sacramento-Valley Limited Partnership agrees to adhere to the following:

1. Prior to issuance of a building permit, the applicant shall coordinate the design and installation work with City of Modesto for review and approval.

2. All landscaping fences and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.
3. The Capital Facilities Fees payable at the time of the issuance of a building permit for construction shall be based on the rate in effect at the time of issuance of the building permit.

4. The Applicant shall record a Notice of Conditions in the Stanislaus County Recorder’s Office on a form available in the Community and Economic Development Department.

5. Construction activities shall follow guidelines listed in the California Storm Water Quality Association (CASQA) Best Management Practice Handbook for Construction to prevent any drag out of soil or sediments onto the public roadway or into the City storm drain system.

6. All improvement plans pursuant to construction shall be prepared, stamped and signed by a California licensed civil engineer and in accordance with the City of Modesto standards.

7. Prior to placement of any stationary lead-acid battery systems or on-site generators, a permit shall be obtained from the City of Modesto Fire Department.

8. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee and shall be at a height and of a type that is least intrusive to the adjacent neighborhood as determined by the City Engineer or designee and the City of Modesto’s Parks, Recreation and Neighborhoods Department Director or designees.

9. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration or electrical interference detectable on the premises. All machinery or equipment shall be soundproofed as required by the
Parks, Recreation and Neighborhoods Director. The Noise Ordinance prohibits the loud and raucous discharge into the air or the operation of any tools or equipment before 7:00 am or after 9:00 pm daily (except Saturday and Sunday and State and Federal holidays, when the prohibited time shall be before 9:00 am and after 9:00 pm.).

10. Prior to final inspection with the Building and Development Services Division, the applicant shall install signage approved by the Parks, Recreation and Neighborhoods Director or designee to be located on the entrance gate to the cellular communications facility indicating the cell tower provider and the hours permitted for operations and maintenance of the cellular communications for facility, which shall be in accordance with the City of Modesto Municipal Code Noise Ordinance Section 4-9.101.

11. Prior to the issuance of a building permit the applicant shall provide the Parks, Recreation and Neighborhoods Department Director or designee with the name, address and telephone number of applicant’s contact person designated to receive notices, complaints, documents and other correspondence related to ownership, operation and maintenance of the cell tower facilities. Applicant and its successors in interest shall notify the Parks, Recreation and Neighborhoods Department Director of any changes to the contact information within ten (10) working days after such a change is made,

NOW THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year lease agreement between the City of Modesto and Sacramento-Valley Limited Partnership for a cellular site to be located on a portion of
Chrysler Park, with four, five-year options to extend the lease. A copy of the Option and Land Lease Agreement will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager or his designee, is hereby authorized to execute the Option and Land Lease Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015 by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________

APPROVED AS TO FORM:

By: ________________________________

ADAM U. LINDGREN, City Attorney

(SEAL)
RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT WITH FOUR, FIVE-YEAR OPTIONS TO EXTEND THE LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND SACRAMENTO-VALLEY LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS FOR THE PLACEMENT OF A CELLULAR TOWER AT MANCINI PARK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT

WHEREAS, Sacramento-Valley Limited Partnership desires to lease a cellular tower site located at Mancini Park for a period of five years with four (4), five (5)-year options to extend the leases, for the installation of cellular telephone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of the Mancini Park to Sacramento-Valley Limited Partnership for the said use for the sum of $1,700 per month with a rental increase of 2.5% on each anniversary of Commencement date, and

WHEREAS, Sacramento-Valley Limited Partnership further agrees to pay the City of Modesto a one-time, non-refundable payment of $10,000 within thirty (30) days of Commencement date, and

WHEREAS, Sacramento-Valley Limited Partnership will install a stealth cellular tower at Mancini Park located at 1204 River Road and place cellular equipment on the ground in the vicinity of the pole, and

WHEREAS, Sacramento-Valley Limited Partnership agrees to adhere to the following:

1. Prior to issuance of a building permit, the applicant shall coordinate the design and installation work with City of Modesto for review and approval.

2. All landscaping fences and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.
3. The Capital Facilities Fees payable at the time of the issuance of a building permit for construction shall be based on the rate in effect at the time of issuance of the building permit.

4. The Applicant shall record a Notice of Conditions in the Stanislaus County Recorders Office on a form available in the Community and Economic Development Department.

5. The City and developer shall, at their expense defend, and hold harmless the City of Modesto, its agents, officers, and employees from and against any and all claims, actions, damages, losses or expenses of every type and description including, but not limited to payment of attorney’s fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any claim, action, or proceeding and shall cooperate fully in the defense.

6. Construction activities shall follow guidelines listed in the California Storm Water Quality Association (CASQA) Best Management Practice Handbook for Construction to prevent any drag out of soil or sediments onto the public roadway or into the City storm drain system.

7. All improvement plans pursuant to construction shall be prepared, stamped and signed by a California licensed civil engineer and in accordance with the City of Modesto standards.

8. Prior to placement of any stationary lead-acid battery systems or on-site generators, a permit shall be obtained from the City of Modesto Regional Fire Department.
9. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee and shall be at a height and of a type that is least intrusive to the adjacent neighborhood as determined by the City Engineer or designee and the City of Modesto’s Parks, Recreation and Neighborhoods Department Director or designees.

10. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration or electrical interference detectable on the premises. All machinery or equipment shall be soundproofed as required by the Parks, Recreation and Neighborhoods Director. The Noise Ordinance prohibits the loud and raucous discharge into the air or the operation of any tools or equipment before 7:00 am or after 9:00 pm daily (except Saturday and Sunday and State and Federal holidays, when the prohibited time shall be before 9:00 am and after 9:00 pm.).

11. Prior to final inspection with the Building and Development Services Division, the applicant shall install signage approved by the Parks, Recreation and Neighborhoods Director or designee to be located on the entrance gate to the cellular communications facility indicating the cell tower provider and the hours permitted for operations and maintenance of the cellular communications for facility, which shall be in accordance with the City of Modesto Municipal Code Noise Ordinance Section 4-9.101.

12. Prior to the issuance of a building permit the applicant shall provide the Parks, Recreation and Neighborhoods Department Director or designee with the name, address and telephone number of applicant’s contact person designated to receive notices, complaints, documents and other correspondence related to ownership, operation and maintenance of the cell tower facilities. Applicant and its successors in interest shall
notify the Parks, Recreation and Neighborhoods Department Director of any changes to
the contact information within ten (10) working days after such a change is made,

NOW THEREFORE BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves a five-year lease agreement between the City of Modesto and
Sacramento-Valley Limited Partnership for a cellular site to be located on a portion of
Mancini Park, with four, five-year options to extend the lease.

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby
authorized to execute the lease agreement.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson,
who moved its adoption, which motion being duly seconded by Councilmember
Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers None

ABSENT: Councilmembers None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING A CHALLENGE GRANT OF UP TO $250,000 FOR THE MIRACLE LEAGUE OF STANISLAUS COUNTY

WHEREAS, CITY of Modesto recognizes the importance of recreation activities for all of its citizens regardless of abilities, and

WHEREAS, CITY recognizes that the game of baseball is a great source of pride for all who choose to play it, and

WHEREAS, CITY recognizes that the Miracle League and their fiscal sponsor, ORGANIZATION have partnered to bring a Miracle League Field and Program to Modesto, and

WHEREAS, CITY chooses to support ORGANIZATION in its efforts to build a Miracle League Field and establish a program in Modesto by offering $250,000 Challenge Grant, and

WHEREAS, ORGANIZATION has committed to operate a Miracle League Program, build a field and has leased property at 1020 Pelandale Avenue.

WHEREAS, Organization agrees to adhere to the following:

1. ORGANIZATION will provide CITY a detailed accounting for donations received from the date of this agreement through June 30, 2015.

2. ORGANIZATION agrees to keep the LEAGUE in good fiscal standing for a minimum of five years.

3. ORGANIZATION shall, at their expense defend, and hold harmless the City of Modesto, its agents, officers, and employees from and against any and all claims, actions, damages, losses or expenses of every type and description including, but not limited to payment of attorney’s fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to
arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the ORGANIZATION of any claim, action, or proceeding shall cooperate full in the defense.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the attached Agreement.

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized to execute the lease agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers None

ABSENT: Councilmembers None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

03/24/2015/PRN/AJohnson/Item 20
RESOLUTION APPROVING A LEASE AGREEMENT WITH STANISLAUS IMPLEMENT & HARDWARE CO., LTD. FOR THE USE OF ITS PARKING LOT FOR $1,000 PER MONTH ON A MONTH-TO-MONTH CONTRACT UNTIL SUCH TIME AS THE PROPERTY IS SOLD; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, The City of Modesto Police Department is in need of additional parking, and

WHEREAS, this lease would provide a parking lot formerly used by Stanislaus Implement & Hardware Co., LTD., on the corner of 11th and F Street, at a rental of $1,000 a month, and

WHEREAS, this will be a month-to-month contract commencing on April 1, 2015 until such time as the property is sold, and

WHEREAS, this lease will provide needed parking for police and privately-owned employee vehicles, and

WHEREAS, the Landlord is agreeable to this and is asking that we pay his increase in taxes over this period of time,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Lease Agreement with Stanislaus Implement & Hardware Company, LTD. for use of its parking lot for $1,000 per month on a month-to-month contract, until such time as the property is sold.

RESCINDED
MAY 5 2015

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2015-98
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary documents.

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto, held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014/15 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET IN THE AMOUNT OF $85,000

WHEREAS, the purpose of the CML 5059 (207) New Traffic Signals – 2015 project is to install a new traffic signal at the intersection of McHenry Avenue at Grecian Avenue, and

WHEREAS, in January, 2012 staff applied for and received Congestion Mitigation and Air Quality (CMAQ) funds to construct a new traffic signal at the following two intersections in the City of Modesto: (1) Blue Gum Avenue at Rosemore Avenue and (2) McHenry Avenue at Grecian Avenue, and

WHEREAS, due to the addition of new buildings on the West Modesto Junior College (MJC) campus, representatives from MJC approached the City of Modesto regarding the need for a new traffic signal located at the intersection of Blue Gum at Prichard Avenue, and

WHEREAS, at the September 2, 2014 Council Meeting the City Council approved Plans and Specifications for MJC to construct a new traffic signal located at the intersection of Blue Gum Avenue at Prichard Avenue. MJC will be responsible for the costs associated with the construction of this new traffic signal, and

WHEREAS, with the approval for MJC to construct a new traffic signal at the intersection of Blue Gum at Prichard Avenue and the close proximity to the intersection of Blue Gum Avenue at Rosemore Avenue, it is no longer desirable to construct a new traffic signal at the intersection of Blue Gum Avenue at Rosemore Avenue, and
WHEREAS, on December 8, 2013, JWG McHenry, LLC received Conditions of Approval: DPR-13-011 – Claratina Avenue Auto Dealerships for the development of an Infinity Dealership located at the south-east former of McHenry Avenue and Claratina Avenue, and

WHEREAS, JWG McHenry, LLC expressed their desire for the construction of a new traffic signal located at the intersection of McHenry Avenue at Grecian Avenue. Today's non-signalized intersection of McHenry Avenue at Grecian Avenue only allows for right turns into Grecian Avenue from northbound McHenry Avenue and right turns out of Grecian Avenue onto northbound McHenry Avenue, and

WHEREAS, City staff has worked diligently in coordinating with representatives at JWG McHenry, LLC and Caltrans to deliver a new traffic signal located at the intersection of McHenry Avenue at Grecian Avenue as part of the New Traffic Signals - 2015 CMAQ project in a timetable that will coordinate with the Claratina Auto Dealerships project and the pending street improvements along McHenry Avenue, and

WHEREAS, on December 18, 2014, California Department of Transportation authorized Preliminary Engineering (PE) funding in the amount of $85,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 201/15 Capital Improvement Project Program budget to modify and add Capital Improvement Program funding in the amount of $85,000.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson,
who moved its adoption, which motion being duly seconded by Councilmember
Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION ACCEPTING CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS IN THE AMOUNT OF $85,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT FUNDING DOCUMENTS

WHEREAS, the purpose of the CML 5059 (207) New Traffic Signals – 2015 project is to install a new traffic signal at the intersection of McHenry Avenue at Grecian Avenue, and

WHEREAS, in January, 2012 staff applied for and received Congestion Mitigation and Air Quality (CMAQ) funds to construct a new traffic signal at the following two intersections in the City of Modesto: (1) Blue Gum Avenue at Rosemore Avenue and (2) McHenry Avenue at Grecian Avenue, and

WHEREAS, due to the addition of new buildings on the West Modesto Junior College (MJC) Campus, representatives from MJC approached the City of Modesto regarding the need for a new traffic signal located at the intersection of Blue Gum Avenue at Prichard Avenue, and

WHEREAS, at the September 2, 2014, Council Meeting the City Council approved Plans and Specifications for MJC to construct a new traffic signal located at the intersection of Blue Gum Avenue at Prichard Avenue. MJC will be responsible for the costs associated with the construction of this new traffic signal, and

WHEREAS, with the approval for MJC to construct a new traffic signal at the intersection of Blue Gum Avenue at Prichard Avenue and the close proximity to the intersection of Blue Gum Avenue at Rosemore Avenue, it is no longer desirable to...
construct a new traffic signal at the intersection of Blue Gum Avenue at Rosemore Avenue, and

WHEREAS, on December 8, 2013, JWG McHenry, LLC received Conditions of Approval: DPR-13-011 – Claratina Avenue Auto Dealerships for the development of an Infinity Dealership located at the south-east corner of McHenry Avenue and Claratina Avenue, and

WHEREAS, JWG McHenry, LLC expressed their desire for the construction of a new traffic signal located at the intersection of McHenry Avenue at Grecian Avenue. Today’s non-signalized intersection of McHenry Avenue at Grecian Avenue only allows for right turns into Grecian Avenue from northbound McHenry Avenue and right turns out of Grecian Avenue onto northbound McHenry Avenue, and

WHEREAS, City staff has worked diligently in coordinating with representatives at JWG McHenry, LLC and Caltrans to deliver a new traffic signal located at the intersection of McHenry Avenue at Grecian Avenue as part of the New Traffic Signals - 2015 CMAQ project in a timetable that will coordinate with the Claratina Auto Dealerships project and the pending street improvements along McHenry Avenue, and

WHEREAS, on December 18, 2014, California Department of Transportation authorized Preliminary Engineering (PE) funding in the amount of $85,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts Congestion Mitigation Air Quality (CMAQ) funds in the amount of $ 85,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE ESTABLISHMENT OF A NEW CAPITAL IMPROVEMENT PROJECT (CIP) ACCOUNT FOR $600,000 OF THE ONE TIME MONEY TO BE USED FOR THE HIGH VOLTAGE STREET LIGHT CIRCUIT PARTIAL REPLACEMENT PROJECT IN THE CITY OF MODESTO

WHEREAS, the City of Modesto Council has decided to invest $600,000 to construct replacement of a portion of the high voltage street light circuits in our community, and

WHEREAS, the replacement street lights circuits will provide a better and more safe nighttime street lighting option for Modesto residents as well as the City employees that maintain the street lights, and

WHEREAS, the four high voltage street light circuits that will be replaced will be decided based on the condition of the existing 36 high voltage street light circuits, and

WHEREAS, replacement of a portion of the high voltage street light circuits is exempt from environmental review under the Categorical Class III CEQA Guidelines, Section 15301(c) of the CEQA/NEPA requirements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the establishment of a new CIP account to fund the construction of replacement street light circuits in Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE AIRPORT CAPITAL IMPROVEMENT PLAN (ACIP) FOR SUBMITTAL TO THE FEDERAL AVIATION ADMINISTRATION (FAA) AND CALTRANS AERONAUTICS

WHEREAS, Modesto City-County Airport is a federally obligated airport and is eligible for federal funding, and

WHEREAS, as Airport sponsor, the City is eligible for discretionary funding from the Federal Airport Improvement Program (AIP), and

WHEREAS, the FAA requires that the City submit a revised ACIP annually covering at least the next five (5) years to maintain eligibility for future project funding, and

WHEREAS, in addition to updating cost estimates, the ACIP annual update is intended to reflect ongoing changes in City priorities, airport needs, and/or federal mandates, and

WHEREAS, keeping the ACIP current helps the FAA plan for the Airport’s long-term funding needs and better distribute the funds on a priority rating, and

WHEREAS, CalTrans uses the ACIP submission to develop State Capital Improvement Plan (SCIP), and

WHEREAS, the Modesto City-County Airport CIP update will be focusing on mandated safety and compliance issues, current infrastructure needs and planning for future Airport needs and,

WHEREAS, the total package of capital improvements submitted to the FAA for the multi-year period ending in 2020 is estimated to cost $10,197,047.00, and
WHEREAS, funding for projects that are approved will be borne by the FAA at 90% with the Airport Fund providing the remaining 10% ($1,023,758.00), and

WHEREAS, Passenger Facility Fees or Local Match will generate most of the revenue for the 10% match, and

WHEREAS, the Airport Advisory Committee, at its February 19, 2015 meeting recommended the forwarding of this item to City Council for consideration.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the ACIP, attached hereby as Exhibit A, for submittal to the FAA and CalTrans Aeronautics.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES
Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
## MODESTO Airport Capital Improvement Plan (ACIP)

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RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL, INC. FOR CONSULTANT SERVICES TO DEVELOP A WASTEWATER COLLECTION SYSTEM INVENTORY AND CONDITION ASSESSMENT, IN AN AMOUNT NOT TO EXCEED $417,344 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $41,734 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $459,078, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Inventory and Condition Assessment (I&CA) includes the inspection of key components of the wastewater collection system in order to identify corrosion and other structural problems, especially the condition of 16-inch and larger reinforced concrete pipe, force mains and their discharge manholes, siphons, and inspection of a lift station, as

WHEREAS, the results of this project will provide key information, in the form of specific Capital Improvement Program (CIP) projects and their costs, in the development of the City's Wastewater Master Plan, as

WHEREAS, the City's last condition assessment of the wastewater collection system was conducted in 2005 as part of the 2007 Wastewater Master Plan, as

WHEREAS, a final report will be produced in which CIP projects and associated costs will be identified along with the findings of the inspections and recommendations for future inspections, as

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, Brown and Caldwell Inc., of Walnut Creek, was selected as the most qualified firm to perform the work for this particular project, as
WHEREAS, the I&CA is expected to be completed in approximately six months,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves an Agreement with Brown and Caldwell to develop a Wastewater
Collection System Inventory and Condition Assessment, in an amount not to exceed
$459,078.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson,
who moved its adoption, which motion being duly seconded by Councilmember
Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 OPERATING BUDGET IN THE AMOUNT OF $405,375 TO BE TRANSFERRED INTO COST CENTER ACCOUNT 43600 FROM WASTEWATER FUND RESERVES IN ORDER TO FULLY FUND THE AGREEMENT WITH BROWN AND CALDWELL, INC. FOR CONSULTANT SERVICES, INCLUDING SUPPORT BY CITY STAFF, TO CONDUCT THE WASTEWATER COLLECTION SYSTEM INVENTORY AND CONDITION ASSESSMENT

WHEREAS, certain budgetary transactions are necessary in the amount of $405,375, in order to fund the Wastewater Collection System Inventory and Condition Assessment agreement, including support by City staff for the Wastewater Collection System Inventory and Condition Assessment, and

WHEREAS, the Fiscal Year 2014-2015 Operating Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2014-2015 Operating Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
Exhibit A

Due to the increase of estimated engineering/design/administration costs for the agreement, including support by City staff for Cost Center Account #43600 “Wastewater Inventory and Condition Assessment”, the project costs need to be increased by $405,375. This would be done by adjusting Account 53300 Professional Services by $374,106, and Account 54500 Services City Forces - Interfund by $31,269 in Cost Center Account #43600 “Wastewater Inventory and Condition Assessment”.

To fund the above account, $405,375 will be transferred from Wastewater Fund Reserves into Cost Center Account #43600 “Wastewater Inventory and Condition Assessment”.
RESOLUTION ADOPTING THE 2015-2018 STRATEGIC PLAN

WHEREAS, on September 28, 2010, the Council approved Resolution No. 2010-420 formally adopting the City of Modesto Strategic Plan, which was a product of the City’s past visioning and planning efforts, and

WHEREAS, the needs and resources of the City have drastically changed since that time, and

WHEREAS, in July 2014, Council and staff embarked on a strategic planning process to further develop the Strategic Plan for the City, and

WHEREAS, Council and staff identified strategic commitments in the 2010 workshops that would frame the Vision and Strategic Plan for the City, and

WHEREAS, in January, November, and March 2015, Council and staff held planning workshops and gathered input from community members to refine and update the City’s strategic commitments that promote a culture of service excellence for the citizens of Modesto:

1. Healthy Economy and Great Quality of Life
2. Vibrant Infrastructure and Sustainable Environment
3. Great Safe Neighborhoods
4. Effective, Responsive, and Transparent Government, and

WHEREAS, the Strategic Commitments to the community and the initiatives and performance measures that support those commitments support the statement of policy as outlined in Section 725 of the Increase Accountability in City Hall Measure (M) of 2008.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the 2015-2018 Strategic Plan, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 24th day of March, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
CITY OF MODESTO
STRATEGIC COMMITMENTS

In January, November, and March 2015, Council and staff held planning workshops to refine the strategic commitments, with input from community members, that embrace a culture of service excellence for the citizens of Modesto.
2015-2018 Strategic Commitments

1 Healthy Economy & Great Quality Of Life

Increase the City's proactive economic development efforts by creating and preserving jobs, strengthening our economic base and enhancing the City's revenue base.

- Adopt a revised comprehensive General Plan
- Promote new and expanding businesses through targeted incentives
- Adopt a proactive approach for bringing utilities to identified business development areas
- Leverage the airport as a regional asset to encourage economic development

2 Vibrant Infrastructure & Sustainable Environment

Strengthen and maintain a safe infrastructure of city roads, water supply, storm sewers, transit and airport needs for residents, businesses and visitors.

- Maintain the current (PCI) Rating
- Effectively plan and manage infrastructure assets
- Enhance regional partnerships to effectively manage all water resources in the County
- Expand alternative modes of travel and improve transportation flow
- Explore opportunities for regional cooperation and service delivery

3 Great Safe Neighborhoods

Explore new approaches to public safety, working in partnership with the community to reduce crime and maintain a safe and inviting community in which to live, work and play. Increase collaboration with neighborhoods and school district(s) to achieve quality of life improvements, and safe neighborhoods through supporting community self-reliance, problem solving and public/private partnerships.

- Explore progressive crime and fire prevention techniques
- Ensure the effective use and efficient deployment of public safety resources based on local need
- Increase public safety coordination and communication among all city departments
- Grow neighborhood leadership and capacity and identify self-help strategies to strengthen neighborhoods
- Support positive youth activities and engagement
- Increase public awareness of city-provided services and partnership opportunities
- Create additional strategic objective on implementing best practices (homeless; graffiti)

4 Effective Responsive & Transparent Government

Enhance the organizations' commitment to the 9 principles of EMBRACE IT, develop new and creative methods to leverage technology, market organizational strengths and remain dedicated to seeking efficiencies and continuous improvement.

- Enhance the marketing of City services and accomplishments
- Improve teamwork through enhanced Council, executive level, and staff communication channels
- Make Modesto an employer of choice
- Make informed decisions embracing best practices and continuous improvement
- Implement technology solutions for improved efficiency and service delivery
A RESOLUTION APPOINTING CARMEN MORAD TO THE CITY OF MODESTO PLANNING COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Appointments Committee met on March 17, 2015 and recommended appointment of Carmen Morad to the Modesto Planning Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Carmen Morad is hereby appointed to the Modesto Planning Commission with a term expiration of April 14, 2019.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Modesto Planning Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2014-2015,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2014-2015 Annual Operating and Capital Improvement budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
FISCAL YEAR 2014-15

PUBLIC WORKS
The City of Modesto has been awarded a new grant from the State of California, Used Oil Payment Program #5. A budget adjustment is necessary to establish a revenue budget, and create the expense budget for salaries, residential-curbside motor oil collection, advertising, public education materials and used oil filter collection, both in the amount of $57,248.

POLICE DEPARTMENT
A budget adjustment is necessary to establish a new non-capital project for the Organized Crime Drug Enforcement Task Forces (OCDETF) Operations in the amount of $40,000. This budget adjustment will establish both the revenue and expense budgets for this project with $25,000 funding overtime expenses and $15,000 funding tools and field supplies authorized for reimbursement per this agreement with the United States Department of Justice.
RESOLUTION APPROVING THE ESTABLISHMENT OF A NEW MULTI-YEAR ACCOUNT FOR $415,000 OF THE ONE-TIME MONEY TO BE USED FOR EMERGENCY POWER, DEFERRED MAINTENANCE AND REPAIRS THROUGHOUT MODESTO FIRE DEPARTMENT AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDERS FOR EMERGENCY POWER, AND DEFERRED MAINTENANCE AND REPAIRS FOR THE MODESTO FIRE DEPARTMENT'S ELEVEN (11) FIRE STATIONS, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $415,000

WHEREAS, in Fiscal Year 2013/14 there were savings in the annual operating budget at the end of the fiscal year, and

WHEREAS, the City of Modesto Council has allocated $415,000 of the savings towards emergency power needs, deferred maintenance and repairs at our Fire Stations, and

WHEREAS, with the downturn of the economy and the formation of the Modesto Regional Fire Authority, maintenance of Modesto's Fire Stations has been deferred for the past several years, and

WHEREAS, this deferral of maintenance has now reached critical levels and major repairs are needed in one category or another at most stations, and

WHEREAS, the average age of our stations is approximately 39 years with our oldest being Station 1 at 75 years of age and while the crews that reside in the stations have done a lot of general maintenance upkeep, very little money has been invested in the stations over the years by the organization.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the establishment of a new of a new multi-year account for $415,000 of the one-time money to be used for emergency power, deferred maintenance
and repairs throughout the Modesto Fire Department and authorizing the Purchasing Manager to issue purchase orders for emergency power, and deferred maintenance and repairs for the Modesto Fire Department’s elven (11) Fire Stations, for an estimated annual cost not to exceed $415,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FY2014-2015 CAPITAL IMPROVEMENT PROGRAM BUDGET AND APPROVING THE APPROPRIATION OF $100,000 FROM THE GENERAL FUND TO THE PARK PARTNER CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECT #100300 TO FUND VARIOUS PARK PARTNER PROJECTS

WHEREAS, the City of Modesto originally created the Park Partner program in 2000 as a way to partner with volunteers to improve the City’s parks and park facilities, and

WHEREAS, the city is currently working on two (2) park improvement projects with community volunteers, Wesson Ranch Playground Improvement and Mancini Bowl Bench Improvement, and

WHEREAS, these projects are currently underfunded by the City, and

WHEREAS, the City Council identified seven (7) items to receive funding as “Deferred Maintenance and Investment Opportunities” at their February 10, 2015 workshop, and

WHEREAS, the Park Partner program was identified as one of the opportunities to be funded, with a proposed allocation of $100,000 in funds for this project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the fiscal year 2014-2015 Capital Improvement Program Budget to adjust the expense and revenue categories within the project account and authorizes the Finance Director, or her designee, to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]
ADAM U. LINDGREN, City Attorney
A RESOLUTION ACCEPTING A BRENDEN MANN FOUNDATION GRANT TOTALING $50,000 TO PROVIDE FUNDING FOR DOWNTOWN FOOT, BIKE, AND WHEN APPROPRIATE, EQUESTRIAN PATROLS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the Modesto Police Department applied and was awarded a Brenden Mann Foundation grant totaling $50,000, and

WHEREAS, this funding will offset the costs of providing Police Officer Bike/Foot/Equestrian Patrols of a nine-block section in the heart of downtown Modesto, and

WHEREAS, the Police Department believes it is making progress in working with businesses in the area to mitigate crime and criminal behavior, and creating a sense of security in those who frequent the downtown entertainment venues and services, and

WHEREAS, the Modesto Police Department, in partnership with the Brenden Mann Foundation, wants to create a “hospitality zone”, wherein people feel welcome and safe in the Downtown, and

WHEREAS, funds received will be used to pay for overtime staffing costs ($47,000) for the Police Officers patrolling on bicycles, on foot and when appropriate on horseback with a portion of the funds utilized for bicycle repair and replacement costs ($3,000) for a total of $50,000 as shown in Exhibit A,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a Brenden Mann Foundation grant totaling $50,000 to provide funding for Downtown Foot, Bike, and when appropriate, Equestrian Patrols,
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
Exhibit A

The Brenden Mann Foundation grant allocation for Fiscal Year 2014/2015 will be applied to:

<table>
<thead>
<tr>
<th>Revenues:</th>
<th>Increase/(Decrease)</th>
<th>Description</th>
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<td>To:</td>
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<tr>
<td>MY-1340-19998-42503-100877</td>
<td>$ 50,000</td>
<td>Brenden Mann Foundation Grant</td>
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<td><strong>TOTAL:</strong></td>
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<table>
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<th>Expenses:</th>
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<th></th>
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<tr>
<td>From:</td>
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<td></td>
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<tr>
<td>MY-100877- Appr Unit A-51200</td>
<td>$ 47,000</td>
<td>Overtime</td>
</tr>
<tr>
<td>MY-100877-Appr Unit C-52300</td>
<td>$ 3,000</td>
<td>Tools &amp; Field Supplies</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$50,000</strong></td>
<td></td>
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MODESTO CITY COUNCIL  
RESOLUTION NO. 2015-111  

A RESOLUTION AMENDING THE 2014/2015 MULTI-YEAR OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF $50,000 FROM A BRENDEN MANN FOUNDATION GRANT TO PROVIDE FUNDING FOR DOWNTOWN BIKE, FOOT, AND WHEN APPROPRIATE, EQUESTRIAN PATROLS; AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION  

WHEREAS, the Modesto Police Department applied and was awarded a Brenden Mann Foundation grant totaling $50,000, and  

WHEREAS, this funding will offset the costs of providing Police Officer Bike/Foot/Equestrian Patrols of a nine-block section in the heart of downtown Modesto, and  

WHEREAS, the Police Department believes it is making progress in working with businesses in the area to mitigate crime and criminal behavior, and creating a sense of security in those who frequent the downtown entertainment venues and services, and  

WHEREAS, the Modesto Police Department, in partnership with the Brenden Mann Foundation, wants to create a “hospitality zone”, wherein people feel welcome and safe in the Downtown, and  

WHEREAS, funds received will be used to pay for overtime staffing costs ($47,000) for the Police Officers patrolling on bicycles, on foot and when appropriate on horseback with a potion of the funds utilized for bicycle repair and replacement costs ($3,000) for a total of $50,000 as shown in Exhibit A,  

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2014/2015 Multi-Year Operating Budget is hereby amended as shown in the attached Exhibit A, which is incorporated by reference herein.
BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Adam U. Lindgren, City Attorney
Exhibit A

The Brenden Mann Foundation grant allocation for Fiscal Year 2014/2015 will be applied to:

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<td>TOTAL</td>
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<td></td>
</tr>
</tbody>
</table>
RESOLUTION APPROVING THE CITY OF MODESTO SPONSORSHIP OF THE 2015 CINCO DE MAYO PARADE, INCLUDING THE WAIVER OF CITY PERMIT FEES, POLICE OVERTIME COSTS, AND VEHICLE FEE EXPENSES INCURRED BY THE CITY OF MODESTO POLICE DEPARTMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY DOCUMENTS NECESSARY RELATED TO THE SPONSORSHIP

WHEREAS, the annual Cinco de Mayo Parade on Crows Landing Road is a tradition for families living in the Crows Landing Road area as well as all residents of Modesto and Stanislaus County; and

WHEREAS, the Parade first started in 2003 through the efforts of local non-profit groups with approximately 20 entries and 3,000 spectators; and

WHEREAS, in 2010, the non-profit organization, South Modesto Businesses United, began managing the Cinco de Mayo Parade, expanding it to over 60 entries and 12,000+ spectators; and

WHEREAS, this event brings the community together to celebrate the history and culture of Mexico and also has a growing economic benefit to businesses located on Crows Landing Road; and

WHEREAS, there are additional economic benefits for all the businesses that provide goods and services for the parade itself; and

WHEREAS, staff is requesting the City Council approval to sponsor the 2015 Cinco de Mayo Parade; and

WHEREAS, the sponsorship will include the waiver of the City permit fees, Police Department overtime costs, and vehicle fee expenses to provide public safety coverage for this event; and
WHEREAS, Police Explorers and Police Volunteers will also be used, at no cost, to provide the necessary staffing needed for this event; and

WHEREAS, the total expense to the City of Modesto to sponsor the 2015 Cinco de Mayo Parade is approximately $7,096.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto sponsorship for the 2015 Cinco de Mayo Parade including the waiver of City permit fees, overtime costs, and vehicle fee expenses incurred by the City of Modesto Police Department, for a total cost of approximately $7,096.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary documents related to the sponsorship.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-113

RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY (CALRECYCLE) FOR ALL LOCAL GOVERNMENT WASTE TIRE ENFORCEMENT GRANTS, ACCEPTING GRANT AWARDS, AMENDING THE ANNUAL BUDGET, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT RELATED DOCUMENTS

WHEREAS, Public Resources Code sections 40000 et seq. authorizes the Department of Resources Recycling and Recovery (CalRecycle), formerly known as the California Integrated Waste Management Board, to administer various Grant Programs (grants) in furtherance of the state of California’s (State) efforts to reduce, recycle and reuse solid waste generated in the State thereby preserving landfill capacity and protecting public health and safety and the environment, and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants, and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant’s governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED the Council of the City of Modesto authorizes the submittal of application(s) to CalRecycle for Local Government Waste Tire Enforcement Grants for which the City of Modesto is eligible.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized and empowered to execute in the name of the City of Modesto all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant
BE IT FURTHER RESOLVED that these authorizations are effective for five (5) years from the date of adoption of this resolution.

BE IT FURTHER RESOLVED to amend the current budget to reflect increases in revenue from grant awards.

BE IT FURTHER RESOLVED that this resolution shall remain in full force and effect for five years from the date of adoption.

BE IT FURTHER RESOLVED that Resolution No. 2010-109 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH KIMLEY-HORN & ASSOCIATES, INC. (KHA) TO PROVIDE DESIGN, CONSTRUCTION, ENGINEERING AND PROGRAM MANAGEMENT FOR VARIOUS AIRPORT CAPITAL IMPROVEMENT PROJECTS FOR A PERIOD OF FIVE (5) YEARS

WHEREAS, the City has approved numerous Airport Capital Improvement Plan (ACIP) projects planned over approximately the next five (5) years at the Modesto City-County Airport, and

WHEREAS, skilled airport engineering, design, construction and inspection assistance will be required to move forward with those projects, and

WHEREAS, on August 18, 2014, the City solicited professional services for an airport consulting engineer to provide airport engineering, design, construction management and inspection, and

WHEREAS, KHA has proposed an agreement to provide design and planning services for various Airport Capital Improvement Projects at the Modesto City-County Airport, and

WHEREAS, KHA has been selected as the most qualified and responsible consultant to perform consulting, engineering, planning, design and construction for the Airport, and

WHEREAS, the Modesto City County airport is part of the Federal airport system, and eligible to submit applications for Federal Grant Funding, and

WHEREAS, each year the City is eligible for entitlement and discretionary funds from the Airport Improvement Program (AIP), and
WHEREAS, funded projects will be brought to the City Council for approval as FAA Grant funds are made available for selected projects.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Kimley-Horn & Associates, Inc. to provide design construction, engineering and program management for various Airport Capital Improvement Projects for a period of five years, and

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT WITH SONI AVIATION, LLC (SONI) AS A FIXED BASE OPERATOR AT THE MODESTO CITY-COUNTY AIRPORT (MOD), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Airport Hangar No. 2, is one of the older aircraft storage hangars at the Modesto City-County Airport, and

WHEREAS, Soni Aviation seeks to lease all of Airport Hangar No. 2 for use as an aircraft maintenance facility, and

WHEREAS, Soni Aviation submitted a lease request package containing financial information and references for review and was determined to be a business that would be suitable for Hangar No. 2, and

WHEREAS, the lease agreement is expected to provide revenues of approximately $15,708 annually in rents to the Airport Enterprise Fund Account No. 4310-53312-43887, and

WHEREAS, Soni Aviation will be responsible for stipulated tenant improvements as defined in the lease agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Airport Lease Agreement between the City of Modesto and Soni Aviation, LLC for the use of Hangar No. 2.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Madrigal,
was upon roll call carried and the resolution adopted by the following vote:

AYES Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Adam U. Lindgren, City Attorney
RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE APRIL 1, 2015, TO REFLECT CHANGES IN THE FUEL COST, AND RESCINDING RESOLUTION NO. 2014-207

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City’s Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City’s garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

RESCINDED

JUL 12 2016

04/14/2015/PW/JReed/Item 16

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2015-116
WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, a report dated March 24, 2015 from the Public Works Department, Solid Waste Division, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service attached hereto, marked Exhibit “1” and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the adjustments to the Maximum Charges for Garbage Service as attached hereto, marked Exhibit “1” and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective April 1, 2015, and shall remain in effect until revised by Council.
BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2014-207 is hereby rescinded effective April 1, 2015.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: [Signature]
ADAM U. LINDGREN, City Attorney
Maximum Charges for Garbage Service

Standard Containers
Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service maximum rates shall include the following:
- One, 96-gallon container for garbage
- One, 96-gallon container for green waste, food, paper, and other organics
- Countertop container for kitchen scraps
- Two bulky item collections per year by appointment
- Green Waste/Forestry materials collection and composting

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.111 of the Municipal Code.

1. **Standard Container Service** –
   a. The maximum rate for new sign-ups for service or changes in service that occur after July 1, 1996, shall be **$28.90 per month** regardless of size of container. A fuel component of $1.20 per month is included in the maximum rate for the quarter beginning April 1, 2015 and ending June 30, 2015. The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional garbage container shall be **$21.44 per month**, and **$10.27 per month** for each additional green waste container.

2. **60-Gallon Container Service (Grandfathered Customers)** –
   a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **$24.14 per month**. A fuel component of $1.20 per month is included in the maximum rate for the quarter beginning April 1, 2015 and ending June 30, 2015. The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional 60-gallon garbage container shall be **$20.90 per month**.

3. **Fuel Component Adjustments** - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.
### DETACHABLE CONTAINERS

**Maximum Monthly Rates**

<table>
<thead>
<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>1 CY</td>
<td>$36.21</td>
</tr>
<tr>
<td>2 CY</td>
<td>$72.42</td>
</tr>
<tr>
<td>3 CY</td>
<td>$108.63</td>
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<tr>
<td>4 CY</td>
<td>$144.84</td>
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<tr>
<td>5 CY</td>
<td>$181.05</td>
</tr>
<tr>
<td>6 CY</td>
<td>$217.26</td>
</tr>
</tbody>
</table>

### FORK Participants Container Maximum Rates

<table>
<thead>
<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>2 CY</td>
<td>$54.32</td>
</tr>
<tr>
<td>3 CY</td>
<td>$81.47</td>
</tr>
<tr>
<td>4 CY</td>
<td>$108.63</td>
</tr>
<tr>
<td>5 CY</td>
<td>$135.79</td>
</tr>
<tr>
<td>6 CY</td>
<td>$162.95</td>
</tr>
<tr>
<td>90-gallon</td>
<td>$21.68</td>
</tr>
</tbody>
</table>

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $1.04 per cubic yard per month ($0.26 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning April 1, 2015 and ending June 30, 2015. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

### DROP BOX CONTAINERS

1. **Pick up charge** - $248.22 per pick up
2. **Rental** - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10.00 per day for boxes kept 21 or more days without servicing
3. **Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $14 per ton will be added to the disposal charges.
**COMPACTORS**

**Front Loader Type:**

<table>
<thead>
<tr>
<th>Container Size</th>
<th>NUMBER OF COLLECTIONS PER WEEK</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>3 CY</td>
<td>$325.89</td>
</tr>
<tr>
<td>4 CY</td>
<td>$434.52</td>
</tr>
<tr>
<td>6 CY</td>
<td>$651.78</td>
</tr>
</tbody>
</table>

Roll-Off Types:
1. **6 CY to 40 CY** $248.22 per pickup
2. **Medical waste compactors** $265.00 per pickup
3. **Washing compactor** $30.00
4. **Disposal Charge:** Actual charge to be paid by customer
5. **AB 939 Green Waste Diversion Fee** $14.00 per ton

**EXTRA PICKUPS**

1. **Standard containers or equivalent** $3.50 plus $2.30/container
2. **Detachable containers** $12.00 plus $4.15/cubic yard

**SPECIAL SERVICE CONDITIONS**

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

**DETACHABLE CONTAINER ONLY REPLACEMENT AND CLEANING SERVICE**

<table>
<thead>
<tr>
<th></th>
<th>1 CY</th>
<th>1½ CY</th>
<th>2 CY</th>
<th>3 CY</th>
<th>4 CY</th>
<th>5 CY</th>
<th>6 CY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost</td>
<td>$10.12</td>
<td>$11.00</td>
<td>$12.10</td>
<td>$15.40</td>
<td>$20.24</td>
<td>$25.08</td>
<td>$29.92</td>
</tr>
</tbody>
</table>

**NOTATIONS**

1. The above maximum rates include a $0.25 per month residential recycling fee; a $0.05 per cubic yard ($0.22/cubic yard/month) commercial recycling fee; and a $5.00 per pull ($0.25 per ton) industrial recycling fee; a $0.05 per cubic yard ($0.22/cubic yard/month) commercial litter abatement fee.
2. The above residential maximum rates include a $4.00 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $7.79 per yard/month.
4. Carpenter Road Landfill Mitigation Fees for residential and commercial wastes have been suspended for this maximum rate cycle. Carpenter Road Landfill Mitigation fees on Industrial wastes shall be $5.00 per pull on industrial wastes.
5. Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.
RESOLUTION APPROVING AN AGREEMENT TO ENTER AND CONSTRUCT IMPROVEMENTS WITH PROPERTY OWNED BY SYLVAN UNION SCHOOL DISTRICT, LOCATED AT 2701 KODIAK DRIVE (APN: 077-009-042), FOR THE CONGESTION MITIGATION AIR QUALITY (CMAQ) MANAGEMENT CML 5059 (206) – ROUNDABOUT IMPROVEMENTS AT THE INTERSECTION OF KODIAK DRIVE AT LINCOLN OAK DRIVE PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (206) – Roundabout Improvements at the Intersection of Kodiak Drive at Lincoln Oak Drive Project involves the construction of a new roundabout at the intersection of Kodiak Drive at Lincoln Oak Drive and,

WHEREAS, the City of Modesto desires to construct a portion of the required improvements for the roundabout at 2701 Kodiak Drive (APN 077-009-042) owned by Sylvan Union School District and,

WHEREAS, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders on May 27, 2014 and,

WHEREAS, the project is consistent and is conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed and,

WHEREAS, the City requires an Agreement to Enter and Construct Improvements prior to allowing construction on subject property and,
WHEREAS, the City Council of Modesto directed staff to present Agreement to Enter and Construct Improvements to the landowner to construct improvements on subject property as required for the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement to Enter and Construct located at 2701 Kodiak Drive (APN 077-009-042) owned by Sylvan Union School District.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, INC. FOR FINAL DESIGN REPORT FOR RIVER TRUNK REHABILITATION AND CANNERY SEGREGATION DIVERSION STRUCTURES, IN AN AMOUNT NOT TO EXCEED $339,892 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $33,989 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $373,881, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on October 31, 2014, Gallo representatives notified City staff of a sink hole revealing a collapse to the River Trunk, and

WHEREAS, City Wastewater Collections crew repaired the broken portion of the trunk and inspected the line for additional corrosion damage, and

WHEREAS, the line from Santa Cruz Avenue to Santa Ana Avenue was inspected and appeared to be intact; however, immediate rehabilitation of the trunk is needed to prevent any further damage, and

WHEREAS, the purpose of this project is to rehabilitate this section of the River Trunk between Santa Cruz Avenue and the Beard Brook Siphon junction structure, located at the Gallo facility, and

WHEREAS, this section of the River Trunk consists of 2,160 feet of 45 to 60-inch unlined reinforced concrete pipe (RCP, and

WHEREAS, the pipeline will be rehabilitated by installing "slip-lining" (insertion of a new plastic pipe) or cured-in-place pipe (CIPP) lining, and

WHEREAS, the goal of the project is to restore the structural integrity of the pipeline and provide a plastic lining that will resist future corrosion, and
WHEREAS, additionally, to provide reliability to the River Trunk and Cannery Segregation Trunk (Can-Seg Trunk), diversion structures are needed to allow the bypass of flows in the event one of these trunks experiences a failure, and

WHEREAS, the diversion structures will allow flow to be redirected to one of the trunks to maintain service while repairs can be made, and

WHEREAS, Carollo Engineers, Inc. (Carollo) is currently working on the preliminary design of the River Trunk Realignment project that spans from the Sutter Plant to the Gallo facility, and

WHEREAS, considering Carollo’s involvement with this project and its familiarity with the hydraulics associated with both the River Trunk and Can-Seg Trunk, and also with the Gallo facility, staff recommends approval of an agreement with Carollo for Final Design Report for the River Trunk Rehabilitation and Cannery Segregation Diversion Structures projects.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, Inc. to prepare the Final Design Report for River Trunk Rehabilitation and Diversion Structures projects in an amount not to exceed $339,892 for the identified scope of services, plus $33,989 for additional services (if needed), for a maximum total amount of $373,881.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST:  
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  
ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 CIP BUDGET IN THE AMOUNT OF $115,000 TO BE TRANSFERRED INTO CIP ACCOUNT 100791 FROM WASTEWATER FUND RESERVES IN ORDER TO FULLY FUND THE AGREEMENT WITH CAROLLO ENGINEERS, INC. FOR THE FINAL DESIGN REPORT FOR RIVER TRUNK REHABILITATION AND CANNERY SEGREGATION DIVERSION STRUCTURES, INCLUDING SUPPORT BY CITY STAFF

WHEREAS, certain budgetary transactions are necessary in the amount of $115,000, in order to fund the Final Design Report agreement, including support by City staff for the River Trunk Rehabilitation and Cannery Segregation Diversion Structures projects, and

WHEREAS, the Fiscal Year 2014-2015 Capital Improvement Program Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2014-2015 Capital Improvement Program Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Madrigal,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
Exhibit A

Due to the increase of estimated engineering/design/administration costs for the agreement, including support by City staff for CIP Account #100791-“River Trunk Rehabilitation”, the project costs need to be increased by $115,000. This would be done by adjusting Engineering/Design/Administration (EDA) in CIP Account #100791-“River Trunk Rehabilitation” by $115,000.

To fund the above account, $115,000 will be transferred from Wastewater Fund Reserves into CIP Project #100791-“River Trunk Rehabilitation” project.
RESOLUTION APPROVING AN AGREEMENT WITH DAVID KEITH TODD CONSULTING ENGINEERS, INC., DBA TODD GROUNDWATER (TODD GROUNDWATER) FOR CONSULTANT SERVICES TO DEVELOP A GROUNDWATER CHARACTERIZATION AND RECHARGE STUDY, IN AN AMOUNT NOT TO EXCEED $158,444, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the cities of Modesto, Riverbank, Oakdale, the Modesto Irrigation District (MID), the Oakdale Irrigation District (OID), and Stanislaus County formed the Stanislaus and Tuolumne Rivers Groundwater Basin Association (STRGBA) to oversee and coordinate groundwater management activities in the Modesto Groundwater Subbasin, as

WHEREAS, on May 22, 2012, by Resolution No. 2012-179, the City Council authorized the City Manager to apply for the Proposition 84 Local Groundwater Assistance Program Grant, and execute all subsequent documents, as

WHEREAS, the City of Modesto received a grant award of $158,444 from DWR, on behalf of the STRGBA, to conduct a Groundwater Characterization and Recharge Study, as

WHEREAS, the primary objective of the study is to determine the suitability of implementing an Aquifer Storage and Recovery (ASR) program within a portion of the Subbasin, as

WHEREAS, the study involves data collection and analysis needed to establish current groundwater conditions, and to evaluate the locations and means by which certain aquifers may possibly be actively recharged, as
WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, and after subsequent Request for Qualifications and Request for Proposals processes, Todd Groundwater of Alameda, CA, was determined to be the most qualified firm to conduct the study, as

WHEREAS, staff recommends approving the Agreement with Todd Groundwater for Consultant Services to develop a Groundwater Characterization and Recharge Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with David Keith Todd Consulting Engineers, Inc., dba Todd Groundwater (Todd Groundwater) for Consultant Services to develop a Groundwater Characterization and Recharge Study, in an amount not to exceed $158,444.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
WHEREAS, California is currently entering the fourth consecutive year of drought conditions and most of the state, including the watershed that provides the City of Modesto’s water supply, is experiencing exceptional drought conditions; and

WHEREAS, the State Water Resources Control Board (SWRCB) is planning to issue an updated Substitute Environmental Document for the Bay-Delta Program in the near future; and

WHEREAS, as presently drafted, the SWRCB’s plan undermines efforts to secure groundwater sustainability, is unequal in application, and will significantly distress California’s most disadvantaged economic region; and

WHEREAS, the SWRCB’s proposal will devastate the groundwater basins in the Central Valley by reducing surface water recharge opportunities and eliminating surface water deliveries to domestic and agricultural water users; and

WHEREAS, this one decision will have a greater impact on our economy, public health, drinking water, and way of life than any other single issue confronting the legislature; and

WHEREAS, it’s been estimated that the proposed 35% increase in unimpaired flows would cost our area at minimum 350,000 acre-feet of water every year; and

WHEREAS, irrigation water is an essential component of groundwater in our basins; and
WHEREAS, it’s ironic that after the state’s groundbreaking adoption of groundwater sustainability law, the state agency responsible for water resources is proposing to devastate basins in the region where groundwater management will be the most difficult; and

WHEREAS, the SWRCB has also been authorized to monitor and impose groundwater sustainability plans in all of the endangered groundwater basins, and with this drastic reduction of available irrigation water, it will be impossible for our area to reach true groundwater sustainability; and

WHEREAS, Assembly Bill 1242 requires that the SWRCB mitigate the adverse impact of any new water quality control plan affecting the groundwater basins because of any increase in flows from our local rivers or the plan cannot be implemented, and also prohibits adoption of any plan with adverse impacts that cannot be sufficiently mitigated.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves supporting Assembly Bill 1242 in an effort to protect our local economy, public health, drinking water, and way of life, as shown in Exhibit A.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
City of Modesto Council support of Assembly Bill 1242:

GARRAD MARSH, MAYOR

JOHN GUNDERSON, VICE MAYOR

DAVE COGDILL, COUNCIL MEMBER

JENNY KENOYER, COUNCILMEMBER

DAVE LOPEZ, COUNCIL MEMBER

TONY MADRIGAL, COUNCIL MEMBER

BILL ZOSLOCKI, COUNCIL MEMBER
RESOLUTION APPROVING THE CONVERSION OF COLLEGE AVENUE BETWEEN NEEDHAM AVENUE AND BRIGGSMORE AVENUE FROM A FOUR LANE FACILITY TO A THREE LANE FACILITY WITH BICYCLE LANES AND ACCEPTING THE REPORT PREPARED BY FEHR & PEERS

WHEREAS, on April 1, 2014, City Council approved a pavement and bicycle facility rehabilitation project which will rehabilitate the pavement and improve bicycle facilities on numerous street segments, and

WHEREAS, one of the street segments included in this project is College Avenue between Needham Avenue and Briggsmore Avenue, and

WHEREAS, staff is always looking for innovative methods for improving our constrained circulation system and proposes a “road diet” on College Avenue between Needham Avenue and Briggsmore Avenue, and

WHEREAS, the proposed “road diet” would reduce the number of travel lanes from four lanes to two through lanes plus one, two-way left turn lane and will include the installation of bicycle lanes, and

WHEREAS, on September 8, 2014, the Safety and Communities Committee accepted a report on the proposed College Avenue “road diet” and requested staff provide a traffic study, and

WHEREAS, staff contracted with Fehr & Peers to perform the requested traffic study which analyzed the impacts of the proposed “road diet” on College Avenue, and

WHEREAS, the report was completed in late January and concluded that the College Avenue is an ideal road diet candidate,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it approves the conversion of College Avenue between Needham Avenue and Briggsmore Avenue from a four lane facility to a three lane facility with bicycle lanes.

BE IT FURTHER RESOLVED that the Council accepts the report prepared by Fehr & Peers.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Mayor Marsh

NOES: Councilmembers: Zoslocki

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING DESIGNATION OF ALL SURPLUS REVENUE FROM THE COURTHOUSE PROPERTIES MULTI-YEAR OPERATING BUDGET FOR THE DOWNTOWN ECONOMIC DEVELOPMENT PROGRAM

WHEREAS, on December 23, 2014, the City closed escrow on the sale of properties, located between 9th and 10th Streets and G and H Streets, to the State of California Judicial Council for the future Courthouse, and

WHEREAS the net proceeds at the time of closing totaled $285,751.60, and

WHEREAS, as part of the agreement with the State, the City entered into a Master Lease Agreement wherein the City will manage the properties through December 31, 2015, and

WHEREAS, the City has been collecting rents from tenants and paying the usual expenses necessary for property management, and

WHEREAS, overall revenues are expected to exceed expenditures and a budget will be submitted for the upcoming fiscal year, and

WHEREAS, the intent of this action is to set aside these funds for economic development purposes for Downtown Modesto to stimulate vitality and investment which may include enhancements such as the Economic Incentives Program, providing streetscape improvements, funding project plans and matching funds to leverage grants, endowments and private investment opportunities, and

WHEREAS, a renaissance in Downtown Modesto is only possible through a collaborative public/private partnership and these funds can help fuel this endeavor, and
WHEREAS, this motion was unanimously approved by the Finance Committee at
the March 23, 2015 meeting and was recommended to be forwarded to the City Council
for approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto,
that it hereby approves the plan to designate all surplus revenue from the courthouse
properties multi-year operating budget for the downtown economic development
program.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Madrigal,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
AUTHORIZING (I) THE REFINANCING OF THE CITY'S CURRENT
SECTION 108 LOAN WITH HUD IN THE PRINCIPAL AMOUNT OF $2,789,000,
(II) THE EXECUTION AND DELIVERY OF A NEW PROMISSORY NOTE AND
CONTRACT FOR LOAN GUARANTEE ASSISTANCE, AND (III) THE
EXECUTION OF NECESSARY DOCUMENTS AND RELATED ACTIONS

WHEREAS, the City Council of the City of Modesto (Council) on June 25th, 2003
approved borrowing $4.5 million from the Department of Housing and Urban
Development (HUD) through a HUD Section 108 Loan Guarantee offering; and

WHEREAS, $3.1 million of these funds were used for the construction of a joint
services facility in Marshall Park, used to house a fire station, a police sub-station, and a
recreation office/facility; and

WHEREAS, $1.4 million of these funds were used for the renovation and
expansion of the Maddox Youth Center; and

WHEREAS, both Marshall Park and Maddox Youth Center projects were located
in a low-income census tract and benefited low- and moderate-income persons; and

WHEREAS, the Section 108 Loan was on a 20 year term, with principal
payments due once a year and interest payments due twice a year, paid out of CDBG
funding; and

WHEREAS, as required by HUD, the City pledged future CDBG funding, as well
as Marshall Park and Cesar Chavez Park (the location of the Maddux Youth Center) with
their buildings and improvements, as collateral; and

WHEREAS, on March 26, 2015, the City received notice of a public offering to
refinance and reduce the interest on the HUD Section 108 Loan; and
WHEREAS, it is estimated that as a result of refinancing this loan, the reduction in interest rate will generate an interest net savings for the City of approximately $502,908 between now and the final maturity date in 2024; and

WHEREAS, issuance costs are estimated to be $13,945, bond counsel fees are $7,500, and both will be paid from CDBG funding; and

WHEREAS, on April 10, 2015, the City received a letter from HUD providing instructions and all financing documents needed to be executed and delivered to HUD no later than the close of business on May 5th, 2015; and

WHEREAS, the date of the public offering is May 28, 2015; and

WHEREAS, the City is to remit the cost of the public offering, as well as the next scheduled interest payment on the previously issued note, to HUD no later than 10:30 a.m., May 27, 2015; and

WHEREAS, no new additional security provisions are required, as the Contract for Fixed Rate Note incorporates the previous additional security provisions; and

WHEREAS, there have been submitted to this meeting the following documents:

(a) The March 26, 2015 Notice of Offering from HUD
(b) The April 10, 2015 Letter from HUD
(c) The proposed Contract for Fixed Rate Note (contract for loan guarantee assistance)
(d) The proposed Fixed Rate Note (promissory note)

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. The foregoing recitals are true and correct, and the City Council so finds and determines.
Section 2. The refinancing of the HUD Section 108 Loan, in the principal amount of $2,789,000, on the terms and conditions set forth in - and subject to the limitations specified in – the Contract for Fixed Rate Note and the Fixed Rate Note, is hereby authorized and approved.

Section 3. The Contract for Fixed Rate Note, as well as the Fixed Rate Note, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same are hereby approved. Each of the Mayor of the City, and such other member of the City Council as the Mayor may designate, the City Manager of the City and the Director of Finance of the City, and such other officer or employee of the City as the City Manager may designate (the “Authorized Officers”) is hereby authorized, and any one of the Authorized Officers is hereby directed to execute and deliver the Contract for Fixed Rate Note and the Fixed Rate Note in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Contract for Fixed Rate Note and the Fixed Rate Note by such Authorized Officer.

Section 4. The Authorized Officers and the officers and employees of the City are, and each of them is, hereby authorized and directed, to do any and all things and to execute and deliver any and all documents which they or any of them deem necessary or advisable in order to consummate the transactions contemplated by this Resolution and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution. CDBG funds to pay the costs incurred in connection with the refinancing -
including the fees and disbursements of Sidley Austin LLP, as bond counsel - currently estimated to be $21,445, are hereby appropriated.

Section 5. All actions heretofore taken by the officers and employees of the City with respect to the refinancing of the HUD Section 108 Loan, or in connection with or related to any of the agreements or documents referred to herein, are hereby approved, confirmed and ratified.

Section 6. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE CITY OF MODESTO TO JOIN THE CALIFORNIAFIRST PROGRAM; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE INCORPORATED TERRITORY OF THE CITY; AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Statewide Communities Development Authority ("California Communities") is a joint exercise of powers authority the members of which include numerous cities and counties in the State of California, including the City of Modesto (the "City"); and

WHEREAS, California Communities has established the CaliforniaFIRST program (the "CaliforniaFIRST Program") and will provide financing for certain improvements authorized by Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29"), including, but not limited to, renewable energy, energy efficiency and water efficiency improvements and seismic strengthening improvements (the "Improvements") through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29") and the issuance of improvement bonds (the "Bonds") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) (the "1915 Act") upon the security of the unpaid contractual assessments; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and
WHEREAS, the City desires to allow the owners of property ("Participating Property Owners") within the incorporated territory of the City to participate in the CaliforniaFIRST Program and to allow California Communities to conduct assessment proceedings under Chapter 29 within the incorporated territory of the City and to issue Bonds under the 1915 Act to finance the Improvements; and

WHEREAS, California Communities will conduct assessment proceedings under Chapter 29 and issue Bonds under the 1915 Act to finance Improvements; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program;

NOW, THEREFORE, BE IT RESOLVED that this City Council hereby finds and declares that properties in the City’s incorporated area will benefit from the availability of the CaliforniaFIRST Program within the incorporated territory of the City and, pursuant thereto, the conduct of special assessment proceedings by California Communities pursuant to Chapter 29 and the issuance of Bonds under the 1915 Act.

BE IT FURTHER RESOLVED that in connection with the CaliforniaFIRST Program, the City hereby consents to the conduct of special assessment proceedings by California Communities pursuant to Chapter 29 on any property within its jurisdiction and the issuance of Bonds under the 1915 Act; provided, that

(1) The Participating Property Owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other
applicable provisions of California law in order to accomplish the valid levy of assessments; and

(2) The City will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program.

(3) The issuance of Bonds will occur following receipt of a final judgment in a validation action filed by California Communities pursuant to Code of Civil Procedure Section 860 that the Bonds are legal obligations of California Communities.

BE IT FURTHER RESOLVED pursuant to the requirements of Chapter 29, California Communities has prepared and will update from time to time the “Program Report” for the CaliforniaFIRST Program (the “Program Report”), and California Communities will undertake assessment proceedings and the financing of Improvements as set forth in the Program Report.

BE IT FURTHER RESOLVED the appropriate officials and staff of the City are hereby authorized and directed to make applications for the CaliforniaFIRST program available to all property owners who wish to finance Improvements; provided, that California Communities shall be responsible for providing such applications and related materials at its own expense. The City Manager, or his delegate, is hereby designated as the contact persons for California Communities in connection with the CaliforniaFIRST Program.
BE IT FURTHER RESOLVED the appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents as are reasonably required by California Communities in accordance with the Program Report to implement the CaliforniaFIRST Program for Participating Property Owners.

BE IT FURTHER RESOLVED the City Council hereby finds that adoption of this Resolution is not a “project” under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4)).

BE IT FURTHER RESOLVED this Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of California Communities.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE PROCUREMENT OF MERCHANT SERVICES BY "ACCESSING THE TERMS" OF A COMPETITIVELY BID, STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES (DGS) MERCHANT SERVICES AGREEMENT (MSA) WITH ELAVON INC., ATLANTA, GA FOR AN ANTICIPATED ANNUAL COST OF $396,851 AND OVER FIVE (5) YEARS OF $1,984,255, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City currently uses Elavon to provide merchant services at a cost of approximately $528,000 per year, and

WHEREAS, in 2013 Council approved a sole source procurement of banking services from Bank of America Merrill Lynch, and

WHEREAS, that procurement did not include merchant services, and

WHEREAS, City staff reached out to Elavon and requested a review of fees based on the City’s changing business model which includes phone and online payment options, and

WHEREAS, based on this fee review staff was able to negotiate a reduced pricing model which resulted in estimated annual savings of approximately $329,000, and

WHEREAS, Elavon recently informed the City that a State of California, Department of General Services (DGS) contract was available for local agencies to ‘access” and be afforded more aggressive rates based on statewide volumes, and

WHEREAS, by accessing the State contract the City has the potential to save approximately $11,000 per month, and
WHEREAS, in order to assess the State’s pricing the City afforded its current banking provider Bank of America Merrill Lynch the opportunity to submit a cost proposal for providing merchant services, and

WHEREAS, Bank of America Merrill Lynch responded in writing that they were unable to match or beat the rates that Elavon has extended to the City based on the State GSA contract, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, one exception to the formal bid process, MMC Section 8-3.204(d), states, “Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedures set forth in 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality.” Acting within his discretion, the Purchasing Manager invoked that exception for this purchase. The award of a merchant services agreement to Elavon Inc. by accessing the terms of a competitively bid, State of California, Department of General Services (DGS) Master Services Agreement (MSA) conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the procurement of merchant services by “accessing the terms” of a competitively bid State of California, Department of General Services (DGS) Merchant Services Agreement (MSA) with Elavon Inc., Atlanta, GA for an anticipated annual cost of $396,851 and over five (5) years of $1,984,255 per year.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to enter into a two (2) year agreement with three one (1) year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF SEWER LINE MATERIALS FOR THE UTILITIES DEPARTMENT, WASTEWATER DIVISION TO GROENIGER/FERGUSON CO., MODESTO, CA, PACE SUPPLY CORP., STOCKTON, CA, AND R&B COMPANY, MANTECA, CA, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER OR HIS DESIGNEE TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED ANNUAL COST OF $347,430, AND OVER FIVE (5) YEARS OF $1,737,150

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of sewer line materials, and

WHEREAS, the Purchasing Division issued RFB No. 1415-13 Sewer Line Materials to fifteen (15) prospective bidders, five (5) of which were local companies, and posted the RFB on the City’s website, and

WHEREAS, bids were formally opened in the City Clerk’s Office. Four (4) companies chose to respond, two (2) of which were local companies, and,

WHEREAS, all four (4) companies responding provided responsive and responsible bids, and

WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of sewer line materials for the Utilities Department, Wastewater Division to Groeniger/Ferguson Co., Modesto, CA, Pace Supply Corp., Stockton, CA, and R&B Company, Manteca, CA, for a one-year agreement with four (4) one-year extension options at the sole discretion of the City, for an estimated annual cost of $347,430, and over five (5) years of $1,737,150, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services
to be formally bid. The award of bids for the purchase of sewer line materials for the
Utilities Department, Wastewater Division to Groeniger/Ferguson Co., Modesto, CA,
Pace Supply Corp., Stockton, CA, and R&B Company, Manteca, CA, conforms to

WHEREAS, funds are budgeted in Appropriation Unit: 4210-44211-53150.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the award of bids for the purchase of sewer line materials for the
Utilities Department, Wastewater Division to Groeniger/Ferguson Co., Modesto, CA,
Pace Supply Corp., Stockton, CA, and R&B Company, Manteca, CA, for a one-year
agreement with four (4) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is
hereby authorized to issue purchase agreements for an estimated annual cost of $347,430.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Madrigal,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CAL FIRE) FOR FUNDING FROM THE URBAN AND COMMUNITY FORESTRY GRANT PROGRAM ENTITLED “GREEN TREES FOR THE GOLDEN STATE” AS PROVIDED THROUGH THE GREENHOUSE GAS REDUCTION FUND, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT RELATED DOCUMENTS, ACCEPT GRANT AWARDS, AND AMEND THE ANNUAL BUDGET TO REFLECT GRANT FUNDING

WHEREAS, the Governor of the State of California in cooperation with the California State Legislature has enacted State of California Greenhouse Gas Reduction Funding, which provides funds to the State of California and its political subdivisions for urban forestry programs; and

WHEREAS, the State Department of Forestry and Fire Protection has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing application by local agencies and non-profit organizations under the program, and

WHEREAS, said procedures established by the State Department of Forestry and Fire Protection require the applicant to certify by resolution the approval of application before submission of said application to the State; and

WHEREAS, the applicant will enter into an agreement with the State of California to carry out an urban forestry project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto:

1. Approved the filing of an application for “State Greenhouse Gas Reduction Funding” urban forestry grant program funds.
2. Certifies that said applicant has or will have sufficient funds to operate and maintain the project.

3. Certifies that funds under the jurisdiction of the City of Modesto are available to begin the project.

4. Certifies that said applicant will expend grant funds prior to December 31, 2019.

5. Appoints the City Manager, or his designee, as agent of the City of Modesto to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

BE IT FURTHER RESOLVED that this resolution shall remain in full force and effect for five years from the date of adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

[Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-129

A RESOLUTION APPROVING SUBMITTAL OF A REQUEST TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR $95,945 IN FY 2014-15 FUNDS UNDER THE LOW CARBON TRANSIT OPERATIONS PROGRAM (LCTOP) FOR BUS STOP SHELTERS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

WHEREAS, Senate Bill 862 (2014), created the Low Carbon Transit Operations Program (LCTOP) and identified the California Department of Transportation as the administrating agency for LCTOP, and

WHEREAS, in Fiscal Year 2014-15 LCTOP appropriated $171,407 to the Stanislaus Council of Governments (StanCOG) for regional distribution to local transit agencies, and

WHEREAS, at the March 18, 2015 StanCOG Policy Board meeting the City of Modesto was allocated $85,704 of the regional funds, and

WHEREAS, in Fiscal Year 2014-15 LCTOP appropriated $10,241 to the City of Modesto, and

WHEREAS, the City of Modesto is eligible to apply for a total of $95,945 in LCTOP funds, and

WHEREAS, the statutes related to state-funded transit projects require Modesto to abide by various regulations, and

WHEREAS, the California Department of Transportation has developed guidelines for the purpose of administering and distributing LCTOP funds to local agencies, and
WHEREAS, the City of Modesto is an eligible project sponsor and may receive state funding from LCTOP.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Modesto agrees to comply with all conditions and requirements set forth by LCTOP.

BE IT FURTHER RESOLVED that the City Manager is authorized to execute all necessary grant documents with the California Department of Transportation on behalf of the City of Modesto.

BE IT FURTHER RESOLVED that the City Manager is authorized to designate the Director of Public Works to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager is authorized to designate the Transit Manager to execute all grant application and grant agreement documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-130

A RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 OPERATING BUDGET IN THE AMOUNT OF $95,945 TO FUND THE PURCHASE AND INSTALLATION OF BUS STOP SHELTERS FOR THE MODESTO AREA EXPRESS (MAX) TRANSIT SYSTEM AT LOCATIONS WHERE NONE CURRENTLY EXIST.

WHEREAS, certain budgetary transactions are necessary in the amount of $95,945, in order to fund the purchase and installation of bus stop shelters and waste containers for the MAX system, and

WHEREAS, the Fiscal Year 2014-2015 Operating Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2014-2015 Operating Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)  

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
Request for Budget Adjustment
(Projects and Grants)

Contact Person: Maria Garnica
Telephone: 
Submitting Department: PW
Council Action Date: 
Resolution Number: 
Date Submitted by Dept: 4/7/2015

Project Name: Transit Facility Improvement
Project Fund: 4510
Fiscal Year being Adjusted: FY2014/2015

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Justification for Budget Adjustment
This Budget adjustment is needed to recognize the funding under the Low Carbon Transit Operations Program (LCTOP). And to increase the expense budget for the purchase and installation of new bus shelters for the MAX system at locations where none currently exist.

Authorization

Administrative Services Officer (if needed)

Deputy Director (if needed)

Department Director or Authorized Designee

Financial Analyst

Finance Director

City Manager

To be Completed by Finance Staff

Transfer Number: 2
A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. (KHA) TO PROVIDE DESIGN, CONSTRUCTION AND ENGINEERING SERVICES FOR VARIOUS AIRPORT FAA GRANT FUNDED PROJECTS IN AN AMOUNT NOT TO EXCEED $722,618

WHEREAS, the City has approved numerous Airport Capital Improvement Plan (ACIP) projects planned over approximately the next five years at the Modesto City-County Airport, and

WHEREAS, skilled airport engineering, design, construction and inspection assistance will be required to move forward with those projects, and

WHEREAS, on January 12, 2014, the City solicited professional services for an airport consulting engineer to provide airport engineering, design, construction management and inspection, and

WHEREAS, Council approved Resolution No. 2014-237 selecting Kimley-Horn and Associates, Inc. (KHA) as the best qualified applicant, and

WHEREAS, with the approval from the Federal Aviation Administration, KHA is a skilled airport engineering, design, construction and project management company, and

WHEREAS, KHA originally proposed an agreement to provide design and planning services for various Airport Capital Improvement Projects at the Modesto City-County Airport in an amount not to exceed $1,061,111.11, and

WHEREAS, on September 17, 2014, the FAA made a grant offer to the City of Modesto, and

WHEREAS, the City of Modesto accepted the FAA grant offer for Airport Improvement Plan (AIP) 3-06-0153-038-2014 (AIP 38), and
WHEREAS, the projects listed on the grant had changed and therefore the scope of work (SOW) that Kimley-Horn had submitted with the June 10, 2014 agreement has changed, and

WHEREAS, KHA has submitted a revised SOW for AIP 38 changing the not to exceed amount to $722,618.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amended agreement with Kimley-Horn and Associates, Inc. to provide design, construction and engineering services for various Airport FAA Grant Funded Projects in an amount not to exceed $722,618.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE ONE-TIME EXCEPTION TO THE SPEED HUMP POLICY TO ALLOW CITY OF MODESTO FUNDING FOR THE INSTALLATION OF A SPEED HUMP OR SPEED CUSHION ON SUNRISE AVENUE JUST WEST OF SHEFFIELD LANE FOR TRAFFIC SAFETY

WHEREAS, the City of Modesto Council has decided to invest $10,000 to construct a speed hump or speed cushion on Sunrise Avenue west of Sheffield Lane to help improve or maintain traffic safety by encouraging eastbound Sunrise Avenue motorists to reduce their travel speed prior to entering the “L” corner from Sunrise Avenue to Sheffield Lane, and

WHEREAS, the speed hump or speed cushion has the potential to provide a better and safer use of the roadway adjacent to homes, and

WHEREAS, six other traffic improvements have been provided previously, and the run off the road record in 2014 has not been observed at any other “L” corner in Modesto, and

WHEREAS, the speed hump or speed cushion installation is exempt from environmental review under the Categorical Class III CEQA Guidelines, Section 15303 of the CEQA requirements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the one-time speed hump policy exception to fund the construction of one speed hump or speed cushion on Sunrise Avenue west of Sheffield Lane in Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-133

RESOLUTION RESCINDING RESOLUTIONS 2015-73 AND 2015-74 AND APPROVING A REVISED PUBLIC UTILITY EASEMENT TO VERIZON WIRELESS WITHIN USTACH PARK TO SERVE THE COMMUNICATIONS TOWER ON 2700 HILLGLEN AVENUE (APN 077-009-041)

WHEREAS, the City of Modesto maintains a community park known as Ustach Park located on 2700 Hillglen Avenue (APN 077-009-041), and

WHEREAS, Verizon Wireless has proposed to install a wireless communications tower within Ustach Park, and

WHEREAS, a public utility easement (PUE) is required to provide underground utility connections to the tower from Hillglen Avenue, and

WHEREAS, on March 3, 2015 Council approved Resolutions 2015-73 and 2015-74 granting PUEs to Verizon Wireless and Modesto Irrigation District, and

WHEREAS, Verizon Wireless has requested to revise the previous PUE to include other utility providers in a single easement, and

WHEREAS, staff recommends the revised public utility easement be approved.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution 2015-73 and Resolution 2015-74 and approves a revised Public Utility Easement to Verizon Wireless to serve the communications tower on 2700 Hillglen Avenue within Ustach Park (APN 077-009-041).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the revised Grant of Public Utilities Easement as approved by the City Attorney.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(S Seal)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDEGREN, City Attorney
RESOLUTION APPROVING REVISIONS TO THE CITY OF MODESTO DROUGHT CONTINGENCY PLAN AND ENACTING DROUGHT STAGE II REQUIREMENTS

WHEREAS, California is currently entering the fourth consecutive year of drought conditions and most of the state, including the watershed that provides the City of Modesto’s water supply, is experiencing exceptional drought conditions as defined by the United States Drought Monitor, and

WHEREAS, on March 17, 2015, the State Water Resources Control Board adopted additional emergency drought regulations to govern the use of urban water in California, and

WHEREAS, staff has revised the Drought Contingency Plan (Plan) to incorporate the emergency regulations to be consistent with all state requirements, and

WHEREAS, the most significant revisions to the Plan include increasing the monetary penalty amounts for excessive water use in all stages of the Plan, and reducing outdoor watering to twice weekly under Stage II requirements, and

WHEREAS, implementing further water use restrictions will help sustain our water supply until the drought period subsides, and

WHEREAS, on May 1, 2003, the City Council, by Resolutions 2003-162, implemented the Stage I Plan requirements that remain in effect today, and

WHEREAS, staff recommends that the City Council approve the revisions to the Plan and implement Stage II requirements effective May 1, 2015.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves revisions to the City of Modesto Drought Contingency Plan and enacts drought State II requirements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF TWO (2) 710K JOHN DEERE BACKHOE LOADERS FOR THE UTILITIES DEPARTMENT, STORMWATER COLLECTIONS DIVISION THROUGH THE FLEET SERVICES DIVISION, TO PAPE MACHINERY, FRENCH CAMP, CA FOR AN ESTIMATED TOTAL COST OF $326,592

WHEREAS, the City Manager authorized the Purchasing Manager to issue a formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The two (2) 710K John Deere backhoe loaders were included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the two (2) 710K John Deere backhoe loaders will be used by the Stormwater Collections Division. The Stormwater Collections Division has developed a new type of storm system called a “Drywell”. Stormwater Collections has completed several drywell installations in areas with chronic flooding. This program has had great success and enabled the City to address local flooding issues. To build on this success, Stormwater Collections requested an additional construction crew to install new drywells. The approved budget request included equipment and personnel required to staff this second drywell crew, and

WHEREAS, the Purchasing Division issued RFB 1415-23 for the purchase of two (2) 710K John Deere backhoe loaders to three (3) prospective bidders, none of which were local companies and posted the RFB on the City’s website. There are no local vendors for this type of equipment, and
WHEREAS, bids were formally opened in the City Clerk’s office. Two (2) companies chose to respond, one of which did not meet the bid specifications. Only one company provided a responsive and responsible bid, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid for the purchase of two (2) 710K John Deere backhoe loaders to Pape Machinery, French Camp, CA, for a total estimated cost of $326,592, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2014-15, in account # 4480-44222-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of two (2) 710K John Deere backhoe loaders to Pape Machinery, French Camp, CA, conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of two (2) 710K John Deere backhoe loaders for the Utilities Department, Stormwater Collections Division, through the Fleet Services Division to Pape Machinery, French Camp, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of $326,592.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A JOHN DEERE 5115M TRACTOR FOR THE PUBLIC WORKS DEPARTMENT, PARKS OPERATIONS DIVISION THROUGH THE FLEET SERVICES DIVISION, TO BELKORP AG, LLC, MODESTO, CA, FOR AN ESTIMATED TOTAL COST OF $62,524

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The John Deere 5115M tractor was included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the John Deere 5115M tractor will be used by the Parks Operations Division. The John Deere 5115M tractor is a replacement and has been subjected to a thorough evaluation and has met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, The Purchasing Division issued RFB 1415-20 for the purchase of a John Deere 5115M tractor to three (3) prospective bidders, one of which was a local company and posted the RFB on the City’s website, and

WHEREAS, bids were formally opened in the City Clerk’s office. One company chose to respond, which was the local vendor. The local vendor provided a responsive and responsible bid, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of a John Deere 5115M tractor to Belkorp Ag, LLC, Modesto, CA, for a total estimated cost of $62,524, and
WHEREAS, sufficient funds are budgeted in Fiscal Year 2014-15, in account # 5409-53246-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of a John Deere 5115M tractor to Belkorp Ag, LLC, Modesto, CA, conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of a John Deere 5115M tractor to the Public Works Department, Parks Operations Division, through the Fleet Services Division to Belkorp Ag, LLC, Modesto, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of $62,524.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: [Signature]

[Name]

Advisory Resolution No. 2015-136

APPROVED AS TO FORM:

By: [Signature]

[Name]

City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-137

RESOLUTION APPROVING A USE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE BOYS AND GIRLS CLUB OF STANISLAUS COUNTY TO PROVIDE PROGRAMMING AT THE KING KENNEDY MEMORIAL CENTER

WHEREAS, the City of Modesto (CITY) recognizes the importance of after school programming, and

WHEREAS, CITY recognizes that the Boys and Girls Club (ORGANIZATION) has a long history of providing positive activities for kids, and

WHEREAS, CITY has space available at the King Kennedy Memorial Center, and

WHEREAS, ORGANIZATION has received a two year grant through Modesto City Schools to provide after school programing, and

WHEREAS, ORGANIZATION has created a custom program to run its programming based on the space and times available at the King Kennedy Memorial Center.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows: CITY and ORGANIZATION desire to enter into this Agreement in order to obtain the mutual benefits recited above.

BE IT FURTHER RESOLVED THAT Organization agrees to adhere to the following:

1. ORGANIZATION will provide CITY a detailed calendar of activities in accordance with the agreement.

2. ORGANIZATION agrees not to sublet the facility to any other agency.

3. ORGANIZATION agrees not to permanently modify the facility.
4. ORGANIZATION agrees not to use the facility for any other purpose stated in the agreement without getting written permission from the Parks, Recreation and Neighborhood Services Manager.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the lease agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-138

RESOLUTION APPROVING AN UPDATED MONTH-TO-MONTH LEASE AGREEMENT WITH STANISLAUS IMPLEMENT & HARDWARE COMPANY LTD. FOR THE USE OF ITS PARKING LOT FOR $1,000 A MONTH; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS; AND RESCINDING RESOLUTION NO. 2015-98

WHEREAS, the City Council previously approved Resolution No. 2015-98 authorizing the City Manager, or his designee, to execute a lease agreement to allow the Modesto Police Department (MPD) to use the parking lot owned by Stanislaus Implement & Hardware Company Ltd.; and

WHEREAS, the terms of the lease approved by Resolution No. 2015-98 were updated prior to the execution of the lease, and MPD and Stanislaus Implement & Hardware Company Ltd. have now finalized the terms of the lease agreement; and

WHEREAS, the updated lease agreement is on a month-to-month basis, and if approved by Council, will commence May 1, 2015.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves the updated Lease Agreement with Stanislaus Implement & Hardware Company, LTD. for use of its parking lot for One Thousand Dollars ($1,000) a month on a month-to-month basis, and rescinds Resolution No. 2015-98.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary documents and rescinding Resolution No. 2015-98.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________
STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________
ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-139

A RESOLUTION ACCEPTING THE CALIFORNIA MARIJUANA ERADICATION GRANT FROM THE U.S. DEPARTMENT OF JUSTICE DRUG ENFORCEMENT ADMINISTRATION IN THE AMOUNT OF $30,000 FOR THE STANISLAUS COUNTY DRUG ENFORCEMENT AGENCY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, on April 6, 2015, the Stanislaus Drug Enforcement Agency (SDEA) was awarded the Domestic Cannabis Eradication/Suppression Program Marijuana Eradication Grant in the amount of $30,000, and

WHEREAS, the funding will defray costs relating to the eradication and suppression of illicit cannabis, and

WHEREAS, the costs include marijuana eradication, overtime, training, supplies and removal costs, and

WHEREAS, there is no required match to the City of Modesto, and

WHEREAS, the term of this grant will be from January 1, 2015 through December 31, 2015, and

WHEREAS, the City of Modesto will be the fiscal agent,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the California Marijuana Eradication Grant from the U. S. Department of Justice Drug Enforcement Administration in the amount of $30,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
A RESOLUTION AMENDING THE STANISLAUS COUNTY DRUG ENFORCEMENT AGENCY’S FISCAL YEAR 2014/15 MULTI-YEAR OPERATING BUDGET ESTIMATING REVENUE IN THE AMOUNT OF $30,000 FROM THE U.S. DEPARTMENT OF JUSTICE DRUG ENFORCEMENT ADMINISTRATION MARIJUANA ERADICATION GRANT; AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, on April 6, 2015, the Stanislaus Drug Enforcement Agency (SDEA) was awarded the Domestic Cannabis Eradication/Suppression Program Marijuana Eradication Grant in the amount of $30,000, and

WHEREAS, the funding will defray costs relating to the eradication and suppression of illicit cannabis, and

WHEREAS, the costs include marijuana eradication, overtime, training, supplies and removal costs, and

WHEREAS, there is no required match to the City of Modesto, and

WHEREAS, the City of Modesto will be the fiscal agent,

WHEREAS, the term of this grant will be from January 1, 2015 through December 31, 2015,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the the Stanislaus County Drug Enforcement Agency’s Fiscal Year 2014/15 Multi-Year Operating Budget as indicated on Attachment A, which is incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
## Attachment A: Budget Adjustment

**Fund 6600: 2014/15 Multiyear**

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RESOLUTION REJECTING ALL BIDS FOR THE 2014 HUD CURB RAMP AND STORM DRAIN IMPROVEMENT PROJECT AND AUTHORIZING CITY STAFF TO RE-ADVERTISE THE PROJECT WITH AN AMENDED SCOPE OF WORK

WHEREAS, the bids received for the 2014 HUD Curb Ramp and Storm Drain Improvement Project were opened at 11:00 a.m. on March 31, 2015, and later tabulated by the Director of Utilities Department for the consideration of the Council, and

WHEREAS, City staff determined that it would be in the best interest of the City to reject the bids due to the lowest bidder having a discrepancy on the bid item of work that would cost the City and additional $62,400, and

WHEREAS, the project will then be modified to attract a wider variety of contractors, and

WHEREAS, City staff recommends rejecting all bids and re-advertising the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects all bids received for the 2014 HUD Curb Ramp and Storm Drain Improvement Project, opened in the office of the City Clerk on March 31, 2015.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project with an amended scope of work.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF $5,000 FROM STATE FARM INSURANCE COMPANY FOR THE PURCHASE OF A BULLEX INTELLIGENT FIRE EXTINGUISHER TRAINING SYSTEM

WHEREAS, one of the goals of the Modesto Fire Prevention Division is to provide effective fire and life safety training to the community, and

WHEREAS, Modesto Fire Prevention Division applied for and received a grant from State Farm Insurance Company, and

WHEREAS, the intent of this grant is to help purchase a state-of-the-art BullEx Intelligent Fire Extinguisher Training System, and

WHEREAS, this system will allow the Fire Prevention Division to safely teach the proper use and handling of fire extinguishers to businesses, community groups and staff members, and

WHEREAS, in order to accept the grant and purchase the equipment, the fire department will expend $2,000 from Fire Prevention Funds Account Number: 18510-0100-5330, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves accepting a Grant in the amount of $5,000 from State Farm Insurance Company to purchase a BullEx Intelligent Fire Extinguisher Training System.

BE IT FURTHER RESOLVED that the Fire Chief, or his designee, is hereby authorized to sign the grant offer acceptance and any grant related documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2015, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
ADAM U. LINDGREEN, City Attorney
RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 7409 RIVER NINE DRIVE IN DEL RIO (APN: 004-093-005) TO CONNECT TO THE CITY OF MODESTO'S EXISTING WATER SYSTEM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council approved Resolution No. 2012-202 that amended City Council Policy 5.001, and

WHEREAS, on June 5, 2012, the City Council approved final adoption of Ordinance No. 3566-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language which required that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water services into unincorporated areas, and

WHEREAS, on November 25, 2014, the City Council approved Resolution No. 2014-472 that amended City Council Policy 5.001, and

WHEREAS, on December 9, 2014, the City Council approved adoption of Ordinance No. 3611-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language allowing the City Manager upon the recommendation of the Director responsible for utility system planning, to approve standard agreements of service for extension of water services into certain unincorporated areas that are located within the former Del Este Water Service Area without City Council approval, and
WHEREAS, the majority of the Del Rio area is included in the former Del Este Water Service Area and would not require City Council approval, the subject parcel is located in a small portion of the Del Rio area that is outside of the former Del Este Water Service Area and therefore requires City Council approval, and

WHEREAS, the property located at 7409 River Nine Drive, is not connected to City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and outside the former service area of the Del Este Water Company, and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to extend water service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees are paid and associated permits be obtained prior to connecting to the City water system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve letter for the property located at 7409 River Nine Drive in Del Rio.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Will Serve letter.
The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Adam U. Lindgren, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND DEAN B. ARAKELIAN, TRUSTEE, OR THE SUCCESSOR TRUSTEE OR TRUSTEES, U/A/D MAY 27, 2014, AS AMENDED, CREATING THE DEAN ARAKELIAN REVOCABLE TRUST, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 7409 RIVER NINE DRIVE IN DEL RIO (APN: 004-093-005), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 7409 River Nine Drive is not connected to the City’s water system, and

WHEREAS, this property is located outside Modesto City limits, and outside the former service area of the Del Este Water Company, and

WHEREAS, if it is determined that it is reasonable for the City to extend water service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees will be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, that the property owner enters into an Outside Service Agreement for water with the City, as required for water service outside of City limits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Outside Service Agreement for the property located at 7409 River Nine Drive in Del Rio (APN: 044-093-005).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.
The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF OCCUPATIONAL MEDICINE SERVICES FOR THE HUMAN RESOURCES DEPARTMENT TO OCCU-MED LTD., FRESNO, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT FOR AN ESTIMATED ANNUAL COST OF $115,444, AND OVER FIVE (5) YEARS OF $577,220

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for the furnishing of occupational medicine services, and

WHEREAS, the Purchasing Division issued RFP No. 1415-10 Occupational Medicine Services to seven (7) prospective proposers, two (2) of which were local companies, and posted the RFP on the City’s website, and

WHEREAS, proposals were formally opened in the City Clerk’s Office. Three (3) companies chose to respond, none of which were local companies, and

WHEREAS, all three (3) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of five (5) City staff members evaluated and graded the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria the evaluation committee recommends the award of proposal and contract for the furnishing of occupational medicine services for the Human Resources Department to Occu-Med Ltd., Fresno, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $115,444, and over five (5) years of $577,220, and
WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal for the furnishing of occupational medicine services for the Human Resources Department to Occu-Med Ltd., Fresno, CA, conforms to Modesto Municipal Code 8-3.203, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2014-15 from various funding accounts.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the furnishing of occupational medicine services for the Human Services Department to Occu-Med Ltd., Fresno, CA, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract for an estimated annual cost of $115,444.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO AND MODESTO CITY SCHOOLS FOR THE CITY TO PROVIDE STAFFING AND CURRICULUM FOR A SUMMER ENRICHMENT PROGRAM AT BRET HARTE ELEMENTARY, FREMONT ELEMENTARY, FRANKLIN ELEMENTARY AND SONOMA ELEMENTARY SCHOOLS

WHEREAS, CITY of Modesto recognizes the importance of summer education programming, and

WHEREAS, CITY recognizes that Modesto City Schools (ORGANIZATION) is offering one-week Summer Enrichment Programs at various school sites commencing in June 2015; and

WHEREAS, CITY has experience in offering after-school programming at Modesto City School sites, and

WHEREAS, ORGANIZATION has funding to provide programming, and

WHEREAS, ORGANIZATION has expressed a desire to partner with City.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that in light of the foregoing, it hereby desires to enter into the attached Agreement in order to obtain the mutual benefits recited above.

BE IT FURTHER RESOLVED that the City and Organization agrees to adhere to the following:

1. CITY will provide staffing and curriculum for the Summer Enrichment Program’s Science or Visual and Performing Arts components at Fremont Elementary, Bret Harte Elementary, Franklin Elementary and Sonoma Elementary Schools for one week for up to one hundred and fifty (150) students.

2. CITY agrees to supply a list of staff names that have been subject to a background check through the Department of Justice as outlined in the Agreement.
3. CITY agrees to provide competent supervision of its employees while administering the Summer Enrichment Program.

4. ORGANIZATION agrees to reimburse City of Modesto for all program related expenses outlined in the attached Agreement.

BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized to execute the Agreement substantially in the form attached hereto as Exhibit A, and as approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th Day of May, 2015 by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers None

ABSENT: Councilmembers None

ATTEST: Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Adam U. Lindgren, City Attorney
SERVICES AGREEMENT

THIS AGREEMENT is entered into as of the date signed below, by and between Modesto City Schools (MCS), a public school district and City of Modesto

Whereas MCS has need of specialized services not otherwise available; and

Whereas CONTRACTOR represents that it has the specialized skill and knowledge to provide such services.

The parties do hereby agree as follows:

1. **SCOPE OF SERVICES:** CONTRACTOR shall perform the following service(s):
   - Four, one-week Summer Enrichment programs

2. **LOCATION OF SERVICES:** CONTRACTOR shall render service(s) described in Item 1 at the following location(s) – One week each at Bret Harte, Franklin, Fremont, Sonoma Elementary Schools, and under the supervision of Mark Herbst.

3. **TERM OF AGREEMENT:** The term of this Agreement shall begin June 8, 2015 and will terminate on June 19, 2015.

4. **COMPENSATION:** CONTRACTOR shall be compensated at the following rate:
   - See Attachment A.

   In addition to the above rate, CONTRACTOR shall be allowed and authorized to incur and shall be reimbursed for the following personal expenses attendant to the performance of services:
   - Miles @ 0.50 mile or commercial
   - Supplies
   - Lodging
   - Meals
   - Total compensation shall not exceed $13,000

5. **PAYMENT SCHEDULE:** Payment for the work shall be made upon submission of invoice for services rendered and MCS' written approval of the work (which approval shall not be unreasonably withheld).

6. **GENERAL TERMS AND CONDITIONS:** This Agreement includes the general terms and conditions as set forth on the following pages, and the CONTRACTOR, by executing this Agreement, agrees to comply with all such general terms and conditions.
7. **REPRESENTATIVES AND/OR EMPLOYEES:** CONTRACTOR shall at all times enforce strict discipline and good order among his/her representatives and/or employees and shall not employ or work any unfit person or anyone not skilled in work assigned to him/her. Any person in the employment of the CONTRACTOR whom MCS may deem incompetent or unfit shall be dismissed from the job site and shall not again be employed at site without written consent from MCS. If required by law, CONTRACTOR shall, at his/her own expense, obtain its representatives’ and/or employees’ fingerprints in order to perform services under this Agreement. (Please refer to the “Certification of Fingerprinting.”)

8. **CONTRACTOR SUPERVISION:** When necessary, CONTRACTOR shall provide competent supervision of personnel employed on the job site, use of equipment, and quality of professional services.

9. **ASSIGNMENT OF AGREEMENT AND PURCHASE ORDER:** CONTRACTOR shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations under this Agreement without the prior written consent of MCS.

10. **HOLD HARMLESS AGREEMENT:** CONTRACTOR will indemnify, defend, and hold harmless Modesto City Schools and its agents, officers, and employees from and against any and all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney’s fees, arising out of or resulting from, or in connection with the performance of this Agreement. Such indemnification shall not extend to cover loss, damage, or expense arising from the sole negligence or willful misconduct of Modesto City Schools, its agents, officers, and employees.

11. **TERMINATION OF AGREEMENT:** This Agreement shall terminate on the last day of service as written in Item 3 except:

   a. MCS may terminate at any time if CONTRACTOR does not perform, or refuses to perform according to this Agreement.
   b. MCS may terminate services of CONTRACTOR at any time if, in the professional judgment of the management supervisor named herein, CONTRACTOR’s performance is unsatisfactory as to the manner of performance or the product of said performance fails to meet the MCS’ requirements.
   c. In the event of early termination, CONTRACTOR shall be paid for all work or services performed to the date of termination together with an amount of approved expenses due and owing.
   d. Either party may terminate this Agreement at any time during the term of this Agreement upon thirty (30) days written notice.

12. **PERMITS AND LICENSES:** CONTRACTOR and all of his/her employees, agents, and Sub-Contractors shall secure and maintain in force, at CONTRACTOR’s sole cost and expense, such licenses and permits as are required by law, in connection with the furnishing of services, materials, or supplies herein listed.

13. **CONTRACTOR NOT OFFICER, EMPLOYEE, OR AGENT OF MCS:** While engaged in carrying out other terms and conditions of this Agreement, the CONTRACTOR is an independent Contractor, and not an officer, employee, agent, partner, or joint venture of MCS.

14. **ANTI-DISCRIMINATION:** It is the policy of the Modesto City Schools Board of Education that in connection with all work performed under agreements, there be no discrimination against any employee engaged in the work based on race, religion, ethnic background or national origin, language, gender, sexual orientation, gender identity, gender expression, economic status, physical or developmental disabilities, or other special needs, or association with a person or group with one or more of these actual or perceived characteristics, and therefore CONTRACTOR agrees to comply with the applicable Federal and California Laws including, but not limited to, Government Code Section 12940 and 12990, and Labor Code Section 1735. In addition, CONTRACTOR agrees to require such compliance by all Sub-Contractors employed on the work by him/her.
15. **INSURANCE:** CONTRACTOR shall not commence work under this Agreement until he/she has obtained the insurance required under this paragraph and satisfactory proof of such insurance has been submitted and approved by MCS. Except for worker's compensation insurance, the policy shall not be amended or modified and the coverage amounts shall not be reduced without MCS prior written consent. Modesto City Schools shall be named as an additional insured and be furnished thirty (30) days written notice prior to cancellation.

a. **GENERAL LIABILITY INSURANCE:** CONTRACTOR shall provide MCS proof of general liability insurance in the minimum amount of $1,000,000. Proof shall be in the form of a certificate of insurance in which Modesto City Schools is named as a certificate holder and additional insured under the CONTRACTOR's general liability insurance policy. If CONTRACTOR is partially self-insured, then MCS shall accept CONTRACTOR's proof of self-insurance in partial satisfaction of the $1,000,000 requirement with the proof of insurance providing the remaining portion.

b. **WORKER'S COMPENSATION COVERAGE:** CONTRACTOR, if required by law, shall provide worker's compensation coverage for its representatives and/or employees. It is expressly understood and agreed that MCS shall not provide worker's compensation coverage for CONTRACTOR's representatives and/or employees under this Agreement.

16. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. **RESOLUTION OF DISPUTES:** In the event that a dispute arises under this Agreement between CONTRACTOR and MCS, the dispute shall be referred to the office of the American Arbitration Association nearest to Modesto, California for resolution. The arbitrator's decision shall be final and binding and judgment may be entered thereon. If one party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award or fails to comply with arbitrator's award, the other party is entitled to costs of suit including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

18. **ATTORNEYS' FEES:** If any action is brought by either party against the other party hereunder, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action.

19. **MODIFICATION:** Any waiver, amendment, modification, consent or acquiescence with respect to this Agreement or any provision of this Agreement or with respect to any failure to perform in accordance therewith shall be set forth in writing and duly executed by or on behalf of the party to be bound thereby.

No changes or alterations to this Agreement shall be made without specific prior written approval by MCS.

20. **MCS' RIGHT OF RETENTION:** Modesto City Schools shall become the owner of and entitled to exclusive possession of all records, documents, graphs, photographic or other reproductions of any kind produced in the scope of services performed, and no other uses thereof will be permitted except by permission of MCS. Proprietary materials will be exempted from this clause.

21. **SEVERABILITY:** If any provision of this Agreement is held to be invalid or unenforceable, that provision shall be severed from the Agreement and the remaining provisions shall remain in effect.

22. **FORCE MAJEURE:** Neither party shall be liable under this Agreement as a result of any delay, failure or interruption resulting from acts of God, acts of civil or military authorities, acts or orders of governmental authorities, catastrophes or any other occurrences or circumstances beyond the parties' reasonable control.
23. **ENTIRE AGREEMENT**: This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement. There are no agreements, understandings, representations or warranties, whether written or oral, between the parties other than those set forth in this Agreement.

24. **NOTICES**: All notices concerning this Agreement must be in writing and mailed via U.S. mail to:

**CONTRACTOR**
- Contact Name: City of Modesto Parks & Recreation
- Contact Title: Andy Johnson
- Address (line 1): PO Box 642
- Address (line 2): City, State, and Zip: Modesto, CA 95351

**MODESTO CITY SCHOOLS**
- Contact Name: Mark Herbst
- Contact Title: Sr. Director, Ed. Services
- Address (line 1): 426 Locust Street
- Address (line 2): City, State, and Zip: Modesto, CA 95351

25. **IN WITNESS WHEREOF**, the parties hereunto have subscribed to this Agreement and agree to the General Terms and Conditions.

<table>
<thead>
<tr>
<th>CONTRACTOR</th>
<th>MODESTO CITY SCHOOLS</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONTRACTOR or Representative’s Signature</td>
<td>MCS Representative’s Signature</td>
</tr>
</tbody>
</table>

Please print or type the following information:

- Jim Holgersson
- Julie A. Betschart

Representative’s Name (if different than CONTRACTOR)

- City Manager
- Associate Superintendent, Business Services

Representative’s Title (if applicable)

- Chief Business Official

**CONTRACTOR**
- Date Signed: 
- Taxpayer Identification Number: 94-600374
- Address: PO Box 642, Modesto, CA 95351
- Phone: 209-577-5355
- Fax: 209-491-5929
- Email: ajohnson@modestogov.com

**MODESTO CITY SCHOOLS**
- Address: 426 Locust Street, Modesto CA 95351
- Phone: (209) 550-3301 ext. 5401

**TYPE OF BUSINESS ENTITY:**

- Individual
- Sole Proprietorship
- Partnership
- Corporation
- Other
- Private Non Profit (not for profit)
- City or County Agency

**NOTE:** Federal Regulations (Code Sections 6041 and 6209) require non-corporate recipients of $600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, Modesto City Schools requires your federal tax identification number or Social Security Number, whichever is applicable.
MODESTO CITY SCHOOLS

CERTIFICATION OF FINGERPRINTING

TO THE GOVERNING BOARD AND THE DISTRICT ADMINISTRATOR IN CHARGE OF THE FOLLOWING SERVICES:

I. Identification of Parties

I, Jim Holgersson ____________, am an individual CONTRACTOR and/or vendor or public agency. I am an authorized representative of City of Modesto _______________________________. My entity seeks to contract with Modesto City Schools (MCS), which may cause my entity and its employees, agents, independent contractors or sub-contractors to come in contact with pupils, and I am aware of the requirements of Education Code Section 45125 et. seq.

II. Certifications

I make the following certifications, under penalty of perjury:

a. I shall not begin to provide services to MCS nor shall I permit any of my employees, agents, independent contractors or sub-contractors to come in contact with pupils until the Department of Justice has ascertained that the person has not been convicted of a serious or violent felony as defined in Penal Code Section 1192.7 (c) and 667.5 (c). (Education Code § 45125.1(e))

b. I certify that I have reviewed the results of the fingerprinting information ascertained by the Department of Justice, and I certify that none of my employees, agents, independent contractors or sub-contractors, including myself, who may come in contact with pupils, have been convicted of a felony as noted in paragraph a. above. (Education Code § 45125.1(f))

c. I have attached a list of the names of my employees, agents, independent contractors or sub-contractors who may come in contact with pupils to this certification form. (Education Code § 45125.1(f))

I declare under penalty of perjury under the laws of the State of California that the information provided above is true and correct. Executed this ______________ day of ______________________ at ______________________, California.

______________________________________________________________
Signature of CONTRACTOR/Vendor and/or Authorized Representative

______________________________________________________________
Date Signed
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED, “ROUNDABOUT IMPROVEMENTS AT THE INTERSECTION OF KODIAK DRIVE AT LINCOLN OAK DRIVE”, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH MCFADDEN CONSTRUCTION, INC. OF STOCKTON, CA, IN THE AMOUNT OF $275,239.00; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Roundabout Improvements at the Intersection of Kodiak Drive at Lincoln Oak Drive project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Roundabout Improvements at the Intersection of Kodiak Drive at Lincoln Oak Drive project were opened at 11 a.m. on February 24, 2015, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $275,239.00 received from McFadden Construction, Inc. of Stockton, CA be accepted as the lowest responsible bid and the contract be awarded to McFadden Construction, Inc. of Stockton, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Roundabout Improvements at the Intersection of Kodiak Drive at Lincoln Oak Drive project, accepts the bid from McFadden Construction, Inc. of Stockton, CA in the amount of $275,239.00, and awards McFadden Construction, Inc. of Stockton, CA the contract for the Roundabout Improvements at the Intersection of Kodiak Drive at Lincoln Oak Drive project.
BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

STEFANIE LOPEZ, City Clerk
RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM PROJECT AND ACCEPTING REGIONAL SURFACE TRANSPORATION PROGRAM (RSTP) GRANT FUNDS IN THE AMOUNT OF $1,263,395, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, on March 20, 2015, StanCOG notified local agencies in Stanislaus County that additional Regional Surface Transportation Program (RSTP) grant funds were available for FFY 2014/15 and FFY 2015/16. The additional funding available to the City of Modesto is $1,263,395, and

WHEREAS, City staff worked diligently with StanCOG staff to effectively move forward with the programming of these additional RSTP appropriations, and

WHEREAS, staff programmed a new Capital Improvement Project, titled “Pavement Rehabilitation of Tully Road and Orangeburg Avenue” and added additional RSTP funds to existing projects as noted on Exhibit A to use the appropriations in FFY 2014/15 and FFY 2015/16.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Capital Improvement Program project and accepting Regional Surface Transportation Program (RSTP) funds in the amount of $1,263,395.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Madrigal,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
**EXHIBIT A - Additional RSTP Funds for FFY 14/15 and 15/16**

<table>
<thead>
<tr>
<th>PROJECT NAME:</th>
<th>PROJECT FUND</th>
<th>PROJECT NUMBER</th>
<th>PROJECT PHASE</th>
<th>ADDITIONAL RSTP FUNDS</th>
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<td>FFY 14/15</td>
<td>FFY 15/16</td>
</tr>
<tr>
<td>Bus Turnout on Southbound Dale Road</td>
<td>3160</td>
<td>100727</td>
<td>ROW/Utilities</td>
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<td></td>
<td></td>
<td></td>
<td>PE</td>
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<td>Construction</td>
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<td>New Traffic Signals - 2015</td>
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<td>100870</td>
<td>PE</td>
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<td>$75,000</td>
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<tr>
<td>WB D Street to 9th Street (132) Right Turn Lane</td>
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<td>100728</td>
<td>PE</td>
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<td>Improvements</td>
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<td>Construction</td>
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<td>$168,395</td>
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<td>Right Turn Lane on Southbound Prescott Road at</td>
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<td>100633</td>
<td>Construction</td>
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<td>Plaza Parkway</td>
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<td>Right Turn Lane from Southbound McHenry Avenue</td>
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<td>100632</td>
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<td>to Westbound Brigsmore Avenue</td>
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<td>Pavement Rehabilitation of Tully Road and Orangeburg Avenue</td>
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<td>PE</td>
<td>$30,000</td>
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<td></td>
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<td>$770,000</td>
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<tr>
<td><strong>TOTAL ADDITIONAL RSTP FUNDS:</strong></td>
<td></td>
<td></td>
<td></td>
<td>$195,000</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$1,068,395</td>
</tr>
</tbody>
</table>

**TOTAL ADDITIONAL RSTP FUNDS FOR FFY 14/15 AND FFY 15/16**

$1,263,395
RESOLUTION ACCEPTING CONGESTION MITIGATION AND AIR QUALITY (CMAQ) GRANT FUNDS REALLOCATED BY THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG), ADMINISTRATIVE AMENDMENT #4, IN THE AMOUNT OF $276,498 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, on April 27, 2015, Caltrans approved Administrative Amendment #4 to StanCOG’s Federal Transportation Improvement Program (FTIP) reallocating $276,498 in Congestion Mitigation Air Quality (CMAQ) grant funds, and

WHEREAS, City staff worked diligently with StanCOG staff to effectively move forward with the programming of these reallocated funds, and

WHEREAS, staff added additional CMAQ funds to existing projects as noted on Exhibit B to use the appropriations in FFY 2014/15 and provide sufficient funds for these projects to complete construction.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves accepting CMAQ funds in the amount of $276,498.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
## EXHIBIT B - Reallocated CMAQ Funds to Existing Projects in FTIP Amendment #4

<table>
<thead>
<tr>
<th>PROJECT NAME:</th>
<th>PROJECT FUND</th>
<th>PROJECT NUMBER</th>
<th>PROJECT PHASE</th>
<th>FUNDING SOURCE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kodiak Drive and Lincoln Oak Drive Roundabout</td>
<td>3410</td>
<td>100862</td>
<td>Construction</td>
<td>CMAQ</td>
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<td>Additional STF*</td>
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<tr>
<td>Upgrade Traffic Signals - 2013</td>
<td>3160</td>
<td>100634</td>
<td>Construction</td>
<td>CMAQ</td>
<td>$210,101</td>
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</tbody>
</table>

|                         | Total CMAQ Funds Re-Allocated | $276,498 |
|                         | Total Additional STF Funds Required | $8,603 |

*Additional STF Funds are required for this project to meet Local Match Requirements*
RESOLUTION AMENDING THE FISCAL YEAR 2014/15 AND YEAR 2015/16 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET IN THE AMOUNT OF $1,263,395

WHEREAS, on March 20, 2015, Stanislaus Council of Governments (StanCOG) notified local agencies in Stanislaus County that additional Regional Surface Transportation Program (RSTP) grant funds were available for FFY 2014/15 and FFY 2015/16. The additional funding available to the City of Modesto is $1,263,395, and

WHEREAS, City Staff worked diligently with StanCOG staff to effectively move forward with the programming of additional RSTP appropriations as show on Exhibit A, and

WHEREAS, as a result, the Fiscal Year 2014/15 and Fiscal Year 2015/16 Capital Improvement Program budget needs to be amended to reflect the addition of $1,263,395 RSTP appropriations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2014/15 and the Fiscal Year 2015/16 Capital Improvement Program budgets in the amount of $1,263,395.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT A - Additional RSTP Funds for FFY 14/15 and 15/16

<table>
<thead>
<tr>
<th>PROJECT NAME:</th>
<th>PROJECT FUND</th>
<th>PROJECT NUMBER</th>
<th>PROJECT PHASE</th>
<th>ADDITIONAL RSTP FUNDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bus Turnout on Southbound Dale Road</td>
<td>3160</td>
<td>100727</td>
<td>ROW/Utilities</td>
<td>$75,000 $0</td>
</tr>
<tr>
<td>New Traffic Signals - 2015</td>
<td>3160</td>
<td>100870</td>
<td>PE</td>
<td>$30,000 $0</td>
</tr>
<tr>
<td>WB D Street to 9th Street (132) Right Turn Lane</td>
<td>3160</td>
<td>100728</td>
<td>Construction</td>
<td>$0 $168,395</td>
</tr>
<tr>
<td>Improvements</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right Turn Lane on Southbound Prescott Road at</td>
<td>3160</td>
<td>100633</td>
<td>Construction</td>
<td>$0 $55,000</td>
</tr>
<tr>
<td>Plaza Parkway</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right Turn Lane from Southbound McHenry Avenue to</td>
<td>3410</td>
<td>100632</td>
<td>PE</td>
<td>$25,000 $0</td>
</tr>
<tr>
<td>Westbound Briggsmore Avenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pavement Rehabilitation of Tully Road and</td>
<td></td>
<td>TBD</td>
<td>PE</td>
<td>$30,000 $0</td>
</tr>
<tr>
<td>Orangeburg Avenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Construction</td>
<td>$0 $770,000</td>
</tr>
<tr>
<td>TOTAL ADDITIONAL RSTP FUNDS:</td>
<td></td>
<td></td>
<td></td>
<td>$195,000 $1,068,395</td>
</tr>
</tbody>
</table>

TOTAL ADDITIONAL RSTP FUNDS FOR FFY 14/15 AND FFY 15/16 $1,263,395
RESOLUTION AMENDING THE FISCAL YEAR 2014/15 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET IN THE AMOUNT OF $285,101

WHEREAS, on April 27, 2015, Caltrans approved Administrative Amendment #4 to Stanislaus Council of Governments (StanCOG’s) Federal Transportation Improvement Program (FTIP) reallocating $276,498 in Congestion Mitigation and Air Quality (CMAQ) grant funds, and

WHEREAS, City Staff worked diligently with StanCOG staff to effectively move forward with the programming of the reallocated CMAQ appropriations as show on Exhibit B, and

WHEREAS, as a result, the Fiscal Year 2014/15 Capital Improvement Program budget needs to be amended to reflect the addition of $276,498 CMAQ appropriations, and

WHEREAS, as a result of the Local Match Funds required for the project titled, “Kodiak Drive and Lincoln Oak Drive Roundabout”, as shown on Exhibit B the Fiscal Year 2014/15 Capital Improvement Program budget needs to be amended to reflect the additional $8,603 in Surface Transportation funds required.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2014/15 and the Fiscal Year 2015/16 Capital Improvement Program budgets in the amount of $285,101.

BE IT FURTHER RESOLVED that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _______________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _______________________

ADAM U. LINDGREN, City Attorney
EXHIBIT B - Reallocated CMAQ Funds to Existing Projects in FTIP Amendment #4

<table>
<thead>
<tr>
<th>PROJECT NAME:</th>
<th>PROJECT FUND</th>
<th>PROJECT NUMBER</th>
<th>PROJECT PHASE</th>
<th>FUNDING SOURCE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kodiak Drive and Lincoln Oak Drive Roundabout</td>
<td>3410</td>
<td>100662</td>
<td>Construction</td>
<td>CMAQ</td>
<td>$66,397</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Additional STF*</td>
<td>$8,603</td>
</tr>
<tr>
<td>Upgrade Traffic Signals - 2013</td>
<td>3160</td>
<td>100634</td>
<td>Construction</td>
<td>CMAQ</td>
<td>$210,101</td>
</tr>
</tbody>
</table>

| Total CMAQ Funds Re-Allocated     | $276,498     |
| Total Additional STF Funds Required | $8,603       |

*Additional STF Funds are required for this project to meet Local Match Requirements
RESOLUTION APPROVING ONE NEW CAPITAL IMPROVEMENT PROJECT AND AMENDING THE CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET FOR FISCAL YEAR 2014/15 TO REALLOCATE $770,000 IN SURFACE TRANSPORTATION FUNDS

WHEREAS, on March 20, 2015, StanCOG notified local agencies in Stanislaus County that additional Regional Surface Transportation Program (RSTP) grant funds were available for FFY 2014/15 and FFY 2015/16, and

WHEREAS, the current Capital Improvement Program (CIP) project titled, “Collector and Arterial Streets Rehabilitation”, is funded through the Surface Transportation Fund (STF), and

WHEREAS, City staff realized the opportunity to utilize $770,000 of the additional RSTP funds for a portion of this project, and

WHEREAS, allowing the reallocation of $770,000 in Surface Transportation Funds (STF) to one new Capital Improvement Project, titled “Safety Improvement Project” and,

WHEREAS, the “Safety Improvement Project” would install crosswalk beacons and school zone beacons, as shown on Attachment #1, and

WHEREAS, completion of these projects will assist in improving safety for all users of the transportation system.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves a new Capital Improvement project and the reallocation of Surface Transportation Funds (STF) in the amount of $770,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

SEAL

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
Safety Improvement Project List

Crosswalk Beacons
- Tuolumne Boulevard at Yosemite Avenue $125,000
- Downey at I Street $125,000
- Crows Landing Road at Amador Avenue $140,000
- Virginia Corridor Phase 6 at Bowen Avenue $25,000
- VC Phase 6 at Leveland Lane $25,000
- VC Phase 6 at Rumble Road $25,000

Other School Zone Beacons
- EB Tuolumne Boulevard west of MHS $75,000
- WB Tuolumne Boulevard east of MHS $75,000
- WB Paradise Road west of MHS $75,000
- NB Carpenter Road south of CCHS $75,000

Total = $770,000
RESOLUTION ACCEPTING THE WORK BY TIM PAXIN'S PACIFIC EXCAVATION, INC., FOR THE "NEW TRAFFIC SIGNALS - 2010 PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $539,519

WHEREAS, a report has been filed by the Director of Utilities that the New Traffic Signal - 2010 Project has been completed by Tim Paxin’s Pacific Excavation, Inc. in accordance with the contract agreement dated May 13, 2014,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the New Traffic Signal - 2010 Project is hereby accepted as complete from said contractor, Tim Paxin’s Pacific Excavation, Inc. and that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, to release securities upon expiration of statutory periods, and that payment of amounts totaling $539,519 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

(SEAL)

ATTEST: STEPHANIE LOPEZ, City Clerk
RESOLUTION ACCEPTING THE WORK BY TIM PAXIN'S PACIFIC EXCAVATION, INC., FOR THE “UPGRADE TRAFFIC SIGNALS - 2010 PROJECT” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $868,950

WHEREAS, a report has been filed by the Director of Utilities that the Upgrade Traffic Signal - 2010 Project has been completed by Tim Paxin’s Pacific Excavation, Inc. in accordance with the contract agreement dated July 8, 2014,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Upgrade Traffic Signal - 2010 Project is hereby accepted as complete from said contractor, Tim Paxin’s Pacific Excavation, Inc. and that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, to release securities upon expiration of statutory periods, and that payment of amounts totaling $868,950 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE “BRIGGSMORE AVENUE REHABILITATION PROJECT” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,478,581.

WHEREAS, a report has been filed by the Director of Utilities that the Briggsmore Avenue Rehabilitation Project has been completed by George Reed, Inc. in accordance with the contract agreement dated June 3, 2014,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Briggsmore Avenue Rehabilitation Project is hereby accepted as complete from said contractor, George Reed, Inc. and that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, to release securities upon expiration of statutory periods, and that payment of amounts totaling $1,478,581 is authorized as provided in the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-156

RESOLUTION AUTHORIZING THE DIRECTOR OF UTILITIES, OR HIS DESIGNEE, TO NEGOTIATE AN AGREEMENT WITH BARTLE WELLS ASSOCIATES (BWA) TO PERFORM A WATER RATE AND FEE STUDY

WHEREAS, the State Water Resources Control Board adopted Emergency Drought Regulations that will require that the City of Modesto reduce potable water consumption by 36 percent; and

WHEREAS, the City’s water rates and fees were last adopted in 2004 and 2005, and may not reflect the current cost of providing operational services and meeting capital improvement and maintenance needs; and

WHEREAS, the decrease in water sales revenue as a result of the Emergency Drought Regulations may negatively impact the Water Fund debt service requirements; and

WHEREAS, the City currently does not have the staffing levels or expertise to develop and evaluate the City’s complex Water Rate Fee structure; and

WHEREAS, therefore, staff is recommending the use of Bartle Wells Associates (BWA), a financial advisory and utility rate consulting firm, to complete a Water Rate and Fee study; and

WHEREAS, BWA was previously identified by a City selection committee as the most responsive and qualified consultant to conduct utility rate and fee studies following receipt of three (3) Statements of Qualifications/Proposals and interviews; and

WHEREAS, because there is a need to update the existing water rates, and because BWA was selected as the most qualified utility rate and fee firm, staff now recommends initiating negotiations with BWA to develop a new Water Rate and Fee
Study. If staff is successful in negotiations, the resultant agreement will be presented to City Council for review and approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves negotiations for an Agreement with Bartle Wells Associates to conduct a Water Rate and Fee Study.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-157

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER IMPROVEMENTS TO SPECIFIED RESIDENTIALLY DEVELOPED UNINCORPORATED AREAS FOR WHICH AN ADVISORY VOTE ON THE QUESTION OF SEWER SERVICE EXTENSIONS IS REQUIRED BY MEASURE M

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens’ Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election. Measure A defined “extension” as “the addition of sewer trunk capacity to permit expansion of urban development into the Urban Reserve area of the General Plan so as to require amendment of the General Plan.” Thus, Measure A applies to properties that were designated Urban Reserve in the City’s General Plan in effect at the time, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens’ Advisory Growth Management Act of 1995 (Measure M), which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election. Measure M also applies to areas that were designated Urban Reserve in the City’s General Plan in effect at the time, and

WHEREAS, the 1995 update to the City’s General Plan eliminated the Urban Reserve designation, and

WHEREAS, since the voters approved Measure A and Measure M, the City has conducted multiple advisory elections regarding the properties affected by the measures.
An advisory vote has not yet occurred for a number of other properties to which Measure A and Measure M apply. The remaining properties are dispersed and not all contiguous. Among the properties for which an advisory vote has not occurred are a number of residentially developed unincorporated areas within the jurisdiction of Stanislaus County. Some of those are "islands" surrounded by the City, others abut the City's jurisdictional boundaries, and all are within the City's sphere of influence. There may be vacant parcels within some of the residentially developed unincorporated areas, and

WHEREAS, in order to satisfy the requirements of Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November 3, 2015, an advisory measure relating to the extension of sewer improvements to specified areas to which Measure M applies and for which an advisory vote has not yet been held. Those areas are primarily residentially developed unincorporated areas in which a small number of vacant parcels may be located,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. BALLOT MEASURE.

That pursuant to California Elections Code Section 9603 and as required by Measure M, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 3, 2015, an advisory measure relating to the extension of sewer improvements to specified residentially developed unincorporated areas to which Measure M applies and for which an advisory measure has not yet been held. As
specified below, the areas that are the subject of the advisory measure will be described in and shown on a map to be included in the sample ballot/voter information pamphlet for the November 3, 2015, election.

SECTION 2. INFORMATION TO BE INCLUDED IN SAMPLE BALLOT / VOTER INFORMATION PAMPHLET.

In the sample ballot/voter information pamphlet for the November 3, 2015, election shall be printed a description of the residentially developed unincorporated areas that are the subject of the advisory measure, including a map depicting the areas. The Planning Division of the Community and Economic Development Department is authorized and directed to prepare the summary and map, and the City Clerk is authorized and directed to forward the summary and map to the Stanislaus County Registrar of Voters. The summary shall be in addition to the City Attorney’s impartial analysis, any primary or rebuttal arguments filed, and any other material required by law to be included in the sample ballot/voter information pamphlet.

SECTION 3. FORM OF BALLOT.

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

**MEASURE **City of Modesto Sewer Service Extension Advisory Measure.

| Do you want the City Council of the City of Modesto to extend sewer improvements to ten (10) specified residentially developed unincorporated areas, which may include undeveloped parcels, to which Measure M applies and for which an advisory vote has not yet been held? | Yes | ☐ |
| | No | ☐ |
SECTION 4. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the city of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 5. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SIGNATURE)

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

2015-157
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-158

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER IMPROVEMENTS TO SPECIFIED RESIDENTIALLY DEVELOPED UNINCORPORATED AREAS FOR WHICH AN ADVISORY VOTE ON THE QUESTION OF SEWER SERVICE EXTENSIONS IS REQUIRED BY MEASURE M

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2015, an advisory measure concerning the extension of sewer improvements to specified residentially developed unincorporated areas for which an advisory vote on the question of sewer service extensions is required by Measure M,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no argument may be filed with the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 12th day of May, 2015, by Councilmember Cogdill, who
moved its adoption, which motion being duly seconded by Councilmember Lopez, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-159

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER IMPROVEMENTS TO SPECIFIED RESIDENTIALLY DEVELOPED UNINCORPORATED AREAS FOR WHICH AN ADVISORY VOTE ON THE QUESTION OF SEWER SERVICE EXTENSIONS IS REQUIRED BY MEASURE M TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2015, an advisory measure concerning the extension of sewer improvements to specified residentially developed unincorporated areas for which an advisory vote on the question of sewer service extensions is required by Measure M to the City Attorney for the purpose of preparing an impartial analysis of said measure,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an Impartial Analysis of the measure showing the effect of the measure on existing law on the operation of the measure.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, the Modesto Urban Area General Plan, Community Growth Strategy, calls for review of growth trends in the Modesto Urban Area on a periodic basis, and

WHEREAS, the prior Urban Growth Policy Review was approved by the City Council on July 7, 2009, and

WHEREAS, the 2015 Urban Growth Policy Review contains a recommendation based on prior City Council action that a Measure M ballot measure be prepared for all of the unincorporated County islands that have not yet been the subject of such a ballot measure, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2015-07 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and
WHEREAS, in accordance with CEQA guidelines beginning on May 2, 2015, the City caused to be published a 10-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 12, 2015, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed 2015 Urban Growth Policy Review, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.

2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

3. No new or additional mitigation measures or alternatives are required.

4. The subsequent project is within the scope of the project covered by the Master EIR.

5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

6. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2015-07
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2015-07

For the proposed:


Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

May 1, 2015

Updated: September 2013
City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the 2015 Urban Growth Policy Review Measure "M" Ballot Measure, UGR-15-001, is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: 2015 Urban Growth Policy Review Measure "M" Ballot Measure

B. Address or Location: City of Modesto

C. Applicant: City of Modesto, 1010 Tenth Street, Modesto CA 95354

D. City Contact Person: Brad Wall, AICP, Principal Planner
   Department: Community and Economic Development
   Phone Number: 209.577.5273
   E-mail address: bwall@modestogov.com

E. Current General Plan Designation(s): Residential

F. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

   The 2015 Urban Area Growth Policy Review Measure "M" advisory vote ballot measure described herein, below, could be placed on the November 2015 municipal election ballot measure for extension of sewer improvements. The project implements General Plan Community Growth Strategy policies for support and enhancement of neighborhoods and timely provision of infrastructure. The ballot measure, described below, is based on City Council direction to prepare a comprehensive Measure "M" ballot measure for the remaining...
unincorporated County "island" areas. The proposed ballot measure would include the following planning areas located in the Baseline Developed Area of the City's General Plan: All residentially developed unincorporated areas, as shown on the attached Exhibit A.

G. Other Public Agencies Whose Approval is Required: None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

   A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

   B. No new or additional mitigation measures or alternatives are required.

   C. The subsequent project is within the scope of the project covered by the Master EIR.

   D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   E. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

   D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.
3. **Focused EIR Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The subsequent project is within the scope of the project covered by the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

__________________________________________  Principal Planner  May 1, 2015
Project Manager
Title  Date

City of Modesto
General Plan Master EIR

Initial Study EA No. 2015-07
May 5, 2015
4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any “No” response must be discussed.

<table>
<thead>
<tr>
<th>Statement</th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.</td>
<td>✗</td>
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<td>(2) City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.</td>
<td>✗</td>
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<tr>
<td>(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).</td>
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<td>(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.</td>
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<td>(5) The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan.</td>
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<td>(6) Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.</td>
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5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any “no” response must be explained.

<table>
<thead>
<tr>
<th>Statement</th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.</td>
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<tr>
<td>(2) This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:</td>
<td>✗</td>
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<tr>
<td>(a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.</td>
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<td></td>
</tr>
<tr>
<td>(b) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.</td>
<td>✗</td>
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</tr>
<tr>
<td>(c) Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.</td>
<td>✗</td>
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</tbody>
</table>

Discussion:

City of Modesto
General Plan Master EIR
Initial Study EA No. 2015-07
May 5, 2015
(1) The General Plan Master EIR was certified on October 14, 2008, so more than five years has passed since the MEIR was certified. However, the analysis contained in the MEIR is still adequate for subsequent projects, as documented in the discussion below.

(2) The project is consistent with the analysis contained in the MEIR. This is documented in the discussion of the individual issue areas of this initial study.

(2)(a) There have been no substantive changes to the General Plan since the MEIR was certified that would create additional significant environmental effects that were not analyzed by the MEIR.

(2)(b) There has been no new information that would affect the adequacy of the analysis contained in the MEIR.

(2)(c) All policies contained in the MEIR that require site-specific mitigation or avoidance of impacts remain in effect and will be applied to the project as appropriate.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.
1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto’s significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG’s Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project
Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no relevant traffic-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. **Project-Specific Effects**

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

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<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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</thead>
<tbody>
<tr>
<td><strong>1. TRAFFIC AND CIRCULATION</strong></td>
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<tr>
<td>1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.</td>
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<tr>
<td>2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
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<tr>
<td>3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.</td>
<td>☐</td>
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<tr>
<td>4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).</td>
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<td>5) The proposed project would result in less parking than required by the Municipal Code.</td>
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<td>6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, etc.</td>
<td>☐</td>
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<tr>
<td>7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.</td>
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</tbody>
</table>
Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for an advisory Measure M vote would not cause any additional significant increase in traffic and circulation impacts beyond those previously identified in the MEIR. The ballot measure does not propose any changes to the circulation system of the General Plan analyzed by the MEIR and thus would not adversely affect the roadway or intersection capacity of the City's circulation system beyond what was identified in the MEIR. All potential adverse impacts related to traffic and circulation were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-36) are, therefore, still valid.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NOx) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM10) and 2.5 microns or less in diameter (PM2.5) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NOx, PM10, and PM2.5.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no relevant air quality-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
2. DEGRADATION OF AIR QUALITY

<table>
<thead>
<tr>
<th>Description</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NOx, PM10, and PM2.5 by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.</td>
<td>☒</td>
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</tr>
<tr>
<td>2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NOx, PM10, and PM2.5.</td>
<td>☒</td>
<td>☒</td>
<td>☐</td>
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</tr>
<tr>
<td>3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.</td>
<td>☒</td>
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</tr>
<tr>
<td>4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.</td>
<td>☒</td>
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<tr>
<td>5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
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</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for an advisory Measure M vote would not cause any additional degradation of air quality beyond that previously identified in the MEIR. All potential adverse impacts related to air quality were analyzed by, and mitigation provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).
Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNE and up to eight dwellings to noise levels of 70 dB CNE.

Exposure noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Exposure noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:
There are no relevant noise-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project’s effects are based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>3. GENERATION OF NOISE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
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<tr>
<td>2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.</td>
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<tr>
<td>3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.</td>
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</table>
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.

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<th>Impact</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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Discussion: The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not cause additional generation of noise beyond that previously identified in the MEIR. All potential adverse impacts related to noise were analyzed by, and mitigation provided in, the MEIR. Therefore, the project will not create additional significant effects and Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion: There are no relevant agriculture-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects
Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>4. EFFECTS ON AGRICULTURAL LANDS</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the Urban Area General Plan’s policies relating to agricultural land.</td>
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<tr>
<td>2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan’s planning area boundary.</td>
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<tr>
<td>3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.</td>
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<tr>
<td>4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.</td>
<td>☐</td>
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</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not cause additional loss of productive agricultural land beyond that previously identified in the MEIR. All potential adverse impacts related to the loss of productive agricultural land were analyzed by, and mitigation provided in, the MEIR. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-13) are still valid.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.
Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no relevant water supply-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

City of Modesto
General Plan Master EIR

Initial Study EA No. 2015-07
May 5, 2015
Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not cause additional increased demand for water supplies, beyond those previously identified in the MEIR. All potential adverse impacts related to increased demand for water supplies were analyzed by, and mitigation provided in, the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-16) are still valid.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson’s hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no relevant sanitary sewer-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not cause additional increased demand for sanitary services beyond that previously identified in the MEIR. All potential adverse impacts related to increased demand for sanitary sewer services were analyzed by, and mitigation has been provided in, the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages V-6-1 through V-6-12) are still valid.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no relevant biologic resource-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>---------------------------------</td>
</tr>
<tr>
<td>1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
</tr>
<tr>
<td>2) Consultation with the California DFG or the USFWS determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
</tr>
<tr>
<td>3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
</tr>
<tr>
<td>4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
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</tr>
<tr>
<td>6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
</tr>
</tbody>
</table>

**Discussion:**

The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not cause additional disturbance of wildlife and plant habitat areas beyond that previously identified in the MEIR. All potential adverse impacts related to loss of sensitive wildlife and plant habitat were analyzed by, and mitigation has been provided in, the MEIR. Therefore, the Existing Conditions, Impact Analysis, and Mitigation Measures listed in the MEIR for Sensitive Wildlife and Plant Habitat, (pages V-7-1 through V-7-31) are, therefore, still valid.

**8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

**Effect:** The modification or demolition of a structure more than 50 years in age may be significant.

**Effect:** Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

**Effect:** Construction in an area of high archaeological sensitivity.

**Cumulative Impacts**

**Effect:** No additional cumulative impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:
Discussion:
There are no relevant archaeological/historical resource-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would modify or demolish a structure more than 50 years in age.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not cause additional disturbance of archaeological and historic sites beyond that previously identified in the MEIR. The ballot measures do not propose any changes to the General Plan boundary or area analyzed by the MEIR. All potential adverse impacts related to disturbance of archaeological and historic sites were analyzed by, and mitigation has been provided in, the MEIR. Therefore, the Existing conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-25) are still valid.
9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

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

b. Master EIR and/or New Mitigation Measures Applied to the Project
Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:
There are no relevant storm drainage-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
<table>
<thead>
<tr>
<th>9. INCREASED DEMAND FOR STORM DRAINAGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
</tbody>
</table>

**Discussion:**
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional demand for storm drainage facilities beyond that previously identified in the MEIR. All potential adverse impacts related to increased demand for storm drainage facilities were analyzed by, and mitigation provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are, therefore, still valid.

**10. FLOODING AND WATER QUALITY**

**a. Significant Effects Identified in the Master EIR**
The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**
Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:
Discussion:
There are no relevant flooding and water quality-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>10. FLOODING AND WATER QUALITY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6) The proposed project would violate water quality standards or waste discharge requirements.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Impact</td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
</tr>
<tr>
<td>--------</td>
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<td>---------------------------------------</td>
<td>-----------------------------</td>
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</tr>
<tr>
<td>8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not change the size or configuration of drainage, flood control or water quality facilities, not already identified in the MEIR. Therefore, the project will not create any new significant drainage, flooding or water quality impacts that were not previously identified in the MEIR. All potential adverse impacts related to drainage, flooding and water quality were analyzed by, and mitigation provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-15) are, therefore, still valid.

**11. INCREASED DEMAND FOR PARKS AND OPEN SPACE**

**a. Significant Effects Identified in the Master EIR**
The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**
Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

**Discussion:**
There are no relevant parks and open space-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**
Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>11. INCREASED DEMAND FOR PARKS AND OPEN SPACE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would eliminate parks or open space.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional population beyond that identified in the MEIR that would use parks or open space facilities. All potential adverse impacts related to increased demand for Parks and Open Space were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-13) are, therefore, still valid.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts
City of Modesto
General Plan Master EIR
Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:
There are no relevant schools-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>12. INCREASED DEMAND FOR SCHOOLS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>with the policies relating to schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>in the Urban Area General Plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) The proposed project does not comply</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>with SB 50/Proposition 1A funding</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>provisions, or succeeding measures</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>which state that compliance results in</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>less-than-significant impacts on schools.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional population, which would increase the demand for school facilities, beyond that previously identified in the MEIR. All potential adverse impacts related to increased demand for schools were analyzed by, and mitigation is provided in, the MEIR. Thus, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Schools (pages V-12-1 through V-12-11) are still valid.
13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no relevant police services-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>13. INCREASED DEMAND FOR POLICE SERVICES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Discussion:
The proposal to place the residually developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional population beyond that previously identified in the MEIR. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to increased demand for police services were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages V-13-1 through V-13-8) are, therefore, still valid.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no relevant fire services-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
14. INCREASED DEMAND FOR FIRE SERVICES

<table>
<thead>
<tr>
<th>Impact</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td></td>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td></td>
<td>3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional population beyond that previously identified in the MEIR. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to increased demand for Fire services were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through IV-14-11) are, therefore, still valid.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.
Discussion:
There are no relevant solid waste-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>15. GENERATION OF SOLID WASTE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional population beyond that identified in the MEIR. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to generation of solid waste and related services were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) are, therefore, still valid.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project
Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no relevant hazardous materials-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>16. GENERATION OF HAZARDOUS MATERIALS</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional population or development beyond that identified in the MEIR that would result in increased generation of hazardous materials. All potential adverse impacts related to generation of hazardous materials were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts analysis and Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages V-16-1 through V-16-16) are, therefore, still valid.
17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:
There are no relevant geology, soils and/or mineral resources-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Effect</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>17. GEOLOGY, SOILS, AND MINERAL RESOURCES</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>×</td>
</tr>
<tr>
<td>2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>×</td>
</tr>
</tbody>
</table>

City of Modesto
General Plan Master EIR

Initial Study EA No. 2015-07
May 5, 2015
| Systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional population or development beyond that identified in the MEIR that would result in increased exposure to landslides and seismic activity. All potential adverse impacts related to exposure to landslides and seismic activity were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Landslide and Seismic Activity (pages V-17-1 through V-17-16) are, therefore, still valid.

18. ENERGY

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

**Cumulative Impacts**

**Effect:** Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project
The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:
There are no relevant energy-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>18. ENERGY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional population or development beyond that previously identified in the MEIR that would result in increased demand for energy. All potential adverse impacts related to increased demand for energy were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through V-18-12) are, therefore, still valid. Mitigation Measures applicable to traffic and air quality would also help to mitigate energy impacts. The project will have no effect on the Modesto Urban Area General Plan energy policies.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.
b. Master EIR and/or New Mitigation Measures Applied to the Project
The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:
There are no relevant visual resources-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>19. EFFECTS ON VISUAL RESOURCES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any impacts related to visual resources beyond those previously identified in the MEIR. All potential adverse impacts related to visual resources were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Visual Resources (pages V-19-1 through V-19-9) are, therefore, still valid.
20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR
The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project
The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:
There are no relevant land use and planning-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects
Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Effect</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. LAND USE AND PLANNING</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with land use and planning policies in the General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
### 4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

The proposal to place the residentially developed unincorporated areas on the ballot would not generate any additional population or development beyond that previously identified in the MEIR that would result in increased land use and planning impacts. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to increased land use and planning impacts were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Land Use and Planning (pages V-20-1 through V-20-22) are, therefore, still valid.

### 21. CLIMATE CHANGE

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

**Discussion:**

There are no relevant climate change-related mitigation measures to be applied from the MEIR. Furthermore, no new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.
Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>21. CLIMATE CHANGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
<tr>
<td>2) The proposed project would result in average automobile trip lengths or CO₂ emissions higher than those assumed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
<tr>
<td>3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
</tbody>
</table>

Discussion:
The proposal to place the residentially developed unincorporated areas on the ballot for a Measure M advisory vote would not generate any additional population or development beyond that identified in the MEIR that would result in increased climate change impacts. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to increased climate change impacts were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Land Use and Planning (pages V-21-1 through V-21-11) are, therefore, still valid.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A, below, applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan. In this instance, there are no mitigation measures to apply.
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-161

RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): CODE AMENDMENT AND REZONE FOR DOWNTOWN MODESTO BASED ON FORM-BASED CODE PRINCIPLES (CITY OF MODESTO)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, the City of Modesto has proposed a code amendment and rezone for downtown Modesto based on form-based code principles, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2015-03 ("Initial Study") which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on April 8, 2015, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 12, 2015, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed code amendment and rezone for downtown Modesto based on form-based code principles, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.

2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

3. No new or additional mitigation measures or alternatives are required.

4. The subsequent project is within the scope of the project covered by the Master EIR.

5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

6. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2015-03
Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2015-03

For the proposed:

Downtown Form-Based Code
(Code Amendment and Rezone)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

25 February 2015
City of Modesto  
Master EIR Initial Study Environmental Checklist  

I. PURPOSE  

CEQA allows for the limited environmental review of subsequent projects under the City’s Master Environmental Impact Report (“Master EIR” or “MEIR”). This Initial Study Environmental Checklist (“Initial Study”) is used in determining whether the Downtown Form-Based Code, the proposed project, is “within the scope” of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). The proposed project includes a code amendment and rezone affecting downtown Modesto. When the Initial Study supports this conclusion, the City will issue a finding of conformance.  

A subsequent project is “within the scope” of the Master EIR when:  

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and  

2. no new or additional mitigation measures or alternatives are required.  

“Additional significant effects” means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]  

The determination must be based on substantial evidence in the record. “Substantial evidence” means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)  

This document is tiered from both the 2008 Urban Area General Plan Master EIR (SCH #2007072023) and the Modesto Redevelopment Master Plan Program EIR (SCH # 2006071118).
II. PROJECT DESCRIPTION

A. Title: Downtown Form-Based Code

B. Address or Location: The project is located within the approximately 516-acre area bounded by Downey Avenue and Needham Street on the north; 9th Street, L Street, S. Washington Street, and 1st Street on the west; Sierra Drive, 5th Street, E Street, 6th Street, F Street, and 9th Street on the south; and D Street and Burney Street on the east (Exhibit 1).

Minor revisions are proposed to the approximately 185 acres of existing Downtown Core zone inscribed within the larger project area and bounded by L Street, 6th Street, F Street, 12th Street, G Street, 14th Street, 14th Street, K Street, and 12th Street (Exhibit 1).

C. Applicant: City of Modesto
   Community & Economic Development Department
   1010 10th Street
   Modesto, CA 95354

D. City Contact Person: Patrick Kelly, Planning Manager

   Project Manager: Patrick Kelly, Planning Manager
   Department: Community & Economic Development Department, Planning Division
   Phone Number: 209.577.5267
   E-mail address: pkelly@modestogov.com

E. Current General Plan Designation(s): RPD, Redevelopment Planning District

F. Current Zoning Classification(s): Various. Includes R-2, R-3, P-O, C-1, C-2, C-M, M-1, P-D(83), P-D(95), P-D(101), P-D(119), P-D(139), P-D(143), P-D(258), P-D(325), P-D(370), P-D(380), P-D(389), P-D(417), P-D(430), P-D(443), P-D(492), P-D(523), P-D(536), P-D(563), P-D(594), Downtown Core-Central District, Downtown Core-Transition District, and Downtown Core-Buffer District (Exhibits 2 and 3.)

G. Surrounding Land Uses:
   North: Residential, office, small-scale commercial development
   South: Residential, industrial, and commercial, development and food-processing
   East: Residential, medical office, small-scale office and commercial development
   West: Residential and small-scale commercial development

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

The proposed project is an Anticipated Future Project described in the General Plan Master EIR (SCH #2007072023) in Section II.C, item 5, Zoning, which allows the City of Modesto to initiate rezoning efforts in order to implement the General Plan. Additionally, the proposed project is identified in the Redevelopment Master Plan Action Matrix, items 4.19 and 4.20, which was analyzed as part of Program EIR (SCH # 2006071118), and found to be within the scope of the General Plan MEIR in Section II.C, item 10, Redevelopment Plan.

* * *
The proposed project includes a code amendment using form-based code principles and a rezone that would apply to that portion of the downtown area described on Exhibit 1 that is currently regulated by Modesto’s conventional, use-based zoning. The proposed code would change the focus of regulation from use to building design and location on the lot. The proposed code is organized into four new areas: Urban General Downtown, Main Street Downtown, East Neighborhood Downtown, and Traditional Neighborhood Downtown. The draft code, which specifies the proposed regulations, is included as Attachment A.

Minor changes to the existing form-based code are also proposed. Along with the expanded portions of the Downtown Form-Based Code, the Downtown Core will be reformatted so that the individual districts are codified as separate zones. The existing Downtown Core Zone, consisting of three districts (Central District, Transition District, and Buffer District), will be replaced with Central Downtown and Transition Downtown zones. The Downtown Core-Buffer District will be eliminated and replaced with Transition Downtown zone. Additionally, the first floor height minimum and maximum has been replaced with a minimum height and the height ranges for upper floors has been eliminated. These revisions are not expected to result in any significant environmental effects and are not evaluated as part of the analysis of the Downtown Form-Based Code.

I. Other Public Agencies Whose Approval is Required: None.
Exhibit 1
Proposed Downtown Form-Based Code
Exhibit 2
Land Use Zoning Prior to Form-Based Code
Exhibit 3
Existing Downtown Form-Based Code

Planning District Map

- Central District
- Transition District
- Buffer District
- High Street Rail Corridor
- Historic Preservation Sites
- Historic Resource Sites

City of Modesto
General Plan Master EIR

Initial Study EA No. 2015-03
25 February 2015
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

   A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

   B. No new or additional mitigation measures or alternatives are required.

   C. The subsequent project is within the scope of the project covered by the Master EIR.

   D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   E. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

   A. The subsequent project is within the scope of the project covered by the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

   D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.
3. **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

A. The subsequent project is within the scope of the project covered by the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

D. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

Project Manager __________________________ Title __________________________ Date __________________________
4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

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<th>YES</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.</td>
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<td>2</td>
<td>City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.</td>
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<td>3</td>
<td>Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).</td>
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<td>4</td>
<td>No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.</td>
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<td>5</td>
<td>The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan.</td>
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<td>6</td>
<td>Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.</td>
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Discussion:

(1) Establishing and revising zoning classifications in Modesto is the exclusive jurisdiction of the City of Modesto.

(2, 6) General Plan Master EIR and Redevelopment Master Plan Program EIR mitigation measures are either implemented by the project or will be applied to new development regulated by the proposed code amendment. Specific mitigation measures are identified throughout the analysis and are collected at the end of this document.

(3) There have been no changes to federal, State, regional, or County regulations that have relaxed the mitigation measures identified in the General Plan Master EIR.

(4) The staff of the City of Modesto is not aware of any new information about resources were not otherwise identified in the General Plan Master EIR, that would result in impacts greater than those identified in the General Plan Master EIR.

(5) The proposed code amendment lies within the existing City limits.
5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

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<th>YES</th>
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<tr>
<td>b</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>c</td>
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</tbody>
</table>

Discussion:

1. The General Plan Master EIR was certified on October 14, 2008, so more than five years has passed since the MEIR was certified. However, the analysis contained in the MEIR is still adequate for subsequent projects, as documented in the discussion below.

2. The project is consistent with the analysis contained in the MEIR. This is documented in the discussion of the individual issue areas of this initial study.

2(a) There have been no substantive changes to the General Plan since the MEIR was certified that would create additional significant environmental effects that were not analyzed by the MEIR.

2(b) There has been no new information that would affect the adequacy of the analysis contained in the MEIR.

2(c) All policies contained in the MEIR that require site-specific mitigation or avoidance of impacts remain in effect and will be applied to the project as appropriate.
IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.
1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto’s significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG’s Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes General Plan Master EIR Mitigation Measures TC-1, TC-5, TC-12, TC-13, TC-28, and TC-43. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

<table>
<thead>
<tr>
<th>1. TRAFFIC AND CIRCULATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.</td>
</tr>
<tr>
<td>2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
</tr>
<tr>
<td>3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.</td>
</tr>
<tr>
<td>4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).</td>
</tr>
<tr>
<td>5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.</td>
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<tr>
<td>6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.</td>
</tr>
<tr>
<td>7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.</td>
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</table>
Discussion:

The proposed project implements General Plan Master EIR Mitigation Measures TC-1, TC-5, TC-12, TC-13, TC-28, and TC-43. As noted in Section II of this document, the Downtown Form-Based Code is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan and is, therefore, within the scope of the General Plan Master EIR.

(1, 3) As a means to encourage development, the General Plan does not require a traffic study for development occurring in downtown, which is well-served by transit. Furthermore, the purpose of the proposed project is to reduce vehicle trips and vehicle miles traveled, as compared to conventional development. No adverse impact is anticipated and no mitigation is required.

(2) As described in the 2008 General Plan Master EIR, the County CMA, StanCOG, has opted out of preparing a Congestion Management Plan since 1996.

(4) The proposed project is expected to improve response times by putting more people and businesses within the acceptable service radius of emergency services. No adverse impact is expected and no mitigation is required.

(5) Staff has determined that Downtown is an excellent example of a mixed-use area where parking can be and is shared by different uses. Some uses, such as residential development, require more parking at night, while others, such as office and retail development, require more parking during the day. Sharing parking between these uses makes more efficient use of land. Staff will evaluate each request for shared or reduced parking to determine whether sharing parking or reducing the parking requirements is warranted. Furthermore, parking regulations for new development proposed in the Downtown Form-Based Code are reduced as compared to citywide parking regulations. No impacts are expected, due to the availability of both on- and off-street public parking and alternatives to automobile transportation.

(6) The proposed project, when combined with shared parking and reduced parking requirements, is consistent with efforts to encourage the use of modes of transportation other than the private automobile. No impact is expected and no mitigation is required.

(7) Development under the proposed Downtown Form-Based Code will facilitate reductions in the number and length of trips by creating a physical environment that supports and encourages walking, bicycling, and transit use and reduces trip lengths, while discouraging automobile use to some degree. This will help reduce per capita vehicle miles traveled.
2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO\textsubscript{x}) (see MEIR Table 2-8, page V-2-27).

**Effect:** Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM\textsubscript{10}) and 2.5 microns or less in diameter (PM\textsubscript{2.5}) (see MEIR Table 2-8, page V-2-27).

**Effect:** Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

**Cumulative Impacts**

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO\textsubscript{x}, PM\textsubscript{10}, and PM\textsubscript{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

The project implements General Plan MEIR Mitigation Measures AQ-1, AQ-3, and AQ-4. The following General Plan Mitigation Measures will be applied to new development regulated by the proposed code amendment and rezone: AQ-7, AQ-17, AQ-18, AQ-26, AQ-40, AQ-42, AQ-43, AQ-44, AQ-46, AQ-47, AQ-48, AQ-49, AQ-50, AQ-51, and AQ-52 and Mitigations 4.1-1a, 4.1-1b, and 4.1-5 from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
2. DEGRADATION OF AIR QUALITY

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NOₓ, PM₁₀, and PM₂.₅ by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.</td>
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<tr>
<td>2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NOₓ, PM₁₀, and PM₂.₅.</td>
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</tr>
<tr>
<td>3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.</td>
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<tr>
<td>4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.</td>
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</tr>
<tr>
<td>5) The proposed project would create objectionable odors affecting a substantial number of people.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

The proposed project implements the following mitigations/policies from the 2008 General Plan Master EIR: AQ-1, AQ-3, and AQ-4. As identified in Section II of this document, the Downtown Form-Based Code is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. It is prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and is, therefore, within the scope of the General Plan Master EIR.

(1) Since the air quality impacts of this project are anticipated to be primarily traffic-related, and the project establishes a mixed use environment, which is anticipated to reduce the per capita vehicle miles traveled, the project is not anticipated to exceed SJVAPCD thresholds.

(2) All relevant Best Management Practices identified in the General Plan Master EIR will be applied as development policies. These include AQ-7, AQ-17, AQ-18, AQ-26, AQ-40, AQ-42, AQ-43, AQ-44, AQ-46, AQ-47, AQ-48, AQ-49, AQ-50, AQ-51, and AQ-52 and Mitigations 4.1-1a and 4.1-1b from the RDA PEIR will be applied.

(3) The proposed Downtown Form-Based Code is intended to implement several of the measures identified under General Plan MEIR Mitigation Measure AQ-4, Table V-2-3, including the following, which are most relevant to this project: 1.b, 1.e, 2.a, 2.d, 2.e, 2.f, and 2.g.
(4) Because the maximum buildout scenario is limited to the Community Development Policies of the General Plan, no impacts on sensitive receptors that were not anticipated in the 2008 General Plan Master EIR are anticipated.

(5) The proposed project is a code amendment and rezone that shifts the emphasis of development from use to building form, which adds 75 blocks to the existing 42-block area of the Redevelopment Master Plan that is governed by the Downtown Core zone. The 75-block form-based code expansion area is no more likely than development under the existing zoning code to result in objectionable odors affecting large numbers of people. To ensure impacts are mitigated, Mitigation 4.1-5 from the RDA PEIR will be applied.
3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City’s noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

**Effect:** Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

**Effect:** Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

**Effect:** Expose noise-sensitive land uses to noise from freight and passenger rail operations.

**Cumulative Impacts**

**Effect:** Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

**Discussion:**

The appropriate mitigation apply to this project includes General Plan Mitigation Measures N-1, N-2, N-3, N-6, and N-7 and Mitigations 4.5-1, 4.5-2, 4.5-3, 4.5-4, and 4.5-5 from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

**Significance Criteria:** Determination of the proposed project’s effects are based on the following thresholds. Project-specific effects will be less than significant unless:
3. GENERATION OF NOISE

<table>
<thead>
<tr>
<th>Impact</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>2)</td>
<td>The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>3)</td>
<td>The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
<tr>
<td>4)</td>
<td>The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

Discussion:

As noted in Section II of this document, the proposed Downtown Form-Based Code is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. The proposed code amendment was prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum development scenario is limited to the Community Development Policies of the General Plan. Therefore, the project is within the scope of the General Plan Master EIR.

(1-4) The proposed project is a code amendment and rezone that shifts the emphasis of development from use to building form, which adds 75 blocks to the existing 42-block area of the Redevelopment Master Plan that is regulated by the Downtown Core zone. Relevant general plan mitigations relating to urban noise will be applied to development under the proposed code as it would be applied to development under existing zoning. General Plan Mitigation Measures that will be applied to future development include N-1, N-2, N-3, N-6, and N-7. Additionally, Mitigations 4.5-1, 4.5-2, 4.5-3, 4.5-4, and 4.5-5 from the RDA Program EIR will be applied to future development.
4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The proposed project implements General Plan Mitigation Measures AL-7, AL-8, and AL-15. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
4. EFFECTS ON AGRICULTURAL LANDS

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

As noted in Section II of this document, the proposed Downtown Form-Based Code is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. The Downtown Form-Based Code has been prepared in compliance with the Redevelopment Master Plan, which is also identified as being within the scope of the General Plan, and the maximum development scenario is limited to the Community Development Policies of the General Plan. The proposed Downtown Form-Based Code is therefore within the scope of the General Plan Master EIR.

(1-4) The proposed project is a code amendment and rezone that shifts the emphasis of development from use to building form and adds 75 blocks to the existing 42-block area of the Redevelopment Master Plan that is regulated by the Downtown Core zone. The purpose of the Downtown Form-Based Code, in part, is to stimulate development in the downtown area and make downtown a vital neighborhood again. Most of the new development expected to occur is higher density than that typical of the rest of Modesto. Successful implementation of the Downtown Form-Based Code in an existing developed part of Modesto would reduce the land area used for each new residence and business, which would also reduce the amount of farmland converted to urban uses. The proposed project implements General Plan Mitigations AL-7, AL-8, and AL-15.
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

**Effect:** No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

**Effect:** Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users’ withdrawals, may result in overdrafting both subbasins.

**Effect:** Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation is needed.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
## 5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

(1-3) The proposed project is a code amendment and rezone that shifts the emphasis of development from use to building form and adds 75 blocks to the existing 42-block area of the Redevelopment Master Plan that is regulated by the Downtown Core zone. Most of the new development expected to occur is higher density than that typical of the rest of Modesto. Approximately 60 percent of urban water use is for landscape irrigation, thus water use for new development in the Downtown Form-Based Code area can be expected to reduce water use up to 60 percent, as compared to that anticipated from conventional new development. Some new residences are expected to have small landscaped yards (townhouse, live-work), however, most new residences would not be expected to have significant landscaping that would require irrigation. Successful implementation of the Downtown Form-Based Code in an existing developed part of Modesto would reduce the amount of land that would require irrigation, thus reducing expected water use from new residential development.
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland caused by construction of the Phase IIA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes General Plan Mitigation Measures SS-4, SS-7, SS-8, SS-11, SS-12, SS-19, and SS-21 and Mitigation 4.8-1 from the RDA Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.
c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Incorporated</th>
<th>Less Than Significant</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
</tbody>
</table>

Discussion:

(1-3) As noted in Section II of this document, maximum development is limited to the Community Development Policies of the General Plan. Consequently, no impacts greater than those disclosed in the 2008 General Plan Master EIR are expected to occur, although the location of development during the life of the general plan may be better balanced between new and existing parts of Modesto. Adequate sewer treatment capacity exists for all development expected during that same period. The proposed project would, therefore, also be consistent with sewer service Mitigation Measures in the General Plan Master EIR, which include SS-4, SS-7, SS-8, SS-11, SS-12, SS-19, and SS-21 and Mitigation 4.8-1 from the Redevelopment Master Plan Program EIR.
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plant habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City’s contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is needed.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
### 7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.</td>
<td>☐</td>
<td>☐</td>
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</tbody>
</table>

**Discussion:**

(1-6) As shown on Figure V-7-1 of the 2008 Urban Area General Plan Master EIR, the 75-block project area lies well outside of riparian areas and other sensitive habitat areas. The proposed project is anticipated to have no impact on wetlands, sensitive habitats or species, or on the movement of migratory species. The project would not conflict with any policies or ordinances pertaining to sensitive habitat or species or biological resources. There are no habitat conservation plans or natural community conservation plans and so none would be affected. Furthermore, the extent to which development is redirected from the edges of Modesto into downtown, impacts on habitat would be reduced or avoided. No mitigation measures are necessary.
8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The proposed project is intended to implement General Plan Master EIR Mitigation Measure AH-5. Modesto has a historic resources inventory, in compliance with AH-8. General Plan Master EIR and RDA Program EIR Mitigation Measures that will be applied to new development regulated by the proposed Downtown Form-Based Code include: AH-1, AH-2, AH-3, AH-6, AH-7, AH-12, and Measure 4.6-1. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
### 8. DISTURBANCE OF ARCHAEOLOGICAL/ HISTORICAL SITES

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
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<td>☐</td>
</tr>
<tr>
<td>2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would modify or demolish a structure more than 50 years in age.</td>
<td>☐</td>
<td>☐</td>
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<td>☐</td>
</tr>
<tr>
<td>4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
</tbody>
</table>

**Discussion:**

The proposed project specifically seeks to preserve historic resources, implementing General Plan Master EIR Mitigation Measure AH-5. To assist in the evaluation of potentially historic resources, Modesto also has a historic resources inventory, consistent with Mitigation Measure AH-8. As identified in Section II of this document, the proposed project is an Anticipated Future Project of the General Plan Master EIR and was prepared in compliance with the Redevelopment Master Plan, which has been found to be within the scope of the General Plan.

(1-4) Building footings are expected to be no deeper than the depth to which soil is currently disturbed by footings and infrastructure and the project area lies outside the archaeological resource area, therefore no impacts greater than those disclosed in the 2008 General Plan Master EIR are expected to occur. New development regulated by the proposed project would be subject to General Plan Master EIR Mitigation Measures AH-1, AH-2, AH-3 AH-6, AH-7, and AH-12.

(5) City policies that protect biological resources are in Chapter V, Section 7, of the Master EIR. The area affected by the proposed project lies outside biological resource areas and is expected to have no impact on those areas. Mitigation Measure 4.6-1 from the Redevelopment Master Plan Program EIR, addressing potential paleontological resources will also be applied.
9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

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

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

**Discussion:**

The appropriate mitigation to be applied to this project includes General Plan Mitigation Measures SD-2, SD-3, SD-4, SD-5, SD-7, SD-9, and SD-11 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
<table>
<thead>
<tr>
<th>9. INCREASED DEMAND FOR STORM DRAINAGE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1-3) The project area is extensively developed and is more than 85 percent covered with impermeable surfaces. The amount of impermeable surface could increase somewhat as development occurs, but the amount would not be substantial and areas of downtown Modesto that currently have relatively large amounts of permeable surface, such as the proposed Traditional Neighborhood and East Neighborhood Downtown zones, would continue to have approximately the same amount of permeable surface for the foreseeable future, based on the regulations in the proposed Downtown Form-Based Code. New development will not significantly increase the amount or rate of runoff or cause flooding, as compared to existing conditions. The City will be responsible for approving the design of new infrastructure and ensuring that new development is consistent with Low Impact Development policies. No additional impact is expected, as compared to that disclosed in the General Plan Master EIR. Nevertheless, General Plan Mitigation Measures SD-2, SD-3, SD-4, SD-5, SD-7, SD-9, and SD-11 will be applied to new development, as appropriate.
10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes Mitigation Measures FWQ-2, FWQ-4, FWQ-11, FWQ-12, FWQ-13, and FWQ-15 from the General Plan Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
10. FLOODING AND WATER QUALITY

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would place structures within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>5) The proposed project does not comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>6) The proposed project would violate water quality standards or waste discharge requirements.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

(1-8) The 75-block Downtown Form-Based Code expansion area lies entirely outside the 100- and 200-year floodplains and is fully urbanized. Therefore, new development would not be expected to significantly increase impervious surfaces or runoff or alter drainage patterns or create new erosion in the project area, although some changes may occur. All new development regulated by the proposed project will be required to comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures. The proposed project will comply with Mitigation Measures FWQ-2, FWQ-4, FWQ-11, FWQ-12, FWQ-13, and FWQ-15 in the General Plan Master EIR.
11. **INCREASED DEMAND FOR PARKS AND OPEN SPACE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

**Discussion:**

The proposed project complies with the General Plan. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

<table>
<thead>
<tr>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.</td>
</tr>
<tr>
<td>2) The proposed project would eliminate parks or open space.</td>
</tr>
<tr>
<td>3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.</td>
</tr>
</tbody>
</table>

Discussion:

As identified in Section II of this document, the proposed project is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. The proposed code amendment has been prepared in compliance with the Redevelopment Master Plan, which has identified as being within the scope of the General Plan, and the maximum development is limited to the Community Development Policies of the General Plan. Therefore, the proposed project is within the scope of the General Plan Master EIR.

(1-3) In accordance with the General Plan and with regard to acreage, service area, location and street frontage standards, the existing parks in the Baseline Developed Area, which includes the Redevelopment Area, are considered adequate to serve anticipated population growth. No parks or open space will be eliminated as part of the project and no development greater than that assumed in the 2008 General Plan is allowed at this time. Therefore, the project will result in no impacts greater than those disclosed in the General Plan Master EIR. Parks and open space serving the area include Graceada, McClatchey, Moose, Beardbrook, the County Courthouse, and Tuolumne River Regional Park. The proposed project complies with the general plan and no additional mitigation is necessary.
12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes General Plan Master EIR Mitigation Measures S-3 and S-8. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
<table>
<thead>
<tr>
<th>12. INCREASED DEMAND FOR SCHOOLS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.</td>
</tr>
<tr>
<td>2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.</td>
</tr>
</tbody>
</table>

Discussion:

(1-2) Modesto is represented on Modesto City Schools’ Facilities Planning Committee, consistent with General Plan Mitigation Measures S-3 and S-8. Communication between the City of Modesto and Modesto City Schools is ongoing. General Plan Mitigation Measure S-10 will continue to be applied to new development to ensure compliance with SB 50/Proposition 1A.
13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

The appropriate mitigation to be applied to this project includes General Plan Master EIR Mitigation Measures PS-8 and PS-9 (including PS-10, PS-11, PS-12, PS-13, PS-14, and PS-15 as appropriate). No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
13. INCREASED DEMAND FOR POLICE SERVICES

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

As indicated in Section II of this document, the proposed code amendment and rezone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. The Downtown Form-Based Code has been prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan. Maximum development is limited to the Community Development Policies of the General Plan. Therefore, the proposed project is within the scope of the General Plan Master EIR.

(1-2) The project is expected to have no impact on policing services, since development potential under the current zoning code and the proposed project are both limited to the assumptions in the General Plan. All new development must comply with General Plan Mitigation Measures PS-8 and PS-9 (including PS-10, PS-11, PS-12, PS-13, PS-14, and PS-15, as appropriate).
14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation is required.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
14. INCREASED DEMAND FOR FIRE SERVICES

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

As noted in Section II of this document, the proposed project is an Anticipated Subsequent Project as described in Sections II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) of the General Plan Master EIR. The proposed project was prepared in compliance with the Redevelopment Master Plan, which is within the scope of the General Plan. Maximum development is limited to the Community Development Policies of the General Plan. Therefore, the proposed project is within the scope of the General Plan Master EIR.

(1-3) Because the proposed Downtown Form-Based Code would not result in development greater than assumed in the 2008 General Plan, no impacts to fire service or fireflows is anticipated. Furthermore, increasing the intensity of development will put more people and businesses within a shorter response radius of fire services, resulting in improved service.
15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:
No mitigation measures are required.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:
<table>
<thead>
<tr>
<th>15. GENERATION OF SOLID WASTE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
<tr>
<td>2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
</tbody>
</table>

Discussion:

As indicated in Section II of this document, the proposed project is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. The Downtown Form-Based Code was prepared in compliance with the Redevelopment Master Plan, which is within the scope of the General Plan. Maximum development is limited to the Community Development Policies of the General Plan and is therefore within the scope of the General Plan Master EIR.

(1-2) Because the proposed Downtown Form-Based Code would not result in development greater than assumed in the 2008 General Plan, no impacts related to solid waste generation or disposal are anticipated. Solid waste may be reduced as compared to conventional new development because there would be very little yard waste associated with new development in the Downtown area.
16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation measures are required.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
### 16. GENERATION OF HAZARDOUS MATERIALS

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:**

As indicated in Section II of this document, the proposed code amendment and rezone is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. Maximum development is limited to the Community Development Policies in the General Plan, therefore, the proposed project is within the scope of the General Plan Master EIR.

(1-2) The proposed project will have no effect on the applicability of the City's hazardous materials policies. All future new development will be required to comply with applicable mitigation measures in the Master EIR. No impact greater than that disclosed in the General Plan Master EIR would be anticipated to occur as a result of the project.

(3-4) As each development application is processed, the applicant is required to disclose whether the project is located on a known contaminated site. Master EIR Mitigation Measure HM-5 is applicable to all sites that might be contaminated, but which are not included on the list maintained by the State of California.
17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

**Discussion:**

No mitigation measures are required.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:
17. GEOLOGY, SOILS, AND MINERAL RESOURCES

<table>
<thead>
<tr>
<th>Impact</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2)</td>
<td>The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

Discussion:

As indicated in Section II of this document, the proposed project is consistent with Anticipated Subsequent Projects II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) from the General Plan Master EIR. Maximum development is limited to the Community Development Policies of the General Plan and is thus within the scope of the General Plan Master EIR.

1) The proposed project is not located in an area to which General Plan mitigations relating to geology, soils, and mineral resources are applied.

2) Geologic hazards present a fairly uniform level of risk across the 2008 General Plan area. Therefore, known hazards expected to occur in the downtown area are similar to hazards expected throughout Modesto and no impacts greater than those disclosed in the General Plan Master EIR would be expected to occur.
18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The project implements General Plan Master EIR Mitigation Measures E-6, E-8, E-9, E-10, E-11, E-12, and E-31. General Plan Master EIR Mitigation Measures E-2, E-3, E-4, E-5, and E-41 will be applied to new development. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
<table>
<thead>
<tr>
<th>18. ENERGY</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Discussion:

The proposed code amendment and rezone is an Anticipated Subsequent Project of the General Plan Master EIR, as described in Sections II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) of the Master EIR. The code was prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan, and the maximum development scenario is limited to the Community Development Policies of the General Plan and thus is within the scope of the General Plan Master EIR. The proposed project has as its purpose the implementation of General Plan Mitigation Measures E-6, E-8, E-9, E-10, E-11, E-12, and E-31.

(1) As under the existing conditions, development that occurs regulated by the proposed Downtown Form-Based Code must comply with General Plan Mitigation Measures E-2, E-3, E-4, E-5, and E-41.

(2) There is no reason to expect that energy used during construction, operation, or maintenance of buildings under the proposed code would be different from construction, operation, or maintenance of buildings constructed under the existing zoning code. No additional impact on energy consumption is anticipated to occur, as compared to that disclosed in the 2008 General Plan.
19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to new development regulated by the proposed code amendment includes General Plan Master EIR Mitigation Measures VR-3 and VR-4. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
<table>
<thead>
<tr>
<th>19. EFFECTS ON VISUAL RESOURCES</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Discussion:

The proposed project is an Anticipated Subsequent Project as described in Sections II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) of the Master EIR, as noted in Section II of this document. The Downtown Form-Based Code was prepared in compliance with the Redevelopment Master Plan, which is within the scope of the General Plan, and maximum development is limited to the Community Development Policies of the General Plan. Therefore, the project is within the scope of the General Plan Master EIR.

(1) Development under the proposed Downtown Form-Based Code would be required to comply with General Plan Master EIR Mitigation Measures VR-3 and VR-4.

(2) Views from the Tuolumne River and Tuolumne River Regional Park are constrained by the lower elevation of the park than surrounding areas, trees along the river, and in some places by the proximity of bluffs on one or both sides of the river. The proposed project could increase the number of relatively tall buildings (3 to 5 stories) in downtown Modesto, but the area affected by the proposed project lies well away from the river and park and would most likely not be visible from the river and park.

(3) Although downtown Modesto is adjacent to Tuolumne River Regional Park, the area affected by the Downtown Form-Based Code is not near enough the Tuolumne River or Tuolumne River Regional Park to affect views of the park and river from adjacent street.
20. **LAND USE AND PLANNING**

a. **Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

**Direct Impacts**

**Effect:** No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

**Effect:** No residual significant cumulative impacts were disclosed in the Master EIR.

b. **Master EIR and/or New Mitigation Measures Applied to the Project**

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

**Discussion:**

The proposed project is intended to implement General Plan Master EIR Mitigation Measures LUP-41, LUP-42, LUP-43, LUP-44, and LUP-45. No further General Plan Mitigation Measures are required and No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. **Project-Specific Effects**

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
### 20. LAND USE AND PLANNING

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2)</td>
<td>The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>3)</td>
<td>The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>4)</td>
<td>The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

**Discussion:**

The proposed project is intended to implement General Plan Mitigation Measures LUP-41, LUP-42, LUP-43, LUP-44, and LUP-45. As indicated in Section II of this document, the proposed project is an Anticipated Subsequent Project as described in Sections II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) of the Master EIR. The Downtown Form-Based Code was prepared in compliance with the Redevelopment Master Plan, which is identified as being within the scope of the General Plan. Maximum development is limited to the Community Development Policies of the General Plan, thus the project is within the scope of the General Plan Master EIR.

1) The proposed project is consistent with Goal I.C.6, page I-5 in the Urban Area General Plan because it promotes higher density, mixed-use development to create a balanced, vibrant downtown.

2) Downtown Modesto is laid out on a fairly consistent street grid, which promotes connectivity and short trips. The proposed project would discourage the creation of “superblocks” and encourage the retention of alleys, which will further assist with connectivity and short trips. No adverse impacts are expected to occur with the project.

3) The proposed project is intended, in part, to improve compliance with environmental goals, such as energy use, transportation, and air quality by creating a physical environment that supports and encourages walking, bicycling, and transit use and reduces trip lengths, while discouraging automobile use to some degree. No adverse impacts are expected to occur as a result of the project.

4) There is no habitat conservation plan or natural community conservation plan that will be affected by the proposed Downtown Form-Based Code.
21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The project implements General Plan Mitigation Measures CL-3, CL-4, CL-5, CL-12, CL-13, and CL-20. General Plan Mitigation Measure CL-25 will be applied to new development. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
### 21. CLIMATE CHANGE

<table>
<thead>
<tr>
<th>Impact Category</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>☑</td>
</tr>
<tr>
<td>2) The proposed project would result in average automobile trip lengths or CO₂ emissions higher than those assumed in the Master EIR.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>☑</td>
</tr>
<tr>
<td>3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.</td>
<td>❌</td>
<td>❌</td>
<td>❌</td>
<td>☑</td>
</tr>
</tbody>
</table>

**Discussion:**

The proposed project and Modesto's focus on downtown development is intended, in part, to reduce motor vehicle trips and their length and encourage walking and bicycling in service of the goals of AB 32 and SB 375. The project implements General Plan Mitigation Measures CL-3, CL-4, CL-5, CL-12, CL-13, and CL-20. As indicated in Section II of this document, the Downtown Form-Based Code is an Anticipated Subsequent Project as described in Sections II.C-10 (Redevelopment Plan) and II.C-5 (Zoning) of the General Plan Master EIR. The proposed project has been prepared in compliance with the Redevelopment Master Plan, which is within the scope of the General Plan, and maximum development is limited to the Community Development Policies of the General Plan. Therefore, the project is within the scope of the General Plan Master EIR.

1. As under the existing zoning code, new development under the proposed project must comply with General Plan Mitigation Measure CL-25.

2. Development under the proposed regulations will facilitate trip length reductions by creating a physical environment that supports and encourages walking, bicycling, and transit use and reduces trip lengths, while discouraging automobile use to some degree. Compliance with a number of General Plan Mitigation Measures described in other portions of this document will reduce both vehicle miles traveled and total number of vehicle trips.

3. The adopted Sustainable Communities Strategy encourages infill development. The proposed project is consistent with StanCOG’s Sustainable Communities Strategy.
V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:
General Plan Master EIR Mitigation Measures TC-1, TC-5, TC-12, TC-13, TC-28, and TC-43 will be applied.

Degradation of Air Quality:
The project implements General Plan MEIR Mitigation Measures AQ-1, AQ-3, and AQ-4. General Plan Mitigation Measures AQ-7, AQ-17, AQ-18, AQ-26, AQ-40, AQ-42, AQ-43, AQ-44, AQ-46, AQ-47, AQ-48, AQ-49, AQ-50, AQ-51, and AQ-52 and Mitigations 4.1-1a, 4.1-1b, and 4.1-5 from the RDA Program EIR will be applied to new development regulated by the proposed code amendment.

Generation of Noise:
General Plan Mitigation Measures N-1, N-2, N-3, N-6, and N-7 and Mitigations 4.5-1, 4.5-2, 4.5-3, 4.5-4, and 4.5-5 from the RDA Program EIR will be applied to new development regulated by the proposed code amendment.
**Effects on Agricultural Lands:**

The proposed project implements General Plan Mitigation Measures AL-7, AL-8, and AL-15.

**Increased Demand for Long-Term Water Supplies:**

No mitigation is needed.

**Increased Demand for Sanitary Sewer Services:**

General Plan Master EIR Mitigation Measures SS-4, SS-7, SS-8, SS-11, SS-12, SS-19, and SS-21 and RDA Program EIR Mitigation 4.8-1 will be applied to new development regulated by the proposed code amendment.

**Loss of Sensitive Wildlife and Plant Habitat:**

No mitigation is needed.

**Disturbance of Archaeological/Historic Sites:**

The proposed project implements General Plan Master EIR Mitigation Measure AH-5. Modesto has a historic resources inventory, in compliance with AH-8. General Plan Master EIR and RDA Program EIR Mitigation Measures AH-1, AH-2, AH-3, AH-6, AH-7, AH-12, and Measure 4.6-1 will be applied to new development.

**Increased Demand for Storm Drainage:**

General Plan Master EIR Mitigation Measures SD-2, SD-3, SD-4, SD-5, SD-7, SD-9, and SD-11 will be applied to new development regulated by the proposed code amendment.

**Flooding and Water Quality:**

General Plan Master EIR Mitigation Measures FWQ-2, FWQ-4, FWQ-11, FWQ-12, FWQ-13, and FWQ-15 will be applied to new development regulated by the proposed code amendment.

**Increased Demand for Parks and Open Space:**

No mitigation is needed.

**Increased Demand for Schools:**

General Plan Master EIR Mitigation Measures S-3 and S-8 will be applied to new development regulated by the proposed code amendment.

**Increased Demand for Police Services:**

General Plan Master EIR Mitigation Measures PS-8 and PS-9 (including PS-10, PS-11, PS-12, PS-13, PS-14, and PS-15 as appropriate) will be applied to new development regulated by the proposed code amendment.
**Increased Demand for Fire Services:**

No mitigation is required.

**Generation of Solid Waste:**

No mitigation is required.

**Generation of Hazardous Materials:**

No mitigation is required.

**Geology, Soils, and Mineral Resources:**

No mitigation is required.

**Energy:**

The proposed project implements General Plan Master EIR Mitigation Measures E-6, E-8, E-9, E-10, E-11, E-12, and E-31. General Plan Master EIR Mitigation Measures E-2, E-3, E-4, E-5, and E-41 will be applied to new development regulated by the proposed code amendment.

**Effects on Visual Resources:**

General Plan Master EIR Mitigation Measures VR-3 and VR-4 will be applied to new development regulated by the proposed code amendment.

**Land Use and Planning:**

The proposed project implements General Plan Master EIR Mitigation Measures LUP-41, LUP-42, LUP-43, LUP-44, and LUP-45. No additional mitigation measures are needed.

**Climate Change:**

The project implements General Plan Master EIR Mitigation Measures CL-3, CL-4, CL-5, CL-12, CL-13, and CL-20. General Plan Mitigation Measure CL-25 will be applied to new development regulated by the proposed code amendment.
ATTACHMENT A

Text of Proposed Downtown Form-Based Code
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-162

RESOLUTION ADOPTING THE TAGGING ABATEMENT PROGRAM AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY IMPLEMENTATION DOCUMENTS

WHEREAS, there has been an influx of tagging within City limits, which sends the wrong message to residents and visitors, and

WHEREAS, despite City and volunteer efforts, the City is rapidly losing the fight against tagging and desires to implement a new Tagging Abatement Program ("Program"), and

WHEREAS, the Program is designed to identify and remove tagging quickly, and

WHEREAS, the Program will feature anti-tagging cameras, a smart phone app, public outreach and awareness, and two abatement vehicles, and

WHEREAS, the Program will be managed by a Code Enforcement Supervisor, and staffed with two Maintenance Worker IIIs, two part-time Service and Maintenance Aides, and one Administrative Office Assistant II, dedicated to the abatement of tagging, and

WHEREAS, the total cost to implement the Program is $789,330 to be funded through General Fund Reserves, the Multi-Year Abatement Fund and Water Fund.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Tagging Abatement Program and authorizes the City Manager, or his designee, to execute all necessary implementation documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014/2015 OPERATING BUDGET AND APPROPRIATING $789,330 TO FUND THE TAGGING ABATEMENT PROGRAM

WHEREAS, certain budgetary transactions are necessary in the amount of $789,330, in order to fund the Tagging Abatement Program ("Program"), and

WHEREAS, the Fiscal Year 2014-2015 Operating Budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2014-2015 Operating Budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT A

Amend the Fiscal Year 2014-2015 Operating Budget to fund the implementation of the new Tagging Abatement Program as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Funding Source</th>
<th>Account</th>
</tr>
</thead>
<tbody>
<tr>
<td>45 Anti-Tagging Cameras</td>
<td>$420,000</td>
<td>General Fund Reserves (Council Deferred Maintenance List)/Water Fund</td>
<td>0100-52150-57004 Public Works Tagging Abatement</td>
</tr>
<tr>
<td>Smart Phone App</td>
<td>$10,000</td>
<td>Multi-Year Abatement Fund</td>
<td>100673-CED.Building Safety-Professional Services</td>
</tr>
<tr>
<td>Public Outreach</td>
<td>$10,000</td>
<td>Multi-Year Abatement Fund</td>
<td>100673-CED.Building Safety-Professional Services</td>
</tr>
<tr>
<td>Anti-Tagging Abatement Crew</td>
<td>$153,080</td>
<td>Multi-Year Abatement Fund</td>
<td>0100-52150-52005 0100-52150-52300 Public Works Operating Budget</td>
</tr>
<tr>
<td>AOAll</td>
<td>$25,572</td>
<td>Multi-Year Abatement Fund</td>
<td>0100-14220-51001 Neighborhood Preservation Operating Budget</td>
</tr>
<tr>
<td>Code Enforcement Supervisor</td>
<td>$90,678</td>
<td>General Fund Reserves</td>
<td>0100-14220-51001 Neighborhood Preservation Operating Budget</td>
</tr>
<tr>
<td>Summer Youth Employment</td>
<td>$80,000</td>
<td>General Fund Reserves</td>
<td>0100-14720-53600 Temporary Employee Services</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$789,330</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-164

RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 1445 N. CARPENTER ROAD (APN: 081-028-014 &015) TO CONNECT TO THE CITY OF MODESTO'S EXISTING WATER SYSTEM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council approved Resolution No. 2012-202 that amended City Council Policy 5.001, and

WHEREAS, on June 5, 2012, the City Council approved final adoption of Ordinance No. 3566-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language which required that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water services into unincorporated areas, and

WHEREAS, on November 25, 2014, the City Council approved Resolution No. 2014-472 that amended City Council Policy 5.001, and

WHEREAS, on December 9, 2014, the City Council approved adoption of Ordinance No. 3611-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language allowing the City Manager upon the recommendation of the Director responsible for utility system planning, to approve standard agreements of service for extension of water services into certain unincorporated areas that are located within the former Del Este Water Service Area without City Council approval, and
WHEREAS, the property located at 1445 N. Carpenter Road, owned by the Islamic Center of Modesto, Inc. is located outside Modesto City limits, and outside the former service area of the Del Este Water Company, and

WHEREAS, the Islamic Center does have an existing water connection but requires an additional connection for a proposed addition to the existing worship center building, and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to extend water service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees are paid and associated permits be obtained prior to connecting to the City water system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve letter for the property located at 1445 N. Carpenter Road.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Will Serve letter.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT
BETWEEN THE CITY OF MODESTO AND ISLAMIC CENTER OF MODESTO INC., A CALIFORNIA NON-PROFIT CORPORATION, FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 1445 N. CARPENTER ROAD (APN: 081-028-014 &015), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the property located at 1445 N. Carpenter Road is currently
connected to the City’s water system but needs an additional connection for a proposed
expansion, and

WHEREAS, this property is located outside Modesto City limits, and outside the
former service area of the Del Este Water Company, and

WHEREAS, if it is determined that it is reasonable for the City to extend water
service to this property, and

WHEREAS, it has been determined that a sufficient quantity of potable water is
available for normal usage by the proposed development, and

WHEREAS, the water connection fees will be paid and associated permits be
obtained prior to beginning any on site construction, and

WHEREAS, that the property owner enters into an Outside Service Agreement
for water with the City, as required for water service outside of City limits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the Outside Service Agreement for the property located at 1445
N. Carpenter Road (APN: 081-028-014 & 015).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE EASEMENT AGREEMENT WITH SAN FRANCISCO PUBLIC UTILITIES COMMISSION AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND AUTHORIZING THE CITY CLERK TO RECORD THE AGREEMENT WITH THE STANISLAUS COUNTY RECORDER’S OFFICE

WHEREAS, JWG McHenry LLC (“Developer”) is the current owner of the recently-constructed Infinity car dealership located at 4130 McHenry Avenue, and

WHEREAS, one of the conditions of approval of the project includes the widening of McHenry Avenue between Grecian Avenue and Claratina Avenue, and

WHEREAS, the Hetch-Hetchy power lines and water pipes, governed by the San Francisco Public Utility Commission (“SFPUC”), cross McHenry Avenue adjacent to the Infinity car dealership, and

WHEREAS, prior to providing a permit to the Developer to construct the road improvements over the Hetch-Hetchy water pipes, the SFPUC is requiring the City of Modesto to approve an Easement Agreement, and

WHEREAS, the Agreement requires the City of Modesto to maintain the road improvements above the water pipes, and

WHEREAS, in an effort to assist the Developer so that he can complete the required improvements, staff recommends that the City Council approve the agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves this Easement Agreement dated May 26, 2015 with the San Francisco Public Utility Commission.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Easement Agreement and the City Clerk is authorized to record the agreement with the Stanislaus County Clerk Recorders Office.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE ASSUMPTION OF RISK AND INDEMNITY AGREEMENT WITH JWG MCHENRY LLC AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND AUTHORIZING THE CITY CLERK TO RECORD THE AGREEMENT WITH THE STANISLAUS COUNTY RECORDER’S OFFICE

WHEREAS, JWG McHenry LLC (“Developer”) is the current owner of the recently-constructed Infinity car dealership (“Development Project”) located at 4130 McHenry Avenue, and

WHEREAS, one of the conditions of approval of the Development Project includes the widening of McHenry Avenue between Grecian Avenue and Claratina Avenue, and

WHEREAS, the Hetch-Hetchy power lines and water pipes, governed by the San Francisco Public Utility Commission (“SFPUC”) cross McHenry Avenue adjacent to the Development Project, and

WHEREAS, prior to providing a permit to the Developer to construct the road improvements over the Hetch-Hetchy water pipes, the SFPUC is requiring the City of Modesto to approve an Easement Agreement, and

WHEREAS, the Agreement requires the City of Modesto to maintain the road improvements above the water pipes, and

WHEREAS, in an effort to assist the Developer and see that the required improvements are completed in a timely manner, the City of Modesto, by separate Resolution, has approved an Easement Agreement with the SFPUC, and

WHEREAS, because the widening of McHenry Ave. is a requirement of the Development Project, the City is requesting an agreement with the Developer which
transfers the liability associated with the SFPUC Agreement from the City of Modesto to
the Developer for a period of five (5) years, and after the five year period, the liability
transfers back to the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the Assumption of Risk and Indemnity Agreement dated May 26,
2015 with JWG McHenry LLC.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the Agreement and the City Clerk is authorized to record the
Agreement with the Stanislaus County Clerk Recorder’s Office.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 26th day of May, 2015, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Gunderson,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-168

RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2014-2015,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2014-2015 Annual Operating and Capital Improvement budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT A

FISCAL YEAR 2014-15

PUBLIC WORKS
A budget adjustment is necessary to 1) establish a transfer in the amount of $150,000 from Fund 4540, Bus Fixed Route Max Operations Fund, to Fund 4510, Bus Fixed Route Fund, for the expansion of the Administrative offices at the Transit Center, Capital Improvement Project #100694, Transit Facility Improvement, and 2) establish an expense budget.
RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF ALL NINE (9) HALF-TON PICKUP TRUCKS FOR VARIOUS CITY DEPARTMENTS THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO ALBANY FORD, ALBANY, CA, FOR A TOTAL ESTIMATED COST OF $241,675

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The nine (9) half-ton pickup trucks were included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the nine (9) half-ton pickup trucks will be used by various City Departments. The six (6) replacement half-ton pick-up trucks have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list. The three (3) half-ton pick-up trucks requested by the Community Forestry Division are to support the growth in personnel that new funding has made possible, and

WHEREAS, The Purchasing Division issued RFB 1415-27 for the purchase of nine (9) half-ton pickup trucks to two-hundred and twelve (212) prospective bidders registered on the City’s website under various vehicle commodity codes, two of which are local companies. Seventeen (17) companies chose to download the RFB document, and

WHEREAS, bids were formally opened in the City Clerk’s office. Five (5) companies chose to respond, one of which was a local company. All five (5) companies provided a responsive and responsible bid, and
WHEREAS, based on providing the overall lowest responsive and responsible bid for all nine (9) half-ton pickup trucks, City staff recommends the award of bid to Albany Ford, Albany, CA, for an estimated total cost of $241,675, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2014-15, in account # 5409-53246-57003 and 4892-56040-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of all nine (9) half-ton pickup trucks for various City Departments through the Public Works Department, Fleet Services Division, to Albany Ford, Albany, CA, conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of all nine (9) half-ton pickup trucks for various City Departments through the Public Works Department, Fleet Services Division, to Albany Ford, Albany, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of $241,675.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-170

RESOLUTION AUTHORIZING THE AWARD OF A SOLE SOURCE PROCUREMENT FOR THE PURCHASE OF MODESTO POLICE DEPARTMENT SPECIAL WEAPON AND TACTICS TEAM (SWAT) REPLACEMENT TACTICAL BODY ARMOR, TO FIRST SPEAR OF CALIFORNIA, LLC, EL SEGUNDO, CA; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $52,218

WHEREAS, the Modesto Police Department Special Weapon and Tactics Team (SWAT) is currently wearing body armor that is reaching the end of its useful lifecycle, and

WHEREAS, tactical body armor has an expiration date of five years and after the expiration date, the manufacturer will not guarantee the ballistic integrity of the product, and

WHEREAS, members of the SWAT team have looked at several tactical body armor manufacturers over the past two years, and

WHEREAS, SWAT selected the Custom Siege R tactical vest because it is strong, durable, light-weight and a versatile vest, and

WHEREAS, currently, First Spear of California, LLC is both the manufacturer and sole provider of Siege R tactical vests and all of its components, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, however, there are exceptions to the rule set forth in the Modesto Municipal Code, and
WHEREAS, one exception, MMC Section 8-3.204(b), states whereas the Purchasing Agency’s requirements can be met solely by a single article or process; the sole source procurement of Custom Siege R tactical vests for the mission requirements needed by the Modesto Police Department SWAT team for replacement tactical body armor, to First Spear of California, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of a sole source procurement for the purchase of a SWAT replacement tactical body armor, to First Spear of California, LLC., El Segundo, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of $52,218.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
WHEREAS, the Modesto City-County Airport (Airport) is an enterprise fund and is expected to be self-supporting. The Airport has historically adjusted Rates and Fees effective July 1st by the annual Consumer Price Index (CPI), and

WHEREAS, adjusting Airport Rates and Fees will increase revenue that will allow the airport to recover growing operational expenses incurred by the airport budget, and

WHEREAS, during the past year the CPI of the Western United States has increased 1.9%, and

WHEREAS, the Airport Advisory Committee at its April 16, 2015 meeting, recommended this 1.9% increase and various fees be forwarded onto City Council for its consideration, and

WHEREAS, a duly noticed public hearing was held by Council on May 26, 2015, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which all interested persons were given the opportunity to be heard relative to the proposed changes to various rates and fees for specific activities and services at the Modesto City-County Airport.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves changes to various Airport Rates and Fees for specific activities and services at the Modesto City-County Airport as noted in Attachment A.
BE IT FURTHER RESOLVED that Resolution 2014-19 shall be rescinded on July 1, 2015 at 12 a.m.

BE IT FURTHER RESOLVED that this resolution shall go into effect and be in full force and operation on July 1, 2015.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST:

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
SECTION 1. HANGARS. Rental charges for the rental of hangars at the Modesto City-County Airport/Harry Sham Field are hereby established as follows, payable in advance:

(a) **T-Hangars**

| Hangar A Units 2-11 | $137.50 per month |
| Hangar A End-Units 1 & 12 | $157.50 per month |
| Hangar B Units 2-9 | $165.00 per month |
| Hangar B End Units 1 & 10 | $203.00 per month |
| Hangar C Units 2, 3, 4 & 7 | $173.00 per month |
| Hangar C Units S & 6 (Electric) | $203.00 per month |
| Hangar C End Units 1 & 8 | $210.50 per month |
| Hangar D Units 2,3,4,5,7,8,9 | $155.50 per month |
| Hangar D Unit 6 (Electric) | $186.00 per month |
| Hangar D End Unit #1 (Electric) | $218.00 per month |
| Hangar D End Unit #10 | $187.50 per month |
| Hangar E Units 1,3,4,5,6,7,8 & 10 | $227.00 per month |
| Hangar E End Units 2 & 9 | $265.50 per month |
| Hangar F Units 1,3,4,5,6,7,8 & 10 | $227.00 per month |
| Hangar F End Units 2 & 9 | $265.50 per month |
| Hangar G Units 1-10 | $227.00 per month |
| Hangar G 11 Storage unit | $47.50 per month |
| Hangar H Units 1-10 | $227.00 per month |
| Hangar H Storage Units | $47.50 per month |
| Hangar I Units 1-8 | $444.00 per month |
| Hangar J Units 1-10 | $227.00 per month |
| Hangar J Storage Unit | $47.50 per month |
| Hangar K Units 2-11 | $255.50 per month |
| Hangar K End Unit #1 | $381.50 per month |
| Hangar K Storage Unit | $90.50 per month |
| Hangar L Units 1-10 | $260.50 per month |
| Hangar L Storage Unit | $47.50 per month |
(b) Storage and P Hangars:

Hangar No. 1 .... $1,637.50 per month
Hangar No. 2 .... $1,333.50 per month
Hangar No. 3 .... $ 732.00 per month
Hangar No. 4 .... $1,246.50 per month
Hangar No. 5 .... $1,240.00 per month
Hangar No. 6 .... $ 726.50 per month
Hangar No. 7 ---- $ 80.50 per month (Land Lease)
P Hangars ---- $ 67.00 per month (Land Lease)

A five percent (5%) discount will be made in any of the above rental charges when a year’s lease is entered into and the year’s rental charges are paid in advance.

SECTION 2  AIRPORT KEYS

(a) Two (2) hangar keys and one (1) gate key are included in initial lease

(b) $45.00 for each additional key

SECTION 3. TIE-DOWN FEES. Tie-down charges and fees at the Modesto City-County Airport/Harry Sham Field are hereby established as follows, payable in advance:

(a) Tail-in Tie-Down – Permanent, helicopter, light single and multi-engine (under 12,500 lbs.) $41.50 per month

(b) Taxi-in Tie-Down – Permanent, helicopter, light single and multi-engine (under 12,500 lbs.) $67.00 per month

(c) Taxi-in Tie-Down – Permanent, helicopter, large multi-engine (over 12,500 lbs.) $.05215 per square foot per month

(d) Taxi-in Tie-Down – Transient, helicopter/single-engine aircraft $7.50 per day
(e) Taxi-in Tie-Down – Transient, helicopter/twin-engine aircraft (under 12,500 lbs.) $9.75 per day

(f) Taxi-In Tie-Down – Transient, helicopter/twin-engine aircraft (over 12,000 lbs.) $14.00 per day

(g) Jets – $14.00 per day

A five-percent (5%) discount will be made in the rental charges set forth in subparagraphs (a), (b), and (c), above when a year’s lease is entered into and the year’s rental charges are paid in advance.

A volume discount may be given to Fixed Base Operators (FBO) that operate flight schools for light single and multi-engine aircraft (under 12,500 lbs.) for tie-down spaces as set forth in subsections (a) and (b) above. For every two tail-in spaces the FBO agrees to lease, one taxi-in tie-down may be leased for the same price as a tail-in tie-down.

Overnight tie-down of aircraft belonging to or in the custody or possession of a lessee at the Modesto City-County Airport/Harry Sham Field shall be subject to the normal tie-down charge as specified by this section.

SECTION 4. OFFICE SPACE. The monthly charge for office spaces at the Modesto City-County Airport/Harry Sham Field are hereby established as follows:

(a) Old Administration Building
Utilities paid by Airport
$0.92 per square foot

(b) Office Building No. 1
Utilities paid by tenant
$0.92 per square foot

(c) Office Building No. 2
Utilities paid by tenant
$0.92 per square foot

(d) Hangar Office Space
Utilities paid by tenant
$0.53 per square foot
SECTION 5. TEMPORARY USE OF AIRPORT PASSENGER TERMINAL.

Organization and service providers desiring to temporarily use the passenger terminal will be charged a daily rate:

(a) Ticket counter ................................. $0.092 per square foot
(b) Other areas ................................. $0.092 per square foot

SECTION 6. AIRCRAFT CARRYING PASSENGERS AND/OR CARGO FOR HIRE.

Aircraft landing at the Modesto City-County Airport/Harry Sham Field shall pay a landing fee as follows:

(a) All light single, multi-engine aircraft and helicopters - $10.00 per landing

(b) All large single and multi-engine aircraft – $.92 per 1,000 pounds of gross weight, but not less than $10.00 per landing

(c) All transient aircraft owned and operated by individuals, companies, and corporations carrying their own products shall not be charged for the first two (2) trips per calendar month. All other trips for the same calendar month shall be charged for at the same rates applied to nonscheduled aircraft carrying cargo for hire.

(d) No landing fee shall be charged for any aircraft, which lands at the airport due to any mechanical or other emergency, except weather, provided that such emergency is reported to the Airport Control Tower prior to landing.

SECTION 7. PASSENGER FACILITY CHARGE (PFC).

Commercial air carrying passengers excluding “frequent flyers” or similar airline bonus award enplaning at Modesto City-County Airport/Harry Sham Field shall pay a PFC as approved by Federal Aviation Regulations (FAR) Part 158.

(a) Enplaned passenger by airline - $4.50 per ticketed passenger.

SECTION 8. ADVERTISEMENT CALLBOARD. Firms wishing to advertise in the airport passenger terminal shall have an approved agreement with the City of Modesto. A monthly charge shall be assessed for the use of the advertisement callboard as follows
SECTION 9. MODESTO CITY-COUNTY AIRPORT BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise continually based at the Modesto City-County Airport/Harry Sham Field shall pay to the City a fee equivalent to the City Business License Fees set forth in Chapter 1 of Title 6 of the Modesto Municipal Code, except that a minimum fee of $100 will be paid for each aircraft sold, for the privilege of engaging in business in the City of Modesto and on the Airport. Said sum shall be payable at the time and in the manner provided for in Chapter 1 of Title 6 of the Modesto Municipal Code.

SECTION 10. FUEL FLOWAGE FEES. A fuel flowage fee of seven cents ($0.07) per gallon of fuel sold or dispensed on the Airport shall be collected for the City of Modesto by the fuel vendors, except that reduced fuel flowage fees collected from scheduled air carriers can be negotiated for volume purchases.

SECTION 12. TEMPORARILY BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise, temporarily based at the Modesto City-County Airport/Harry Sham Field, shall pay to the City a license fee in the sum of Two Hundred and no/100ths ($200.00) Dollars, payable in advance.

Each such operator shall also pay to the City as a minimum an additional sum of Ninety and no/100ths ($90.00) Dollars per month, or any portion thereof, payable in advance, for the privilege of using the Airport and its facilities.
SECTION 12. OFF-AIRPORT CAR RENTAL OPERATOR FEE. Off-airport operators picking up customers at the Modesto City-County Airport/Harry Sham Field will pay to the City of Modesto ten percent (10%) of gross on time mileage of vehicles rented. Additionally, the operators will be assessed a parking fee at the same rate on-airport car rental operators are charged for vehicles left in the public parking area overnight.

SECTION 13. MOTOR VEHICLE STORAGE CHARGES. Any person who parks a motor vehicle in Terminal Building Safe and Secure Parking Lot at the Modesto City-County Airport/Harry Sham Field shall pay $5.00 per day. Monthly parking in the remaining parking lots shall be Seventy-two and no/100ths ($72.00) Dollars per month (or the equivalent rate charged by the City of Modesto for monthly parking), payable in advance.

SECTION 14. PENALTIES. A five percent (5%) per month penalty charge shall be made on any of the charges and fees established by this resolution when such charges and fees are not paid within thirty (30) days after they are due and payable. No penalties will be collected on the PFC.

SECTION 15. ANNUAL ADJUSTMENT OF RENTS, FEES AND CHARGES. Commencing July 1, 2003, City Council by Resolution 93-303 established the annual adjustment of rents, fees and charges set forth in Sections 1, 2, 3 and 4 of this resolution stating that they be adjusted annually as of the first day of July.

Said rents, fees, and charges shall be adjusted in the following manner: The base for computing the adjustment is the National Consumer Price Index for the West Urban (all urban consumers), published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), with a base year of 1982 – 1984 = 100 ("Beginning Index"). The Index published most immediately preceding the Adjustment Date in question ("Adjustment Index") is to be used
in determining the amount of the adjustment. If the Adjustment Index has increased over the
Beginning Index, the rents, fees and charges set forth in this resolution shall be set by
multiplying the rents, fees and charges set forth in this resolution by a fraction, the numerator of
which is the Adjustment Index and the denominator of which is the Beginning Index.

In no case shall the minimum rents, fees and charges be less than existing approved and
adopted rents, fees and charges nor shall any increase in a year be greater than five (5%) percent.
If the indexes change so that the base year differs from that in effect on July 1, 2008, the Index
shall be converted in accordance with the conversion factor published by the United States
Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised at any
time after the effective date of this resolution, such other government index or computation with
which it is replaced shall be used in order to obtain substantially the same result as would be
obtained if the Index had not been discontinued or revised.
RESOLUTION AUTHORIZING SUBMISSION OF THE CITY’S TRANSPORTATION DEVELOPMENT ACT (TDA) TRANSIT CLAIM FOR FISCAL YEAR 2015 - 2016 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) IN THE AMOUNT OF $10,796,245

WHEREAS, the greatest portion of the City’s funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance (STA) funds, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) has informed the Finance Department that LTF funds have been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Article 4 of Chapter 4 of the California Public Utilities Code (PUC), and

WHEREAS, the City has prepared its TDA claim for Fiscal Year 2015-2016 pursuant to these sections of the California PUC, and

WHEREAS, the City’s Transit TDA Claim for Fiscal Year 2015-2016 is $10,796,245, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2015-2016 is $18,527,880, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California PUC before any TDA funding can be released to the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submission of the TDA transit claim for Fiscal Year 2015-2016 to StanCOG in the amount of $10,796,245.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-173

RESOLUTION ACCEPTING THE REPORT FOR FY2014-2015 WATER CONSERVATION STRATEGIES IN CITY OF MODESTO PARKS

WHEREAS, the Governor of the State of California has declared a Drought State of Emergency and the State Water Board has prepared guidelines for local agencies to implement, and

WHEREAS, the City of Modesto has declared that Stage II Drought requirements are now being implemented, and

WHEREAS, the City of Modesto’s overall potable water use has been reduced by 118 million gallons in its parks system since FY2012/2013 due to irrigation wells being installed and drought reduction measures being implemented which has resulted in a saving of $220,855 annually to the Parks Operations water budget, and

WHEREAS, it is projected that decreasing the watering at the parks to two days per week will result in an additional savings of 23 million gallons for an overall potable water use reduction percentage of 41% since FY2012/2013 and resulting in an overall annual water budget savings of $264,000 from FY2012/2013, and

WHEREAS, in compliance with the Stage II Drought and State of California requirements staff will implement the following water conservation strategies immediately; 1) Reduce watering in all parks, medians and parkway landscapes to two days per week except as noted; 2) All park restrooms will be cleaned and sanitized using a trigger shutoff nozzle on an as needed basis, instead of daily; 3) Parks vehicles will be washed monthly, instead of bi-weekly; 4) Parks staff will monitor park irrigation during watering hours and report leaks or necessary adjustments; 5) Mow heights to turf areas in all parks will be increased from 2.5” to 3”, except on organized sports fields, and
WHEREAS, some larger parks will water one half of the park on Tuesdays and Saturdays and the other half of the park on Wednesdays and Sundays, and

WHEREAS, In the interest and concern of providing for the health and safety of the city’s park users in certain parks and facilities, the following exceptions to the Drought Stage II requirements are being sought; 1) Staff requests an exemption from the Stage II Drought Requirements for John Thurman Field, Mary E. Grogan Soccer Complex and various other reservable baseball, softball and soccer fields to apply sufficient irrigation water as necessary to maintain a safe turf playing surface; 2) Staff requests an exemption from the Stage II Drought requirements to pressure wash the bleachers, walkways, picnic areas, restrooms and concession stands as necessary to maintain healthy and safe facilities, and

WHEREAS, There are approximately 26 miles of parkways with turf in the City of Modesto, and

WHEREAS, Turf irrigation in street medians/roundabouts will be turned off this summer and can be converted to groundcover with drip irrigation at a later date, and

WHEREAS, Turf strips in parkways will be limited to two days per week watering to maintain water to street trees but can be converted to groundcover with drip irrigation at a later date.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the report for fiscal year 2014-2015 Water Conservation Strategies in City of Modesto Parks and authorizes Parks Staff to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE ALLOCATION OF $34,000 TO IMPLEMENT THE FY2014/2015 WATER CONSERVATION STRATEGY TO REMOVE APPROXIMATELY 2 ACRES OF TURF FROM THREE (3) VILLAGE ONE CFD NEIGHBORHOOD PARKS

WHEREAS, the Governor of the State of California has declared a Drought State of Emergency and the State Water Board has prepared guidelines for local agencies to implement, and

WHEREAS, the City of Modesto has declared that Stage II Drought requirements are now being implemented, and

WHEREAS, the City of Modesto’s overall potable water use has been reduced by 118 million gallons in its parks system since FY2012/2013 due to irrigation wells being installed and drought reduction measures being implemented which has resulted in a saving of $220,855 annually to the Parks Operations water budget, and

WHEREAS, it is projected that decreasing watering at the parks to two days per week will result in an additional savings of 23 million gallons for an overall potable water use reduction percentage of 41% since FY2012/2013, and resulting in an overall annual water budget savings of $264,000 from FY2012/2013, and

WHEREAS, the removal of 29 acres of irrigated turf in twenty-eight (28) neighborhood parks would result in the savings of an additional 28 million gallons of potable water use further increasing the percentage reduction of water use since FY2012/2013 by 8% for an overall potable water use reduction percentage of 49% since FY2012/2013, and
WHEREAS, these turf reductions will result in an addition $53,000 in annual water savings for an overall annual water budget savings of $317,000 from FY2012/2013, and

WHEREAS, approximately $34,000 of revenue is requested from the Village One CFD to fund approximately 2 acres of turf removal at three (3) Village One CFD Parks, and

WHEREAS, the $34,000 requested will be paid back in a reduction of $3,000 to the General Fund subsidy of parks maintenance over the next 11 years at the current water rates, and

WHEREAS, it is likely that water rates could increase over the next 11 years and this return on investment could be realized quicker.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending FY2014-2015 Capital Improvement Program Budget to appropriate $34,000 from the Village One CFD to implement the FY2014-2015 water conservation strategy to remove approximately 2 acres of turf from three (3) Village One CFD neighborhood parks and authorizes the Finance Director, or her designee, to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-175

RESOLUTION DIRECTING STAFF TO DETERMINE THE ALLOCATION OF $356,000 TO IMPLEMENT THE FY 2014-2015 WATER CONSERVATION STRATEGY TO REMOVE APPROXIMATELY 27 ACRES OF TURF FROM TWENTY-FIVE (25) GENERAL FUND NEIGHBORHOOD PARKS

WHEREAS, the Governor of the State of California has declared a Drought State of Emergency and the State Water Board has prepared guidelines for local agencies to implement, and

WHEREAS, the City of Modesto has declared that Stage II Drought requirements are now being implemented, and

WHEREAS, the City of Modesto’s overall potable water use has been reduced by 118 million gallons in its parks system since FY2012/2013 due to irrigation wells being installed and drought reduction measures being implemented which has resulted in a saving of $220,855 annually to the Parks Operations water budget, and

WHEREAS, it is projected that decreasing watering at the parks to two days per week will result in an additional savings of 23 million gallons for an overall potable water use reduction percentage of 41% since FY2012/2013, and resulting in an overall annual water budget savings of $264,000 from FY2012/2013, and

WHEREAS, the removal of 29 acres of irrigated turf in twenty-eight (28) neighborhood parks would result in the savings of an additional 28 million gallons of potable water use further increasing the percentage reduction of water use since FY2012/2013 by 8% for an overall potable water use reduction percentage of 49% since FY2012/2013, and
WHEREAS, these turf reductions will result in an addition $53,000 in annual water savings for an overall annual water budget savings of $317,000 from FY2012/2013, and

WHEREAS, staff requests direction from City Council to formulate a funding plan of approximately $356,000 of revenue to fund approximately 27 acres of turf removal in twenty-five (25) General Fund Parks, and

WHEREAS, Council can direct staff to utilize General Fund Reserves to accomplish this Water Reduction Strategy, and

WHEREAS, Should Council direct staff to utilize General Fund Reserves, it authorizes the Finance Director, or her designee, to amend the Operating Budget as needed to implement the formulated plan, and

WHEREAS, the return on investment of the $356,000 requested should be paid back in a reduction of $50,000 annually to the General Fund subsidy of parks maintenance over the next 7 years at the current water rates, and

WHEREAS, it is likely that water rates could increase over the next 7 years and this return on investment could be realized quicker.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby directs staff to formulate a funding plan of approximately $356,000 to implement the FY2014-2015 water conservation strategy to remove approximately 27 acres of turf from twenty-five (25) general fund neighborhood parks and authorizes the Finance Director, or her designee, to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION REAPPOINTING JON RODRIGUEZ TO THE EQUAL OPPORTUNITY/DISABILITY COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. JON RODRIGUEZ is hereby appointed to the Equal Opportunity/Disability Commission with a term expiration of January 1, 2019.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Commissions and the Secretary thereof.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AMENDING THE BYLAWS OF THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, the City Council has established the Golf Courses Advisory Committee ("Committee") to serve as a liaison between the general golfing community, golf organizations, and the City to promote the game of golf in the Modesto area, and

WHEREAS, the Committee Bylaws were in need of minor administrative and procedural updates, as set forth in the attached "Exhibit A", and

WHEREAS, on April 22, 2015, the Committee approved the proposed amended Bylaws and recommended they be forwarded to the City Council for final approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the amended Bylaws for the Golf Courses Advisory Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINGREN, City Attorney
CITY OF MODESTO GOLF COURSES COMMITTEE

CONSTITUTION AND BYLAWS
ARTICLE I

DEFINITIONS

Section 1 There is created a Committee to be known and designated as the City of Modesto Golf Courses Committee.

Section 2 As used in these Bylaws, unless a different meaning clearly appears from the context:

A. "Member" shall mean a member of the Modesto Golf Courses Committee.

B. "Modesto Golf Courses Committee" and "Committee" shall mean the City of Modesto Golf Courses Committee.

C. "Modesto golf courses" shall mean Modesto Municipal Golf Course, Dryden Park Golf Course and Creekside Golf Course.

D. "Regular meeting" shall mean the monthly or bi-monthly Committee meetings.

Section 3 The fiscal year shall coincide with the City's fiscal year, July 1 to June 30.
ARTICLE II

OBJECTIVES

Section 1 The Committee shall be responsible for promotion of the game of golf in the Modesto area.

Section 2 The Committee shall operate as an advisory body for and among organized golf clubs and the general golfing public of the City of Modesto golf courses.

Section 3 The Committee shall act as liaison between the general golfing public, golf clubs, and the City of Modesto Parke, Recreation and Neighborhoods Community and Economic Development Department, and

A. Shall receive and consider all proposals for innovations or material changes in established procedures or the modification of the golf courses.

B. Endorse participation in golf through the Player Development Programs and Tournament activities with a special emphasis on Junior, Senior and Disabled golf.

Section 4 The Committee shall encourage, promote and maintain a high standard of sportsmanship among golfers.

Section 5 The Committee shall consider the annual budget for the Golf Enterprise Fund during the process of its preparation and make recommendations to the Director of Parks, Recreation and Neighborhoods Community and Economic Development concerning the annual budget of the Golf Enterprise Fund, including the fees and rates to be charged for the use of golf course facilities.

Section 6 The Committee shall perform such other duties relating to the Modesto Golf Courses as may be assigned by the Director of Parks, Recreation and Neighborhoods Community and Economic Development.

Section 7 Nothing in this article shall be deemed to invest the Committee with any supervisory powers over the actions and duties of City employees, or of any Lessee of the City, engaged in work relating to the construction, improvement, repair, maintenance or operations of the Modesto golf courses.
ARTICLE III

MEMBERSHIP

Section 1  The City of Modesto Golf Courses Committee shall consist of eleven (11) Members.

Section 2  The Members of the Committee shall reside within the city limits of the City of Modesto at the time of appointment and must maintain residence within the City at all times during their service on the Committee.

Section 3  None of the members shall hold any paid office or employment or shall be currently a contractor with the City of Modesto.

Section 4  Five (5) members of the Committee shall represent organized golf clubs at the municipal golf courses, one from each of the following clubs: Muni Niners; SIRS; Modesto Golf Club; Dryden Park Women’s Club; and Creekside Golf Club. Six (6) members shall be appointed at large.

Section 5  The membership of each organized golf club shall recommend one member to represent their respective clubs, with the remaining six (6) at-large members to be approved by a majority vote of the City Council.

Section 6  The Director of Parks, Recreation and Neighborhood Community and Economic Development or his/her designee will serve as staff to the Committee and represent the City of Modesto, within the limits dictated by fiscal constraints.
ARTICLE IV

TERMS OF OFFICE

Section 1 The term of office shall be effective as of the first of January.

Section 2 The term of office shall be four (4) years for each Member of the Committee. Members may be re-appointed after their initial term, but in no event shall any person who has served two (2) consecutive terms on the Committee be eligible for re-appointment to the Committee. Committee members are eligible for re-appointment to the Committee after a two- (2) year absence from the Committee has transpired.

Section 3 Serving any portion of an unexpired term shall not be counted as service of one term. Members not eligible for re-appointment may continue to serve until their successors are appointed and meet all of the qualifications outlined in Article III Membership of these bylaws. No member shall serve more than a maximum of eight (8) consecutive years.

Section 4 The terms of office for the inaugural Committee will be two (2) years for five (5) members of the Committee, and four (4) years for the remaining six (6) members. Each member’s term of office shall terminate on December 31 of their respective year.

Section 5 The Members of the Committee shall receive no compensation for the performance of their official duties.

Section 6 Appointments to fill vacancies on the Committee shall be handled in the same manner as original appointments. When a vacancy occurs during a term, the appointment to fill such vacancy shall be for the unexpired portion of the term.

Section 7 Members of the Committee may be removed by a majority vote of the City Council after a recommendation by the Director of Parks, Recreation and Neighborhoods Community and Economic Development and a majority vote of the Committee. Examples of reasons for removal of a Committee Member from the Committee are:

A. Incompetence, malfeasance, misfeasance, neglect of duty, or conviction of a crime involving moral turpitude.

B. Refusal to resign from the Committee when no longer a resident of the City of Modesto.

C. Automatic removal from the Committee will be required when a member is absent from three (3) meetings within a twelve- (12) month period without official permission expressed in the official minutes.
ARTICLE V

ATTENDANCE AT MEETINGS

Section 1  It shall be the responsibility of each Member to know the dates and times of all regular meetings of the Committee. If a Member knows he or she will not be able to attend a regularly scheduled meeting, it shall be his or her responsibility to notify the Committee Chair or Staff Liaison at least forty-eight hours before the meeting, in order for the absence to be recorded as an excused absence.

Section 2  The Secretary will document when any Committee Member is late arriving for a meeting or when a Committee Member leaves a meeting before adjournment. The minutes of each meeting will list those Members in attendance, those who are excused and those who are unexcused.
ARTICLE VI

OFFICERS AND THEIR DUTIES

Section 1 Officers shall consist of Chair and Vice-chair, elected by a majority vote of the Members of the Committee. Officers shall serve a one- (1) year term commencing on January 1. The election shall be held at the January meeting, or the first meeting of the year.

Section 2 All officers shall exercise all privileges of membership, including the making of motions, seconding and debate.

Section 3 The Chair shall not serve consecutive terms. The Vice-chair shall not serve consecutive terms.

Section 4 The Chair shall preside at all meetings and appoint all sub-committees of the Committee and shall ensure that the bylaws, rules and regulations as adopted by the Committee are properly enforced. The Chair shall be an ex-officio member of all sub-committees.

Section 5 The Vice-chair shall assist the Chair in his/her duties and in the absence of the Chair shall perform all duties usually performed by the Chair.

Section 6 The Parks, Recreation and Neighborhoods Community and Economic Development Department shall provide a staff member to serve as secretary. He/she shall keep a record of the minutes of all meetings, reports of sub-committees and such other duties as are usually performed by a secretary. He/she shall supply the Members of the Committee and any sub-committees and the Director of Parks, Recreation and Neighborhoods Community and Economic Development and his/her designee(s) with copies of all records taken within three (3) weeks after a meeting takes place. He/she shall also assist in publicity releases concerning Committee activities.
ARTICLE VII

MEETINGS

Section 1 Regular meetings of the Committee shall be held at such times and places as from time to time may be designated by a majority vote of the Committee.

Section 2 In the event that a regular meeting falls on a holiday, the meeting shall be scheduled by a vote of the Committee. Special meetings shall be called by the Chair as necessary.

Section 3 Notices of all meetings, including an agenda, shall be given to all members of the Committee, to the City Clerk, to the City Manager, to the Director of Parks, Recreation and Neighborhoods/Community and Economic Development and to all others as provided by law. All such notices shall be furnished to the Committee in writing at least seventy-two hours prior to the time of such meeting.

Section 4 All meeting agendas will be posted at Tenth Street Place and will be available at the following public facilities: Tenth Street Place, the Main Branch of the Stanislaus County Free Library and at City of Modesto golf courses.

Section 5 All meetings shall comply with the requirements of the Ralph M. Brown Act.

Section 6 A quorum is necessary for the Committee to transact any business. A quorum shall be defined as a simple majority of active Committee members.

Section 7 All meetings of the Committee, or its standing or special sub-committees, shall be open to the public and shall be held at a public facility which is accessible in accordance with the regulations of the Americans with Disabilities Act.
ARTICLE VIII

ORDER OF PROCEEDINGS

Section 1 Sturgis' Standard Code of Parliamentary Procedure shall be the guide for parliamentary procedures in the conduct of Committee meetings.

Section 2 The order of proceedings of all meetings shall be as follows, subject to majority vote of the Members present:

A. Call to Order
B. Approval of Minutes
C. Written Communications
D. Old Business
E. New Business
F. Oral Communications
G. Matters Too Late for the Agenda
H. Adjournment

Section 3 Members of the public shall not speak unless recognized by the Chair and shall state their names and addresses before making any statement, which shall become a part of the public record. The Chair may remove any person who refuses to follow these rules or the decision of the Chair.
ARTICLE IX

AMENDMENTS

Section 1  The Constitution and Bylaws may be recommended for amendment at a regularly scheduled meeting of the Committee. A written notice containing the proposed changes shall be provided to each member at least sixty (60) days prior to the meeting. When all other conditions are met, an amendment requires a simple majority vote of the active members of the Committee.

Section 2  The Constitution and Bylaws and any future amendments shall be subject to the final approval of the City Council and shall not and are not intended to go beyond any of the powers and duties given to the Committee by the City Council.
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-178

RESOLUTION ACCEPTING THE AGREEMENT WITH JOCELYN E. ROLAND, PH.D., ABPP, TO PROVIDE COUNSELING/THERAPY, AND PRE-EMPLOYMENT PSYCHOLOGICAL EVALUATION SERVICES FOR THE MODESTO POLICE DEPARTMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, since January 1, 1980, the City of Modesto has provided counseling and psychological services to Modesto Police Department sworn, and

WHEREAS, the current contract will be expiring and the Modesto Police Department is seeking authorization of sole source procurement with Jocelyn E. Roland, Ph.D., ABPP, to provide counseling/therapy to all full-time regular and reserve sworn Peace Officers of the Agency, at no cost to the covered employees, and

WHEREAS, the contractor will provide mental health consultation for the Modesto Police Critical Incident Team (CIT) and SWAT activations in the field, as well as participate and assist in regular trainings with the team, and

WHEREAS, the City will pay Dr. Roland $58,000 annually for the term of this Agreement for these services, and

WHEREAS, the parties will meet January 15th of each year to review the number of employees covered under the contract, and

WHEREAS, the contractor will also provide pre-employment psychological screenings for all regular and reserve Peace Officer applicants, as well as Animal Control Officer applicants to determine emotional and mental stability according to Government Code Section 1031 and the California Commission on Peace Officer Standards and Training (POST) Regulation 1955, and
WHEREAS, the consultant shall meet the requirements of POST Commission Regulations, and

WHEREAS, the Modesto Police Department is currently paying $425 per psychological screening, for an estimated total cost of approximately $10,000 annually, and

WHEREAS, the parties will meet January 15th of each year to review the fee cost for the pre-employment psychological screenings to discuss if there will be an adjustment due to increased costs of doing business, and

WHEREAS, Jocelyn Roland, Ph.D., ABPP, is a California licensed psychologist who specializes in providing services in the specialty area of law enforcement, public safety and forensics, and

WHEREAS, she is also the only psychologist providing all the above services in the geographic area who is Board Certified in Police and Public Safety Psychology, and

WHEREAS, Dr. Roland has extensive experience and training and can provide all services required by the Modesto Police Department, and

WHEREAS, the term of the new contract is for five (5) years with three (3) one-year extension options at the sole discretion of the City, for a total of eight (8) years and will commence on July 1, 2015, and

WHEREAS, the Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal exception, MMC Section 8-3.204(b), which states the purchasing agencies’ requirements can be met solely by a single article or process; the sole source to provide
counseling/therapy services for the Modesto Police Department, to Jocelyn E. Roland Ph.D., ABPP, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Agreement with Jocelyn E. Roland, Ph.D., ABPP, to provide counseling/therapy, and pre-employment psychological evaluation services for the Modesto Police Department.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-179

A RESOLUTION AUTHORIZING THE AWARD OF SOLE SOURCE PROCUREMENT TO PROVIDE COUNSELING/ THERAPY SERVICES FOR THE MODESTO POLICE DEPARTMENT, TO JOCELYN E. ROLAND, PH.D., ABPP, FOR AN ESTIMATED TOTAL COST OF $58,000 ANNUALLY, AND PRE-EMPLOYMENT PSYCHOLOGICAL SCREENINGS FOR ALL REGULAR AND RESERVE PEACE OFFICER CANDIDATES, AS WELL AS ANIMAL CONTROL OFFICER CANDIDATES FOR AN ESTIMATED TOTAL COST OF APPROXIMATELY $10,000 ANNUALLY; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, since January 1, 1980, the City of Modesto has provided counseling and psychological services to Modesto Police Department sworn, and

WHEREAS, the current contract will be expiring and the Modesto Police Department is seeking authorization of sole source procurement with Jocelyn E. Roland, Ph.D., ABPP, to provide counseling/therapy to all full-time regular and reserve sworn officers of the Agency, at no cost to the covered employees, and

WHEREAS, the contractor will provide mental health consultation for the Modesto Police Critical Incident Team (CIT) and SWAT activations in the field, as well as participate and assist in regular trainings with the team, and

WHEREAS, the City will pay Dr. Roland $58,000 annually for the term of this Agreement for these services, and

WHEREAS, the parties will meet January 15th of each year to review the number of employees covered under the contract, and

WHEREAS, the contractor will also provide pre-employment psychological screenings for all regular and reserve peace officer candidates, as well as Animal Control Officer candidates to determine emotional and mental stability according to Government
Code Section 1031 and the California Commission on Peace Officer Standards and Training (POST) Regulation 1955, and

WHEREAS, the consultant shall meet the requirements of POST Commission Regulations, and

WHEREAS, the Modesto Police Department is currently paying $425 per psychological screening, for an estimated total cost of approximately $10,000 annually, and

WHEREAS, the parties will meet January 15th of each year to review the fee cost for the pre-employment psychological screenings to discuss if there will be an adjustment due to increased costs of doing business, and

WHEREAS, Jocelyn Roland, Ph.D., ABPP, is a California licensed psychologist who specializes in providing services in the specialty area of law enforcement, public safety and forensics, and

WHEREAS, she is also the only psychologist providing all the above services in the geographic area who is Board Certified in Police and Public Safety Psychology, and

WHEREAS, Dr. Roland has extensive experience and training and can provide all services required by the Modesto Police Department, and

WHEREAS, the term of the new contract is for five (5) years with three (3) one-year extension options at the sole discretion of the City, for a total of eight (8) years and will commence on July 1, 2015, and

WHEREAS, the Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto
Municipal exception, MMC Section 8-3.204(b), which states that the purchasing agencies’ requirements can be met solely by a single article or process; the sole source to provide counseling/therapy services for the Modesto Police Department, to Jocelyn E. Roland Ph.D., ABPP, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council authorizes the award of sole source procurement, in substantially the form attached hereto, to provide counseling/therapy services for the Modesto Police Department, to Jocelyn E. Roland, Ph.D., ABPP, for an estimated total cost of $58,000 annually, and pre-employment psychological screenings for all regular and reserve peace officer candidates, as well as Animal Control Officer candidates for an estimated total cost of approximately $10,000 annually.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
EXHIBIT A

SCOPE OF WORK:

CONSULTANT shall provide Pre-employment Psychological Screenings ("PPE") for regular and reserve Peace Officer applicants, and Animal Control Officer applicants as requested by the CITY's Police Department. The PPE for all applicants will meet any requirements required by Government Code Section 1031(f) and the California Commission on Peace Officer Standards and Training (POST) Regulation 1955. The CONSULTANT will meet the standards of Government Code Section 1031(f) and POST Regulation 1955, specifically 1955(b). The service shall include:

1. A written report to the AGENCY which includes relevant background information, methods utilized, psychological test results and interpretations, and a specific recommendation regarding the applicant's suitability to be a Peace Officer in accordance with Government Code Section 1031(f) and POST Regulation 1955.

CONSULTANT shall provide free confidential counseling sessions to all full-time regular and reserve sworn Peace Officers of the CITY's Police Department, at no cost to the covered employee. Free counseling services will be provided to spouses, significant others and/or dependents to a maximum of three (3) sessions following which they may be referred to another suitable provider. In that event, any costs incurred for services are the employee's. This Agreement does not apply to employees currently disabled or unable to work their regularly assigned duties nor does it cover non-sworn employees. It does not cover mental health services outside of the expertise of the CONSULTANT (i.e., medication prescription, inpatient substance abuse treatment, etc.); however, CONSULTANT will assist the CITY's employee or dependent in locating the appropriate service.

CONSULTANT will provide debriefing of officers involved in shootings and other critical incidents upon the request of the Watch Commander or higher ranking command personnel. These debriefings will be conducted consistent with the CITY's policy, and generally will take place within a five (5) day period post-critical incident. CONSULTANT is available 24-hours per day to respond as needed, at the request of the Watch Commander or higher ranking command personnel, in cases where immediate assistance is required.

CONSULTANT is available 24-hours per day to respond as needed to provide mental health consultation to the Critical Incident Team (CIT) and SWAT activations in the field. CONSULTANT will participate in, and assist with, regularly scheduled trainings with the Teams.

CONSULTANT shall provide psychological support, consultation and training for the Modesto Police Department Critical Incident Stress Management Team (CISM). CONSULTANT will attend scheduled meetings with the CISM Team.

CONSULTANT will provide consultation to Management as requested.

CONSULTANT is available to provide training presentations, schedule permitting.
RESOLUTION AUTHORIZING THE AWARD OF A SOLE SOURCE PROCUREMENT FOR THE RENTAL OF THREE (3) DV-400C PUMPS FOR THE UTILITIES DEPARTMENT, WASTEWATER COLLECTIONS DIVISION FROM RAIN FOR RENT, STOCKTON, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR A TOTAL COST NOT TO EXCEED $100,000

WHEREAS, in January 2012, West Yost Associates completed a draft of the Cannery Segregation Line (CSL) and River Trunk Diversion Plan (The Plan), and

WHEREAS, The Plan consisted of several elements: 1) a risk assessment which included a complete inspection of the CSL and a hydraulic analysis of CSL flows; 2) a temporary bypass pumping plan in the event of a CSL failure; and 3) preliminary design of permanent diversion structures, and

WHEREAS, through the use of Closed Circuit Television (CCTV) inspection and hydraulic analysis, it was determined that the risk of CSL failure is low but is a possibility, and

WHEREAS, the most likely scenario would be a washout of the bank supporting the pipeline, and

WHEREAS, in January 2015, an emergency bank repair was completed due to significant bank erosion at the Tuolumne River, and

WHEREAS, to mitigate the risk of a service disruption caused by a catastrophic failure of the CSL, the Plan included a Temporary Bypass Plan (Bypass Plan) where, in the event of a CSL failure, the Bypass Plan could quickly restore service to CSL users, and
WHEREAS, the worst-case scenario of the Bypass Plan requires three (3) very large and expensive bypass pumps capable of performing the bypass operation that the City does not own and the availability of the pumps is based on a first-come/first-serve basis, and

WHEREAS, to guarantee the availability of the bypass pumps, the Utilities Department is requesting these pumps be placed in standby at the local Rain for Rent yard during the coming CSL season, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC8-3.204(b), states where as the purchasing agencies’ requirements can be met solely by a single article or process: the sole source procurement for the sole source procurement of remote terminal units (RTU’s) and all associated circuit boards conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of sole source procurement for the rental of three (3) DV-400c pumps for the Utilities Department, Wastewater Collection Division from Rain for Rent, Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for a total cost not to exceed $100,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-181

A RESOLUTION APPROVING BUDGET GOALS AND BUDGET PRINCIPLES AS OUTLINED IN THE MAYOR’S BUDGET MESSAGE AND RECOMMENDED BY THE CITY COUNCIL FINANCE COMMITTEE AS PART OF THE FY 2015-2016 BUDGET DEVELOPMENT PROCESS

WHEREAS, as part of the Mayor’s Proposed Budget for FY 2015-2016, the Mayor included Proposed Budget Goals and Budget Principles for the Council’s consideration, and

WHEREAS, each year the City Council’s Finance Committee makes recommendations regarding the upcoming Fiscal Year Operating Budget and Capital Improvement Program, and

WHEREAS, in the development of the FY 2015-2016 Operating Budget, the Finance Committee reviewed and recommended for City Council consideration the attached Proposed Budget Goals and Budget Principles,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Proposed Budget Goals and Budget Principles as shown in Attachments 4 and 5, which are incorporated by reference herein.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2015, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
April 29, 2015

To the Members of the Finance Committee, the City Council and the Citizens of Modesto:

It is my privilege to present to you the Proposed Fiscal Year 2015-16 (FY15-16) Budget for the City of Modesto. The Proposed Budget is in response to the continued fiscal challenges faced by the City. It reflects decisions made in a coordinated effort between the City staff, the City Manager and myself and is guided by the policy and priority direction of the City Council.

**Mayor’s Recommendation**
I recommend that the Finance Committee forward to the City Council for adoption the Proposed Budget for FY15-16.

**Challenge Change Opportunity**

**Introduction**
Having effectively navigated through the Great Recession, Modesto is poised to build on a foundation of last year’s FY14-15 balanced budget, our first balanced budget in over 15 years. Though challenges abound we recognize that success will depend on our ability to be strategic, focus on the priorities, and to leverage and invest resources in an environment of change and innovation. While improvements in revenues are occurring, Modesto’s is still $27 million below 2007’s Consumer Price Index adjusted receipts.

As a result, the City does not have the resources necessary to achieve the level of opportunity and quality of life that the community aspires. As City Government, we are still focused on attaining long-term fiscal sustainability and improving the level of services that will put the City in a stronger position for delivering effective and efficient services in support of the community.

The City’s new Strategic Plan and the proposed FY15-16 Budget are built on the premise that we must work together with our neighborhoods, non-profits, businesses, educational community and other agencies in a network of collaboration and partnership. Modesto is moving toward the more challenging route of engaging the community and recognizing that our strength lies with the “quilt” of diverse and unique neighborhoods that make up Modesto. We are a community of Great Neighbors. This proposed budget builds on the effort to align resources, organize staff and set priorities that will support momentum to bring together and leverage the resources of our entire community with the goal of improving the quality of life and opportunity in every neighborhood.

Again this year, Modesto’s budget will be balanced with revenues equaling expenses. However, the estimates for the next ten years indicate the City will struggle to even maintain the current level of
services. The initial look at this year's budget indicated a $6.3 million imbalance that has been addressed with several different strategies that do not further reduce our services.

**The Strategic Plan and Goals**
Modesto's Goal is to align our budget with our Strategic Plan. As such, a look at the newly adopted Strategic Plan is in order.

As approved by City Council, the City Strategic Plan provides the guiding framework and direction for resource allocation and prioritization. We have set a community vision that focuses on four major core commitments.

1. **Great Safe Neighborhoods.** A City where we all work together to ensure our neighborhoods are safe and attractive. Build on the diversity of our many neighborhoods. We engage our neighborhoods as our partners working together to achieve common goals and help make our community an even better place to live, work and play.

2. **Healthy Economy and Great Quality of Life.** A City where in partnership with other governmental agencies, nonprofits, educational agencies and business, we have jobs and educational opportunities that help our families succeed. Work with community to expand access to cultural, entertainment and recreational opportunities for youth and families.

3. **Vibrant Infrastructure and Sustainable Environment.** A City where there is a safe and efficient multi-modal network of transportation and a healthy environment that protects its natural resources and strives for long-term sustainability.

4. **Effective, Responsive and Transparent Government.** A City government of continuous improvement and effective and efficient use of resources; that is responsive to community needs while operating in a transparent and accessible environment.

Within each of the four Core Commitments we have identified initial priority goals. The next steps involve further defining and transforming those goals into specific steps, timelines and actions that will move us forward.

The proposed FY 2016 budget, within the revenue constraints, is aligned with the Strategic Plan and we will be working to leverage and prioritize budget resources with community resources as we work together in achieving our goals.

The support of Safe Neighborhoods is the number one priority and is in need of additional City resources. We also recognize that as our collaboration and partnership with the neighborhoods grow and neighbors, community groups and organizations work with us to achieve our goals, the City must be in a position to support that partnership. Unfortunately there is not currently, nor does our 10-year forecast indicate, any available new revenues to provide for those public safety resource needs.

The current workloads, especially in Public Safety, warrant our attention. The City's Police and Fire call volumes are at the highest per officer of all agencies in the nation. Even with this limitation, the City experienced a decrease of crime levels this year. This decrease occurred in spite of our limited resources and is due to the talents and commitment of Public Safety personnel as well as new innovative techniques and strategies. To build on that trend, we believe that additional resources are
needed. In addition, targeted as part of a Safe Neighborhood Program and in conjunction with the development of broader engagement and participation by citizens within our Neighborhoods, the City can even further significantly reduce crime and put us more quickly on the road to achieving Great Safe Neighborhoods. There is much to do in defining “Safe Neighborhoods” with our neighborhood partners and community. City staff can only offer an initial proposed budget framework as a place to begin.

**The Challenge**

As you can see, we have lived within our means and have balanced our budget without relying on borrowing from others. The City has new leadership, a new Strategic Plan and made a wealth of achievements in the last 12 months. However, we still face a significant challenge. In my opinion, there are not enough financial resources to ensure we have Great Safe Neighborhoods in our City. Our citizens deserve safety.

The FY15-16 Operating Budget for the City's General Fund provides bare-minimal public safety service levels. A ten-year forecast accompanying this Budget prepared by our Finance staff, and confirmed by outside consultants, show that the City will continue to struggle financially to provide these minimal service levels.

In order to understand the magnitude of the City's needs, the Police Chief submitted the following for his department:

- One of our goals is to create and build Safe Neighborhoods. Our goal will not only require collaboration with our existing neighborhood groups such as Del Wood, College Park and La Loma but investment into our understaffed police department. As a City, it is imperative we bring back our “Beat Health” program that team-up police officers with code enforcement officers and the City attorney to vigorously go after neighborhood nuisance properties.

- We need to bring our patrol staffing levels up to 112 officers assigned to protect our streets. This is essential in order to provide them adequate time to do community policing rather than racing from one call to another. We currently have a goal of 100 officers in patrol; but, we staff between 80 to 90 officers. Our Police Department was a leader in the use of Community Service Officers (CSOs) to take reports, respond to traffic accidents and handle non-emergency calls for service. During the economic downturn, the City was forced to cut the CSOs and have since lost the ability for civilian employees to be a force multiplier for the police officers. We need additional CSOs to ensure we are responsive to our community.

- The Police Department has divided the City into four distinct area commands with a lieutenant accountable for each area. To provide those area commanders with the resources they need prevent crime rather than just respond to problems, we need an additional 16 officers, two sergeants, two code enforcement officers, two CSOs and one City attorney to make the impacts and build the neighborhoods we want to have in Modesto.

- Additionally, our traffic accidents, most notably fatal accidents have gone up by 12% in the past two years. We now only have 4 officers working traffic enforcement. In order to make our roads safe to drive on and increase safety around our schools, we need an additional 12 officers to work traffic enforcement and investigation.
• For the past several years, Modesto has fielded the only gang enforcement team in the entire County. We need additional officers and CSOs dedicated to gang awareness and prevention for our youth.

• Our detectives cannot spend the time that is necessary to ensure all cases that have workable leads are investigated and that the perpetrators are taken into custody. Our detective division needs an additional 8 detectives and a sergeant to ensure the City has one property crimes detective in each area command, as well as a team of detectives that are able to actively investigate human trafficking and prostitution related crimes.

• Finally as part of the anti-tagging campaign and keeping our neighborhoods free from the blight of tagging, we need a detective and one CSO to track down the perpetrators and ensure there are consequences for their actions.

Our police department has done a good job attempting to leverage existing technology to help ensure we are fully utilizing the resources we have. However, in order to move from a reactive police force to a neighborhood building department that is able to be responsive to our citizens, we need to provide more resources. Without the additional resources, our City will continue to struggle.

It is essential that we find the financial means to permanently keep Fire Station #6 open to protect the citizens in north Modesto. We currently fail to meet our 10-minute “effective force” fire response time. This means delays and increased danger to citizens trapped by hostile fire. It also means more rapidly spreading fires and increased property damage. One way or another, citizens pay for these facts — either through actual loss of lives or property; AND/OR, through increased auto and property insurance rates.

In addition, our City continues to struggle to address deferred maintenance of our public safety infrastructure. The average age of our 11 fire stations is 39 years old. Many of these stations do not meet current ADA standards and were not designed for co-ed firefighters.

I think the real question we need to ask ourselves is how we are going to meet this challenge. The State is not going to solve it for us by giving more money to local governments. The Federal government does not have programs that we can utilize to provide these public safety levels. Because of all of this, I believe the answer lies with us, the Community Leaders of Modesto to find a solution. It is our responsibility to give our citizens a safe City. How are we going to do that? It is my sincere hope and recommendation that as Modesto’s leaders we need to answer this question and meet this challenge.

Overview of the Mayor’s Proposed Budget

The total City of Modesto operating expense budget for all funds, including certain Joint Power Authorities, for FY15-16 is $367 million. There are three major funds within the City’s budget: General, Water and Wastewater. There are also a number of smaller funds; examples include the Golf Fund, Modesto Centre Plaza, Storm Drainage and Airport Funds. This budget message summarizes information for our three primary funds. During the Finance Committee Workshops more information will be provided on all funds.

The General Fund

In FY15-16, it is projected that General Fund revenues (including transfers in from other funds) will be $113.7 million. This reflects an increase of $3.6 million from current budgeted amounts in FY14-15. It is
still over 10% below pre-recession amounts of $126.5 received in FY07-08. This is equal to over 18% (over $24 million behind) on a CPI adjusted basis. Revenues trends for the last 10 years are shown below:

**Total General Fund Revenues**

(in millions)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Revenue</th>
<th>Real Revenue Adjusted to 2007 Dollars</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>$120.4</td>
<td>$120.4</td>
</tr>
<tr>
<td>2008</td>
<td>$126.5</td>
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<tr>
<td>2009</td>
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<tr>
<td>2014 Actual</td>
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<tr>
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</tr>
<tr>
<td>2016 Proposed</td>
<td>$113.6</td>
<td>$113.6</td>
</tr>
</tbody>
</table>

As shown in this table, the City experienced stable and slowly increasing revenues in its General Fund for the last 6 years. A large $3.4 million one-time settlement in FY13-14 pushed revenues from $109.6 to the amount shown above, which allowed the City to fund overdue one-time deferred maintenance projects. Otherwise, the City has sustained revenue increases ranging from .5% to 3.3%, with the largest occurring in FY15-16.

While we are far below Pre-Recession revenue levels, the City has lived within its means, balanced its budget, and stabilized most service deliveries funded out of its General Fund. This does not mean service levels are optimal. As a matter of fact, I believe our revenues do not address the service needs and maintenance deficiencies that exist. We struggle to keep our fire stations opens. We are unable to maintain our parks and roads in good repair. Without greater revenues, Modesto will not be as safe as our citizens deserve. We will not be able to address gangs and drugs, child abuse and family conflicts, homelessness and vagrancy or petty crimes.

As reflected in the first element of our new Strategic Plan, the City values *Great Safe Neighborhoods* and as such, it is the priority for General Fund expenditures. After considering administrative costs recovered from outside the General Fund, public safety comprises 74% of General Fund expenditures.
However, that is only part of the story. General Fund departments also generate and recover revenues to offset the cost of providing services. For example, Parks, Recreation & Neighborhoods collect fees from citizens participating in recreational programs. After considering department revenues, public safety comprises 83% of net General Fund expenditures.
This is important to note for two reasons. First, it reflects the true level of spending by the City on its public safety programs. We value our Police and Fire services and our spending reflects that. Second, this fact demonstrates how difficult it would be to make significant reductions in the General Fund without further impacting Police and Fire. This was the challenge we faced in the Great Recession and it still is the challenge before us today if the City were to make further reductions in its General Fund.

Total General Fund expenditures, including transfers out, in the Proposed Budget are $113.7 million.

The previous chart summarizes General Fund expenditures by department. It is clear that public safety comprises the majority of the budget with the Police Department being the largest department within the General Fund. *In fact, all taxes paid directly by our residents do not cover the cost of our police and fire services.* Our goal of Great Safe Neighborhoods is our number one priority, but there are also other essential and quality of life services that need to be provided in complement to achieve Great Safe Neighborhoods.

This budget is balanced. As previously mentioned, our "first look" at the budget showed we were facing a $6.3 million operating deficit. We closed this shortfall through the proposed use of an applied 3% vacancy factor across General Fund departments reducing our budget by $2.3 million. I also proposed the use of $1.6 million of one-time money from the dissolution of the Modesto Regional Fire Authority to keep Fire Station #6 open one more year as we look at other fire suppression delivery models. Now that retiree health cost are going down, we re-evaluated the fund balance reserve levels in our Employee Benefit Funds and also re-evaluated the needed Workers' Compensation reserves. This allowed us to return $2.2 million as one-time rebates against current year costs. We reduced Police overtime by over a quarter of a million dollars. Finally, we prefunded $740,000 from last year's one-time savings to cover one-time expenses including MPD recruitment and retention bonuses.

My goal is to achieve fiscal sustainability by aligning our General Fund expenditures with its revenues. This budget relies on one-time money of less than $5 million or 4% of total expenditures to close its shortfall while maintaining already low existing service levels for public safety. The alternative of further reducing City services at this time is not acceptable to me; however, if long-term solutions to solve this deficit are not found in next 12 months the City will be faced with public safety reductions next year.

**Wastewater Fund**

The Wastewater Fund provides wastewater services to customers in the Cities of Modesto, Empire and a portion of Ceres. This service area equates to over 200,000 residents. The system consists of approximately 70 miles of trunk lines, 670 miles of sanitary lines and 40 wastewater lift stations. Wastewater is treated at the Sutter Primary Treatment Plant and the Jennings Secondary Treatment Plant.

Wastewater Fund revenues come from monthly service charges to residents at rates established by the City Council. Total revenue for FY15-16 is estimated to be $46.1 million including a planned rate increase of 3.1% that will take effect July 1, 2015. This rate increase will be used to pay debt service costs on existing construction of our Tertiary Treatment Plant.
Wastewater Capital Improvement Program expenses for FY15-16 are projected to be $21.1 million and are in addition to the annual operating and debt service expenses. These expenses include the final of four years’ construction costs for the Wastewater Tertiary Phase 2 Treatment Plant, which is anticipated to cost $128 million and will enable the City to comply with its new National Pollutant Discharge Elimination Permit (NPDES) in FY 2018. As previously mentioned, the City has secured a State Revolving Fund low interest rate loan to fund the majority of the construction costs of this project.

**Water Fund**

The City provides drinking water to residents in the areas of Modesto, Empire, Salida, Waterford, Hickman, Grayson, Del Rio, parts of Ceres and Turlock, and County areas adjacent to the City system equating to approximately 250,000 residents. Water Fund expenses for day-to-day operations include employee and equipment expenses, chemicals for treating water, power for pumping water, and water purchases.

The City collects monthly service charges from the residents within our service area, which represent the primary source of revenues for the Fund. The drought currently affecting California continues into its fourth year and will impact the Fund’s revenues. Governor Brown has recently mandated a statewide 25% reduction in urban water use, based on 2013 levels, and a 36% reduction for Modesto’s water users. Because of the number of metered vs. non-metered customers and the method of computing water charges, this does not equate to a 35% reduction in revenues. Revenues in the Recommended Budget were projected to be approximately $58 million. This assumed a 5% decrease in revenues due to drought conditions. Since preparation of the Recommended Budget, FY15-16 revenues are now anticipated to decrease by at least 10% and updated budget information is being compiled and will be presented at the budget workshops. As various unknowns play out over the year, exact impacts of the drought will be identified. Staff continues to monitor this situation on a weekly basis and is considering various options in order to ensure the financial stability of the Fund. Rest assured that Modesto’s Water Fund will be managed in a fiscally responsible manner and to also meet the mandated cuts.

The capital improvement program for the water utility system in FY15-16 is projected to be $32.8 million and includes major capital projects for downstream improvements related to Modesto Regional Water Treatment Plant - Phase 2 Expansion (MRWTP), the strengthening and replacement of various components of the water system, state-mandated water meter installation and wellhead treatment. These projects are funded through the existing revenue stream generated from monthly service charges.

The FY15-16 Water Fund budget does not have any capital expenditures related to the MRWTP, which historically have been paid for by the Modesto Irrigation District (MID) and funded through long-term financing by MID and the City under a treatment and delivery project. It is anticipated that construction of the MRWTP will be completed in the Fall 2015. While there are still issues to be resolved related to cost overruns and prior construction deficiencies, we continue to discuss these issues with MID. I am hopeful that MID and the City will find a mutually agreeable solution to these issues.

**Closing Remarks**

There are many transitions occurring at City Hall and our City’s Senior Executive team changed dramatically during the last 18 months. Among others, we lost our City Manager, Deputy City Manager, City Attorney, Fire Chief, Information Technology Director, Public Works Director, Utility Director, Park
Director, Deputy Parks Director, and Streets Manager. While some superior people were lost, we have been able to promote some highly qualified individuals and recruit some innovative thinkers to our staff. We have hired what I believe will prove to be a Superstar as our new City Manager. Jim Holgersson has an outstanding record before joining us here in Modesto. His leadership has already allowed the City to develop a new Strategic Plan and strengthen our community partnerships. I am optimistic for the future transitions he will guide us through.

I would like to thank those responsible for the preparation of this year’s proposed budget. This document represents a tremendous amount of work by the City’s department directors and key members of their staff. Special thanks go to the City’s budget staff, who spent countless hours developing this budget into a single working document. I would also like to thank the City Manager, Deputy City Managers and City Council for their leadership throughout this process.

Sincerely,

Garrad Marsh
Mayor, City of Modesto
Recommended Budget Principles

1. **Annually Adopt a Structurally Balanced Budget**

A structurally balanced budget means on-going revenues and on-going expenditures are in balance with on-going revenues meeting or exceeding expenditures during the same time period. If a structural imbalance occurs, a plan must be developed and implemented to bring the budget back into balance.

2. **Use of One-Time Resources**

Once brought into balance, one-time revenues (excess reserves about reasonable risk calculations, revenue spikes, prior year budget savings, sale of property, etc) shall not be used for current or new on-going operating costs. Examples of appropriate uses of one-time revenues include early retirement of debt, capital expenditures without significant operating or maintenance costs, and other non-recurring expenditures.

3. **Budget Revisions**

New programs, services, or staffing requests are considered in light of the Council’s priorities and shall include a spending offset at the time of the request so that the request has a net-zero impact on the budget.

4. **Reserves**

All City funds must maintain an adequate reserve level and/or ending fund balance as determined annually as appropriate for each fund. For the General Fund, the contingency reserve amount, which is a flat $7 million, shall be maintained. Any use of the General Fund contingency reserve will require a majority vote of the Council.

5. **Debt Issuance**

Long-term General Fund debt will not be incurred to support on-going operating costs (other than debt service) unless such issuance achieves net operating cost savings and such savings can be independently verified. All General Fund debt issuances shall identify a method of repayment or have a dedicated revenue source.

6. **Employee Compensation**

Recognizing that employees are the City’s major resource, negotiations for employee compensation shall focus on the total compensation costs (e.g. increases in salary, steps, and benefit costs) while considering the City’s fiscal condition, revenue growth, and changes in the cost of living.

7. **Capital Improvement Projects**

Capital Improvement Projects shall not proceed for projects with annual operating and maintenance costs in the General Fund without City Council certification that funding will be available in the applicable year of the cost impact. Certification shall demonstrate that the entire cost of the project, including operating and maintenance costs, will not require a decrease in the City’s core services.

8. **Fees and Charges**

The development of fees and fee increases shall be utilized where appropriate to assure fee program costs are fully recovered by fee revenue.
9. Grants
Staff will seek out, apply for, and effectively administer grants that address the City’s priorities, policy objectives, and provide an overall positive benefit to the City. Before a grant is pursued, staff shall provide a detailed fiscal analysis addressing both the immediate and long-term costs and benefits of the grant. With the exception of pilot projects, one-time grant revenues shall not be used to begin or support the costs of ongoing programs.

10. General Plan
The General Plan is the primary long-term fiscal planning tool. Recommendations to create new development capacity beyond the existing General Plan shall be analyzed to ensure that capital improvements and operating/maintenance costs are within the City’s financial capabilities.

11. Performance Measurement
All requests for funding shall include performance measure data so funding requests can be reviewed and approved in light of anticipated service level outcomes.
A RESOLUTION AMENDING THE FY 2015-2016 CITY OF MODESTO POSITION ALLOCATION TO MODIFY THE POSITION ALLOCATION AS PART OF THE ADDENDUM AS SHOWN IN EXHIBIT 5

WHEREAS, the Modesto Police Department (MPD) included changes to their Fiscal Year 2015-16 operating budget to allow for the budgeting and increase of 1.0 Police Lieutenant position in the Field Operations Division (Cost Center 19320), and

WHEREAS, to accomplish this addition of one position MPD converted 1.0 filled Police Sergeant position in the Stanislaus Drug Enforcement Agency (Cost Center 19210) into the 1.0 Police Lieutenant position, and

WHEREAS, the budgetary changes have been accounted for in the Fiscal Year 2015-2016 City of Modesto Operating Budgets, and

WHEREAS, this position change was not included as part of the position allocation document presented in the Mayor’s Proposed Budget for Fiscal Year 2015-2016, but is identified as part of the Proposed Position Allocation Addendum for Fiscal Year 2015-2016 shown in Exhibit 5,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation to make the modifications to the Fiscal Year 2015-2016 Modesto Police Department position allocation to carry out this action.

BE IT FURTHER RESOLVED that the Director of Human Resources, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 2nd day of June, 2015, by Councilmember Kenoyer, who
moved its adoption, which motion being duly seconded by Councilmember Madrigal,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

(SEAL)

ATTEST: [Signature]

SEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDOREN, City Attorney
Fiscal Year 2015-16
Proposed Position Allocation Addendum

1. In the Modesto Police Department convert 1.0 Police Sergeant in Stanislaus Drug Enforcement Agency (Cost Center 19210) to 1.0 Police Lieutenant in Field Operations (Cost Center 19320). The Police Sergeant position being converted is currently filled by an incumbent. This position change has already been accounted for in the Modesto Police Department budget that is being brought forward as part of the FY 2015-16 Proposed Operating Budget.
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-183

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE
VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN INITIATIVE
TO AMEND THE CITY OF MODESTO 2008 URBAN AREA GENERAL PLAN
TO ESTABLISH LIMIT LINES (BOUNDARIES) FOR NONRESIDENTIAL, AND
MEDIUM AND LARGE LOT RESIDENTIAL DEVELOPMENT, OUTSIDE OF
WHICH AREAS NEW DEVELOPMENT SUBJECT TO THE LIMITS WOULD
REQUIRE VOTER APPROVAL

WHEREAS, on April 14, 2014, a Notice of Intent to Circulate Petition was
published in the Modesto Bee regarding an “Initiative to Amend the City of Modesto
2008 Urban Area General Plan to Establish Limit Lines (Boundaries) for Nonresidential,
and Medium and Large Lot Residential Development, Outside of Which Areas New
Development Subject to the Limits Would Require Voter Approval” (“Initiative”); and

WHEREAS, after a prima facie review by the City Clerk, the Initiative was
deemed filed on October 1, 2014, which as within the circulation deadline (Elections
Code Section 9265); and

WHEREAS, 8,931 signatures were needed to qualify the Initiative Petition for a
regular election; and

WHEREAS, on October 22, 2014, the Stanislaus County Clerk/Registrar of
Voters determined that the Initiative Petition contained 9,747 valid signatures and
notified the City Clerk; and

WHEREAS, on November 4, 2014, the City Clerk certified to the City Council
that a sufficient number of valid signatures had been submitted with the Initiative
Petition, qualifying the Initiative to be submitted to the voters of the City of Modesto for
consideration. On that same date, the City Council adopted Resolution No. 2014-466,
accepting the certification; and
WHEREAS, on March 3, 2015, the City Council adopted Resolution No. 2015-60, calling the regular municipal election to be held on November 3, 2015.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. INITIATIVE MEASURE.

That pursuant to California Elections Code Section 9215, the Council of the City of Modesto hereby does submit to the qualified electors of the City of Modesto at a regular election to be held on November 3, 2015, an initiative relating to amending the City of Modesto 2008 Urban Area General Plan to establish limit lines (boundaries) for nonresidential and medium and large lot residential development, outside of which areas new development subject to the limits would require voter approval.

SECTION 2. INFORMATION TO BE INCLUDED IN SAMPLE BALLOT/VOTER INFORMATION PAMPHLET.

In the sample ballot/voter information pamphlet for the November 3, 2015 election shall be printed the full text of the initiative.

SECTION 3. FORM OF BALLOT.

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the initiative:

MEASURE ___

<table>
<thead>
<tr>
<th>Shall the City of Modesto 2008 Urban Area General Plan be amended to establish limit lines (boundaries) for nonresidential and medium and large lot residential development, outside of which areas new development subject to the limits would require voter approval?</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SECTION 4. CONDUCT OF ELECTION.

The election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the election shall be held as provided by law for the holding of regular municipal elections in the City of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 5. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

SECTION 6. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The placement of a qualified initiative on the ballot for consideration by the voters is not a project within the meaning of the California Environmental Quality Act. (14 Cal. Code Reg. § 15378(b)(3); Stein v. City of Santa Monica (1980) 110 Cal.App.3d 458; Friends of Sierra Madre v. City of Sierra Madre (2001) 25 Cal.4th 165.) Therefore, no review of the potential effects of the proposed initiative on the environment is required.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-184

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF
AN INITIATIVE TO AMEND THE CITY OF MODESTO 2008 URBAN AREA
GENERAL PLAN TO ESTABLISH LIMIT LINES (BOUNDARIES) FOR
NONRESIDENTIAL, AND MEDIUM AND LARGE LOT RESIDENTIAL
DEVELOPMENT, OUTSIDE OF WHICH AREAS NEW DEVELOPMENT
SUBJECT TO THE LIMITS WOULD REQUIRE VOTER APPROVAL TO THE
CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL
ANALYSIS OF SAID MEASURE

WHEREAS, the City Council has directed the City Clerk to submit to the voters
at the next regular municipal election to be held on November 3, 2015, an “Initiative to
Amend the City of Modesto 2008 Urban Area General Plan to Establish Limit Lines
(Boundaries) for Nonresidential, and Medium and Large Lot Residential Development,
Outside of Which Areas New Development Subject to the Limits Would Require Voter
Approval” (“Initiative”).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the City Clerk is hereby directed pursuant to California Elections Code Section 9280
to transmit a copy of said Initiative to the City Attorney, who is hereby directed to
prepare an Impartial Analysis of the measure showing the effect of the measure on
existing law on the operation of the measure.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

2437423.1
MODesto City Council
Resolution No. 2015-185

A resolution authorizing the members of the City Council, or any of them, to file written arguments in favor of or in opposition to an initiative to amend the City of Modesto 2008 Urban Area General Plan to establish limit lines (boundaries) for nonresidential, and medium and large lot residential development, outside of which areas new development subject to the limits would require voter approval

Whereas, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2015, an “Initiative to Amend the City of Modesto 2008 Urban Area General Plan to Establish Limit Lines (Boundaries) for Nonresidential, and Medium and Large Lot Residential Development, Outside of Which Areas New Development Subject to the Limits Would Require Voter Approval” (“Initiative”).

Now, therefore, be it resolved by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said Initiative and to change such arguments until and including the date and time after which no argument may be filed with the City Clerk. In the event that an argument is filed for or against the Initiative, the members of the City Council, and any of them, are also authorized to file a rebuttal argument.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2\textsuperscript{nd} day of June, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Cogdill

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk

06/02/15/atty/ALindgren/Item 10 2 2015-185
RESOLUTION AUTHORIZING A MERIT INCREASE FOR THE CITY CLERK, EFFECTIVE JUNE 29, 2015

WHEREAS, salaries for Charter Officers appointed by the City Council are subject to periodic review and adjustment, and

WHEREAS, on May 14, 2014 the Council approved an merit increase in salary to STEPHANIE LOPEZ, City Clerk, effective July 1, 2014, after a performance evaluation concluded outstanding performance, which increase was within the range established in Resolution 2012-369, and

WHEREAS, on May 5, 2015 a subsequent annual performance evaluation was conducted a performance evaluation that concluded outstanding performance; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a merit increase in salary, which increase is within the range established in Resolution 2012-369, to STEPHANIE LOPEZ, City Clerk, effective June 29, 2015, as follows:

<table>
<thead>
<tr>
<th>Title</th>
<th>Hourly</th>
<th>Bi-Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Clerk</td>
<td>56.64</td>
<td>4531.20</td>
<td>9855.36</td>
</tr>
</tbody>
</table>
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 9th day of June, 2015, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Madrigal,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
DIANE N. PEREZ, Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AMENDMENT NUMBER TWO TO THE EMPLOYMENT AGREEMENT WITH STEPHANIE LOPEZ, CITY CLERK, DATED APRIL 8, 2008

WHEREAS on May 13, 2008, the City Council, by Resolution No. 2008-268, approved an Employment Agreement with Stephanie Lopez, and

WHEREAS on May 13, 2014, the City Council, by Resolution No. 2014-184, approved Amendment Number One, amending Section 4 of the Employment Agreement with Stephanie Lopez, and

WHEREAS, on May 5, 2015, a subsequent annual performance evaluation was conducted a performance evaluation that concluded outstanding performance; and

WHEREAS, the parties desire to amend Section 4 of the Employment Agreement to reflect a monthly salary of nine thousand eight hundred and fifty five dollars and thirty-six cents ($9,855.36) effective June 29, 2015; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to section 4 of the Employment Agreement between the City of Modesto and Stephanie Lopez to reflect a monthly salary of nine thousand eight hundred and fifty five dollars and thirty-six cents ($9,855.36) effective June 29, 2015.
The foregoing resolution was introduced at regular meeting of the Council of the City of Modesto held on the 9th day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

ATTEST: DIANE N. PEREZ, Deputy City Clerk

(APPROVED AS TO FORM:

BY: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-188

RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1 – 6 AND SETTING A PUBLIC HEARING ON AUGUST 11, 2015 TO CONSIDER THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1

WHEREAS, Resolution No. 88-935, adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Maintenance Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the Landscape and Lighting Act of 1972, (California Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the California Streets and Highways Code requires the Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 1, to prepare and file an annual report, and

WHEREAS, the Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, California Streets and Highways Code Section 22623 requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:
a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in the annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by the California Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 1 during the fiscal year 2015-16.

2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to, landscape irrigation systems in the following locations:

   a. Street medians in Creekwood Drive
   
   b. Areas adjacent to the access control walls along Creekwood Drive
c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Tuesday, the 11th day of August, 2015, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the Landscape and Lighting Act of 1972.

7. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION AND SETTING A PUBLIC HEARING ON AUGUST 11, 2015 TO CONSIDER THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2

WHEREAS, Resolution No. 89-460, adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Maintenance Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right of way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units Nos. 1 and 2, and

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972, (California Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the California Streets and Highways Code requires the Engineer, the person designated by the Council as Engineer of Work for Assessment District No. 2, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, California Streets and Highways Code Section 22623 requires the Council to adopt a resolution of intention which shall include the following:
a. Declaration of intention of the Council to levy and collect assessments within the assessment district for the fiscal year stated in said annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by California Streets and Highways Code Section 22625, and the place for hearing by the Council on the levy of the proposed assessment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 2 during Fiscal Year 2015-2016.

2. There are no proposed new improvements or any substantial changes in the existing improvements within the existing Landscape Maintenance Assessment District No. 2, and the existing improvements to be made in said assessment district are generally described as follows:

   The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to, landscape irrigation systems in the following locations:

   a. Street medians in Creekwood Drive

   b. Areas adjacent to the access control walls along Creekwood Drive
c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 2 is located in the County of Stanislaus, within the City limits of the City of Modesto, and is more specifically located on the northeast corner of Yosemite Boulevard and North McClure Road. District 2 is bounded by Yosemite Boulevard on the south, North McClure Road on the west, Yosemite Meadows Drive on the east, and Mechalys Way on the north.

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 2.

5. On Tuesday, the 11th day of August, 2015, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the Landscaping and Lighting Act of 1972.

7. The levy and collection of assessments as set forth in this resolution shall follow the procedural and substantive requirements of Proposition 218 pursuant to Article 13D, Section 5(a) of the California Constitution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR THE SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT, AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON AUGUST 11, 2015

WHEREAS, on June 29, 1999, the County of Stanislaus ("County") formed the Shackelford Landscape and Lighting District ("Shackelford LLD") for the purpose of administering the maintaining seventy-seven (77) 200-watt high-pressure sodium streetlights, and

WHEREAS, the Shackelford LLD was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, the Shackelford LLD is comprised of approximately 153 acres, includes 495 lots with both residential and commercial development, and is bounded by Crows Landing on the west, E. Hatch Road on the south, Union Pacific Railroad on the east, and State Route 99 on the north, and

WHEREAS, on February 22, 2012, the Stanislaus County Local Agency Formation Commission ("LAFCO") approved the annexation of the Shackelford Area to the City of Modesto ("City"), and

WHEREAS, on April 24, 2012, the City Council approved the Shackelford Landscape and Lighting District Transfer Agreement between the County and City, and

WHEREAS, the City assumed full responsibility and administration of the Shackelford LLD on July 1, 2012, and
WHEREAS, Section 22623 of the California Streets and Highways Code requires the Engineer, the person designated by this Council as Engineer of Work for the Shackelford LLD, to prepare and file an annual report, and

WHEREAS, the Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, California Streets and Highways Code Section 22623 requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:

   a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the Shackelford LLD for the fiscal year stated in the annual report.

   b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

   c. Reference to the assessment district by its distinctive designation and indication of the general location of the Shackelford LLD.

   d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the Shackelford LLD and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the Shackelford LLD.

   e. Notice of the time, as fixed by the California Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The City Council intends to levy and collect assessments within the Shackelford LLD during the Fiscal Year 2015-16.
2. There are no proposed new improvements or any substantial changes in the existing improvements in the Shackelford LLD and the existing improvements to be made in the Shackelford LLD are generally described as follows:

The City shall provide maintenance, operation and servicing, in perpetuity, of streetlights and any and all improvements required for such maintenance including, but not limited to:

a. Payment to local utility company for monthly power costs of energizing street lights in the Shackelford LLD.

b. Payment to local utility company for maintenance of street lights in the Shackelford LLD that the utility company owns (usually those lights that are mounted on wooden poles).

c. Maintenance provided by the City of Modesto for street lights in the Shackelford LLD that are owned by the City of Modesto (usually those lights that are mounted on steel poles).

3. The Shackelford LLD is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located North of Hatch Road, South of State Highway 99, and East of Crows Landing Road.

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the Shackelford LLD and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the Shackelford LLD.

5. On Tuesday, the 11th day of August, 2015, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the questions of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.
6. The City Clerk is authorized and directed to give the notice of hearing required by the Landscape and Lighting Act of 1972.

7. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-191

RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2014-2015,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2014-2015 Annual Operating and Capital Improvement budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
FISCAL YEAR 2014-15

INFORMATION TECHNOLOGY
A budget adjustment is necessary to 1) establish Capital Improvement Project #100885, ERP Implementation Extension, to complete outstanding Oracle applications that were not part of the Financial Software Upgrade Project #100139, 2) Transfer $176,465 from Information Technology Reserves to Project #100885, ERP Implementation Extension for Discretionary Costs associated with this project.

PARKS, RECREATION AND NEIGHBORHOODS
A budget adjustment is necessary to 1) recognize $59,157 in unbudgeted Miscellaneous Revenue, and 2) reallocate additional revenues and adjust expense budget to reflect the actual expense in Project #100293, Fund Development Projects.

POLICE DEPARTMENT
A budget adjustment is necessary to transfer Salary and Benefit expense in the amount of $130,704 from Stanislaus Drug Enforcement Agency, Fund 6600, to the Police Department - Field Operations, Fund 0100, resulting from the reallocation of a Police Officer position.

PUBLIC WORKS
Approve creating a new Capital Improvement Project #100884, Install New Emergency Vehicle Pre-Emption Equipment, for the purpose of installing Emergency Vehicle Pre-Emption (EVP) systems at signalized intersections that currently do not have EVP systems, and process a budget adjustment transferring funds in the amount of $4,000 from General Fund Reserves to establish an expense budget for the design and construction of this project.

On May 5, 2015 the Council of the City of Modesto, by Resolution #2015-136 approved the purchase of a John Deere 5115M Tractor. Sufficient funds reside in Fleet Replacement Fund Reserves. A budget adjustment is necessary to transfer $55,000 from Reserves to the Fleet Replacement Fund, 5409.
A RESOLUTION APPROVING AN AGREEMENT WITH PIERCE MANUFACTURING INC. FOR THE PURCHASE OF ONE PIERCE 4X4 FREIGHTLINER WILDLAND PUMPER FOR THE ESTIMATED COST OF $330,947

WHEREAS, effective January 1, 2013, the Firefighting Resources of California Organized for Potential Emergencies updated its specifications for fire engine typing to reflect the national standards as defined by the National Wildfire Coordinating Group (NWCG) and National Incident Management system (NIMS), and

WHEREAS, with this change our Department’s two Bush/Grass engines are no longer recognized as Type III Wildland engines, and

WHEREAS, our current Wildland engines are 13 and 14 years old respectively. The current Wildland engines have become less reliable and were recommended to be replaced in 2013 and 2014, and

WHEREAS, staff recommends adding a Type III engine to the fleet in order to address a critical need for the City, Stanislaus County, and the State of California as a whole, and

WHEREAS, under the current Master Mutual Aid Agreements, the City of Modesto could be reimbursed up to $1,120 per day for the use of the apparatus when assigned to an incident outside the county, and

WHEREAS, last year this would have equated to revenue in the amount of approximately $70,000

WHEREAS, on June 27, 2006, the Modesto City Council adopted Pierce Manufacturing’s apparatus as the standard apparatus for the Modesto Fire Department
and approved a seven (7) year purchase agreement with Pierce Manufacturing for fire apparatus, and

WHEREAS, while this contract has since expired, staff recommends continuing the use of Pierce Apparatus, and

WHEREAS, through a competitive procurement process completed through the Houston-Galveston Area Council (H-GAC) the City will be “piggybacking” on the contract with Pierce Manufacturing Inc., Appleton, WI, which will conform to MMC Section 8-3.202(h),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Pierce Manufacturing Inc. for the purchase of one Pierce 4x4 Freightliner Wildland pumper for the estimated cost of $330,947.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: __________________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: __________________________

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-193

A RESOLUTION APPROVING THE TERMS SET FORTH BY OSHKOSH CAPITAL TO FINANCE THE ACQUISITION

WHEREAS, the cost of the engine will be approximately $307,500 plus sales tax of $23,447 for a total cost of $330,947, and

WHEREAS, staff has considered financing this purchase and concluded the use of third-party financing through Oshkosh Capital at a three (3) year term is the most cost-effective means of acquiring the apparatus at this time, and

WHEREAS, three (3) year financing through Oshkosh Capital with an annual payment in the amount of $115,899 which will result in a total amount paid of $347,697, and

WHEREAS, the first payment is currently included in the FY15-16 budget, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves of the terms set forth by Oshkosh Capital to finance the acquisition over a three (3) year period.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to negotiate, enter into and execute the application and any other applicable documentation.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEFHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO CREATE THE CLASSIFICATION OF MATERIALS MANAGEMENT SUPERINTENDENT/CITY ARBORIST AND RESTORE THE UTILITY DISPATCH SUPERVISOR

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2.2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. CLASSIFICATION CREATED AND RESTORED. The Position Classification Plan of the City of Modesto is hereby amended to create the classification of Materials Management Superintendent/City Arborist at salary range 438 and to restore the classification of Utility Dispatch Supervisor at salary range 427.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after July 1, 2015.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2014-517 TO REVISE THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD THE SALARY RANGE FOR UTILITY DISPATCH SUPERVISOR TO SALARY RANGE 427; TO ADD THE SALARY RANGE FOR MATERIALS MANAGEMENT SUPERINTENDENT/CITY ARBORIST TO SALARY RANGE 438; AND TO AMEND THE ACCOUNTING MANAGER FROM SALARY RANGE 442 TO 446

WHEREAS, the City Council desires to amend Exhibit “A” of Resolution No. 2014-517, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. AMENDMENT TO RESOLUTION NO. 2014-517. Exhibit “A” entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes," attached to Resolution No. 2014-517, is hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective July 1, 2015,” which is attached hereto and made a part hereof as though set forth in full herein. Said Exhibit “A” adds the Utility Dispatch Supervisor to salary range 427; adds the Materials Management Superintendent/City Arborist to salary range 438; and amends the Accounting Manager from salary range 442 to 446.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after July 1, 2015.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>407</td>
<td>Administrative Office Assistant II (Confidential)</td>
</tr>
<tr>
<td>411</td>
<td>Administrative Office Assistant III (Confidential)</td>
</tr>
<tr>
<td>412</td>
<td>Police Clerk II (Confidential)</td>
</tr>
</tbody>
</table>
| 415   | Legal Secretary I  
              Senior Administrative Office Assistant (Confidential) |
| 418   | Account Technician (Confidential)  
              Administrative Services Technician I (Confidential)  
              Systems Technician I |
| 419   | Legal Secretary II |
| 420   | Executive Assistant  
              Workers’ Compensation Claims Assistant |
| 421   | Deputy City Clerk  
              Senior Legal Secretary |
| 422   | Administrative Services Technician II (Confidential)  
              Employee Benefits Coordinator  
              Modesto Regional Fire Authority Information Technology Technician  
              Office Supervisor  
              Systems Technician II |
| 423   | Custodian Supervisor  
              Workers’ Compensation Claims Examiner I |
| 424   | Buyer |
| 425   | Parking Services Supervisor |
| 426   | Central Stores Supervisor  
              Financial Analyst I  
              Senior Systems Technician |
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 427   | Assistant Planner  
        Administrative Analyst I  
        Parking Adjudication Program Coordinator  
        Technology Solutions Analyst I  
        **Utility Dispatch Supervisor** |
| 428   | Animal Control Supervisor  
        Human Resources Analyst I  
        Workers' Compensation Claims Examiner II |
| 429   | Assistant City Clerk  
        Police Civilian Supervisor |
| 430   | Financial Analyst II  
        Senior Buyer  
        Software Analyst I  
        Systems Engineer I |
| 431   | Administrative Analyst II  
        Associate Planner  
        Events Coordinator  
        Technology Solutions Analyst II |
| 432   | Compost Facility Supervisor  
        Human Resources Analyst II  
        Junior Engineer  
        Neighborhood Preservation Supervisor  
        Operations Supervisor  
        Senior Workers' Compensation Claims Examiner  
        Wastewater Collection Systems Supervisor  
        Water Quality Control Plant Maintenance Supervisor |
| 433   | Water Resources Analyst  
        Parks Project Coordinator  
        Recreation Supervisor |
| 434   | Customer Services Supervisor  
        Financial Analyst III  
        Recycling Program Coordinator  
        Senior Crime and Intelligence Analyst  
        Software Analyst II  
        Systems Engineer II |
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 435   | Assistant Transportation Planner  
Business Analyst  
Cultural Services Program Manager  
Emergency Medical Services Coordinator  
Management Analyst  
Organizational Development Coordinator  
Transit Analyst  
Weed and Seed Program Coordinator |
| 436   | Assistant Engineer  
Electrical Supervisor  
Housing Rehabilitation Supervisor  
Senior Community Development Program Specialist |
| 437   | Senior Planner |
| 438   | Associate Land Surveyor  
Deputy Fire Marshal  
Environmental Services Supervisor  
Integrated Waste Specialist  
Laboratory Supervisor  
Property Agent  
Public Information Coordinator  
Public Safety Business Services Analyst  
Risk and Loss Control Coordinator  
Senior Financial Analyst  
Senior Human Resources Analyst  
Senior Software Analyst  
Senior Systems Engineer  
Water Distribution and Production Supervisor  
Modesto Regional Fire Authority Finance Manager  
Materials Management Superintendent/City Arborist |
| 439   | Administrative Services Officer  
Associate Transportation Planner  
Senior Business Analyst |
| 440   | Associate Engineer  
Water Quality Control Operations Supervisor |
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>441</td>
<td>Housing and Urban Development Manager</td>
</tr>
<tr>
<td></td>
<td>Infrastructure Financing Program Administrator</td>
</tr>
<tr>
<td></td>
<td>Parks Planning and Development Manager</td>
</tr>
<tr>
<td></td>
<td>Recreation Program Manager</td>
</tr>
<tr>
<td></td>
<td>Police Civilian Manager</td>
</tr>
<tr>
<td>442</td>
<td>Centre Plaza Manager</td>
</tr>
<tr>
<td></td>
<td>Construction Inspection Supervisor</td>
</tr>
<tr>
<td></td>
<td>Customer Services Manager</td>
</tr>
<tr>
<td></td>
<td>Environmental Regulatory Compliance Manager</td>
</tr>
<tr>
<td></td>
<td>Principal Information Technology Administrator</td>
</tr>
<tr>
<td></td>
<td>Purchasing Manager</td>
</tr>
<tr>
<td></td>
<td>Wastewater Collections Manager</td>
</tr>
<tr>
<td>443</td>
<td>Associate Civil/Traffic Engineer</td>
</tr>
<tr>
<td></td>
<td>Senior Transportation Planner</td>
</tr>
<tr>
<td></td>
<td>Streets Manager</td>
</tr>
<tr>
<td>444</td>
<td>Building Inspection Program Coordinator</td>
</tr>
<tr>
<td></td>
<td>Building Inspection Supervisor</td>
</tr>
<tr>
<td>445</td>
<td>Airport Manager</td>
</tr>
<tr>
<td></td>
<td>Fleet Manager</td>
</tr>
<tr>
<td></td>
<td>Principal Planner</td>
</tr>
<tr>
<td>446</td>
<td>Water Quality Control Plant Manager</td>
</tr>
<tr>
<td></td>
<td><strong>Accounting Manager</strong></td>
</tr>
<tr>
<td>447</td>
<td>Information Technology Manager</td>
</tr>
<tr>
<td></td>
<td>Traffic Operations Engineer</td>
</tr>
<tr>
<td></td>
<td>Water Systems Manager</td>
</tr>
<tr>
<td>448</td>
<td>Assistant Chief Building Official</td>
</tr>
<tr>
<td></td>
<td>Operations Manager</td>
</tr>
<tr>
<td></td>
<td>Recreation and Neighborhoods Services Manager</td>
</tr>
<tr>
<td></td>
<td>Transit Manager</td>
</tr>
<tr>
<td></td>
<td>Solid Waste Program Manager</td>
</tr>
<tr>
<td>RANGE</td>
<td>TITLE</td>
</tr>
<tr>
<td>-------</td>
<td>-------</td>
</tr>
</tbody>
</table>
| 450   | Business Center Manager  
       | Planning Manager  
       | Senior Civil Engineer |
| 452   | Chief Building Official  
       | Parks Recreation & Neighborhoods Operations Manager  
       | Traffic Engineer |
| 455   | City Engineer  
       | Engineering Division Manager |
RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2014-529 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO AMEND THE SALARY RANGE FOR PARKING SERVICES CREWLEADER FROM SALARY RANGE 119 TO 120

WHEREAS, the City Council desires to amend Exhibit “A” of Resolution No. 2014-529, which approved the Class Range Table for General Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. AMENDMENT TO RESOLUTION NO. 2014-529. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes," attached to Resolution No. 2014-529, is hereby amended as shown on the amended Exhibit “A" entitled “City of Modesto Class Range Table General Non-Sworn Classes effective July 1, 2015,” which is attached hereto and made a part hereof as though set forth in full herein. Said Exhibit “A” amends the Parking Services Crewleader from salary range 119 to 120.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after July 1, 2015.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  
ADAM U. LINDGREN, City Attorney
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 103   | Administrative Office Assistant I  
   Custodian I |
| 106   | Engineering Intern |
| 107   | Administrative Office Assistant II  
   Custodian II  
   Exhibits Coordinator |
| 109   | Account Clerk I  
   Customer Services Account Clerk I |
| 111   | Account Clerk II  
   Administrative Office Assistant III  
   Custodian Crewleader  
   Customer Services Account Clerk II |
| 112   | Maintenance Worker I |
| 114   | Electrician Assistant I  
   Equipment Service Technician  
   Production Technician  
   Storeskeeper |
| 115   | Senior Administrative Office Assistant  
   Senior Customer Services Account Clerk |
| 116   | Maintenance Worker II  
   Wastewater Collection Systems Operator I  
   Water Distribution Operator I |
| 117   | Airport Maintenance Worker  
   Groundskeeper |
| 118   | Account Technician  
   Administrative Services Technician I  
   Electrician Assistant II  
   Fleet Procurement Technician  
   Senior Storeskeeper  
   Tree Trimmer  
   Water Distribution Operator II |
| 119   | Code Enforcement Officer I -Neighborhood Preservation Unit  
   Customer Services Account Technician |
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Equipment Operator</td>
</tr>
<tr>
<td>120</td>
<td>Assistant Buyer</td>
</tr>
<tr>
<td></td>
<td>Environmental Compliance Technician</td>
</tr>
<tr>
<td></td>
<td>Laboratory Analyst I</td>
</tr>
<tr>
<td></td>
<td>Parks Maintenance Crewleader</td>
</tr>
<tr>
<td></td>
<td>Recreation Coordinator</td>
</tr>
<tr>
<td></td>
<td>Wastewater Collection System Operator II</td>
</tr>
<tr>
<td></td>
<td>Wastewater Treatment Plant Operator I</td>
</tr>
<tr>
<td></td>
<td>Water Quality Control Technician I</td>
</tr>
<tr>
<td></td>
<td><strong>Parking Services Crewleader</strong></td>
</tr>
<tr>
<td>121</td>
<td>Building Maintenance Technician</td>
</tr>
<tr>
<td></td>
<td>Parks Maintenance Mechanic</td>
</tr>
<tr>
<td></td>
<td>Water Resource Specialist</td>
</tr>
<tr>
<td>122</td>
<td>Accountant I</td>
</tr>
<tr>
<td></td>
<td>Administrative Services Technician II</td>
</tr>
<tr>
<td></td>
<td>Electrician Assistant III</td>
</tr>
<tr>
<td></td>
<td>Solid Waste Enforcement Officer</td>
</tr>
<tr>
<td></td>
<td>Traffic Operations Technician</td>
</tr>
<tr>
<td></td>
<td>Tree Trimmer Crewleader</td>
</tr>
<tr>
<td>123</td>
<td>Code Enforcement Officer II -Neighborhood Preservation Unit</td>
</tr>
<tr>
<td></td>
<td>Development Services Technician I</td>
</tr>
<tr>
<td></td>
<td>Engineering Assistant Trainee</td>
</tr>
<tr>
<td></td>
<td>Equipment Mechanic</td>
</tr>
<tr>
<td></td>
<td>Senior Equipment Operator</td>
</tr>
<tr>
<td></td>
<td>Welder/Fabricator</td>
</tr>
<tr>
<td>124</td>
<td>Community Development Program Specialist I</td>
</tr>
<tr>
<td></td>
<td>Cross Connection Specialist</td>
</tr>
<tr>
<td></td>
<td>Environmental Compliance Inspector I</td>
</tr>
<tr>
<td></td>
<td>Fire Equipment Mechanic</td>
</tr>
<tr>
<td></td>
<td>Heavy Equipment Mechanic</td>
</tr>
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<td></td>
<td>Laboratory Analyst II</td>
</tr>
<tr>
<td></td>
<td>Wastewater Treatment Plant Operator II</td>
</tr>
<tr>
<td></td>
<td>Water Conservation Specialist</td>
</tr>
<tr>
<td></td>
<td>Water Distribution Operator III</td>
</tr>
<tr>
<td></td>
<td>Water Meter Technician</td>
</tr>
<tr>
<td></td>
<td>Water Production Operator I</td>
</tr>
<tr>
<td></td>
<td>Water Quality Control Technician II</td>
</tr>
<tr>
<td></td>
<td>Water Services Equipment Operator I</td>
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<tr>
<td>RANGE</td>
<td>TITLE</td>
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<tr>
<td>-------</td>
<td>-------</td>
</tr>
</tbody>
</table>
| 125   | Airport Maintenance Crewleader  
      | Development Services Technician II  
      | Head Groundskeeper |
| 126   | Building Maintenance Specialist  
      | Housing Financial Specialist  
      | Housing Rehabilitation Specialist I  
      | Traffic Striping Crewleader  
      | Wastewater Collection System Crewleader  
      | Wastewater Treatment Plant Operator III |
| 127   | Engineering Assistant I  
      | Equipment Mechanic Crewleader  
      | Operations Crewleader |
| 128   | Building Inspector I  
      | Community Development Program Specialist II  
      | Electrician - Traffic and Buildings  
      | Electrician - Utilities  
      | Environmental Compliance Inspector II  
      | Heavy Equipment Mechanic Crewleader  
      | Instrumentation Technician  
      | Senior Fire Equipment Mechanic  
      | Water Production Operator II  
      | Water Services Equipment Operator II |
| 130   | Construction Inspector  
      | Housing Rehabilitation Specialist II  
      | Laboratory Analyst III  
      | Senior Wastewater Treatment Plant Operator |
| 131   | Engineering Assistant II |
| 132   | Building Inspector II  
      | Environmental Review Specialist  
      | Senior Environmental Compliance Inspector  
<pre><code>  | Water Division Crewleader |
</code></pre>
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>133</td>
<td>Assistant Land Surveyor</td>
</tr>
<tr>
<td>134</td>
<td>Plans Examiner</td>
</tr>
<tr>
<td></td>
<td>Senior Construction Inspector</td>
</tr>
<tr>
<td>135</td>
<td>Engineering Project Coordinator</td>
</tr>
<tr>
<td>136</td>
<td>Senior Building Inspector</td>
</tr>
</tbody>
</table>
RESOLUTION AMENDING THE FISCAL YEAR 2015-2016 ANNUAL OPERATING BUDGET

WHEREAS, classification studies were conducted by Human Resources which resulted in the development, revision and reclassifications of classification specifications,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2015-2016 Annual Operating budget as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]
ADAM U. LINDGREN, City Attorney
The departments have submitted the following budget enhancement requests with their FY 15/16 budget proposals, which will be reviewed by Human Resources at a later date, upon Council adoption of the funding:

**Wastewater Maintenance Superintendent (Utilities Department)**
- This position will oversee wastewater plant maintenance at both Sutter and Jennings Wastewater plants, and also the Electrical Section. Tied to Moss Adams Audit Report recommendation, Finding #2: The City's current organizational structure is inefficient and hinders collaboration between operations, maintenance, engineering, and capital projects.

**Maintenance Planning/Purchasing Technician (Utilities Department)**
- This position will report directly to the Maintenance Superintendent and will be responsible for execution of all maintenance work control processes through the CMMS, purchasing necessary equipment, and for the efficient and effective use of planning and scheduling of all resources to conduct maintenance activities, which will result in minimum downtime and maximum productivity. Tied to Moss Adams Audit Report recommendation, Finding #2: The City's current organizational structure is inefficient and hinders collaboration between operations, maintenance, engineering, and capital projects.

**Wastewater Collections System Operator I (Utilities Department)**
- The Wastewater Collections Section has implemented the new complimentary lower lateral cleaning program. This program has been very well received by our customers, and has dramatically reduced the number of cost-share applications processed by the City. Proper cleaning and inspection of laterals eliminates unnecessary cost-share repairs, and will result in a savings of approximately $50,000 - $70,000 annually. Service request volumes have continued to rise, and due to the increased call volumes, customer service and utility marking duties were divided into separate crews and additional staff is required.

**Water Superintendent (Utilities Department)**
- This position will oversee five Water Services Division programs and supervise 5 Water supervisors responsible for these programs. Tied to Moss Adams Audit Report recommendation, Finding #3: Supervisors in the Water Division have an average of 20 direct reports. The Water Superintendent will report directly to the Water Systems Manager, reducing span of control and will help meet the deficiencies expressed in the Moss Adams Audit Report.

**Water Quality Supervisor (Utilities Department)**
- This position will provide supervision over the new valve exercising program, cross connection, and water conservation and associated staff. 1 FTE Administrative Office Assistant III downgraded to an Administrative Office Assistant II in Water Services Admin (45010) will be moved to support the new Water Quality Supervisor. Tied to Moss Adams Audit Report recommendation, Finding #3: Supervisors in the Water Division have an average of 20 direct reports. This additional supervisor will report directly to the proposed Water
Superintendent, reducing span of control and will help meet the deficiencies expressed in the Moss Adams Audit Report.

**Water Crewleader (Utilities Department)**
- This position will provide lead worker functions for cross connection and water conservation programs and associated staff. Tied to Moss Adams Audit Report recommendation, Finding #3: Supervisors in the Water Division have an average of 20 direct reports. This additional crewleader will report to the proposed Water Quality Supervisor, reducing span of control and will help meet the deficiencies expressed in the Moss Adams Audit Report.

**Instrumentation Technician (SCADA) (Utilities Department)**
- This position will provide technical support for the Supervisory Control and Data Acquisition (SCADA) system which monitors and manages water and wastewater systems in Modesto. Tied to Moss Adams Audit Report Finding 5: The SCADA function is understaffed and disconnected from Utilities by reporting to the IT Department. SCADA is highly specialized and crucial for effective utility operations, and field technicians, operators, electricians, and engineers rely on SCADA for reliable, real-time information on system performance. This position will report to the proposed IT Systems Engineer.

**Administrative Services Technician II (Utilities Department)**
- This position will provide technical support for reporting, analyzing, investigating, and monitoring water quality to ensure regulatory compliance. Tied to Moss Adams Audit Report Finding 4: The Water Resource function, responsible for water quality compliance, is understaffed and, therefore, presents a risk of regulatory non-compliance for the City. The Water Resource function responsible for water quality compliance needs increased staff to decrease the risk of regulatory non-compliance for the City. This position will report to the Water Resource Analyst.

**Customer Service/Dispatch Technician (Utilities Department)**
- These positions are specific to the Water Services Division and the job titles need to depict the actual work being performed to retain current employees and for future recruitments. The following FTEs job titles will be changed to Customer Service/Dispatch Technician: (2) Administrative Office Assistant IIs and (2) Administrative Office Assistant III. Their direct supervisor was recently reclassified from Office Supervisor to Utility Dispatch Supervisor. Staff in the Water Customer Service Dispatch Office performs a variety of customer service and dispatch as their primary duties. The proposed modification is to create a new job title of Customer Service/Dispatch Technician to reflect the actual work performed. Tied to Moss Adams Audit Report Recommendation, Finding #11: From 2010 to 2013 turnover was 17 percent for Water and Wastewater Division.

**Principal Engineer (Utilities Department)**
- This position will provide supervisory support and division administration for engineering design and construction administration, and will provide oversight of the City’s Utilities Capital Improvement Projects. Tied to Moss Adams Audit Report Reference Finding #2: The City's current organizational structure is inefficient and hinders collaboration between operations, maintenance,
engineering, and capital projects. This position will report to the Engineering Division Manager, and will reduce span of control and workload, allowing the Engineering Division Manager to focus on more regional and regulatory issues, especially due to ongoing groundwater issues and recycled water opportunities.

**IT Systems Engineer (SCADA) (Utilities Department)**
- This position will be responsible for the Supervisory Control and Data Acquisition (SCADA) system which monitors and manages water and wastewater systems in Modesto. Tied to Moss Adams Audit Report Finding 5: The SCADA function is understaffed and disconnected from Utilities by reporting to the IT Department. SCADA is highly specialized and crucial for effective utility operations, and field technicians, operators, electricians, and engineers rely on SCADA for reliable, real-time information on system performance. This position will report to the Engineering Division Manager, and establish SCADA oversight to the Utilities Department with a single focus.

**Business Services Analyst (Utilities Department)**
- Water Services Admin and Wastewater Services Admin utilize Administrative Analyst II positions to perform a variety of utility-specific duties and as well as the broad scope of the Administrative Analyst series. The proposed modification is to create a new job title of Utilities Business Services Analyst. These positions are specific to the Divisions they support and the job titles need to depict the actual work being performed to retain current employees and for future recruitments. Duties include division budget oversight and analysis, and special projects related to a wide range of utility functions as assigned. Tied to Moss Adams Audit Report Recommendation, Finding #11: From 2010 to 2013 turnover was 17 percent for Water and Wastewater Division.

**Utilities Business Manager (Utilities Department)**
- With the creation of the Utilities Department, the Administration function of the former Utilities, Planning & Projects Department has expanded to include interaction with two additional divisions, and a total of 272 employees. Tied to Moss Adams Audit Report Recommendation, Finding 2: The City's current organizational structure is inefficient and hinders collaboration between operations, maintenance, engineering, and capital projects; and #11: From 2010 to 2013 turnover was 17 percent for Water and Wastewater Division.

**Solid Waste Enforcement Officer (Public Works)**
- Solid Waste is requesting 2 position allocations to carry out the new program implementation, data collection and enforcement responsibilities mandated by changes in State law. This requested enhancement a new Solid Waste Enforcement Officer/AB 341 position would be created and would be responsible for developing and enforcing and reporting on the mandatory commercial collection and organics materials collection programs recently imposed by AB 341 and AB 1826. Under two new State diversion laws, AB 341 and AB 1826, and the mandates of AB 32, the City is required to implement new programs and enforce diversion mandates. The proposed positions are necessary to perform both new enforcement functions and to analyze, monitor, and report the City's progress in meeting the mandates for solid waste reduction and GHG emissions reductions from Solid Waste and Recycling activities.
Building Inspection Program Coordinator (Community & Economic Development)
• Convert CEDD Building Safety division’s Plans Examiner position to Building Inspection Program Coordinator and eliminate Assistant Chief Building Official. The new management model of the division requires mid-level supervision of three workgroups. Since this is not a temporary model, adjustments need to be made with positions. One of these positions is in the Building Safety workgroup, specifically the Development Center operations.

Engineering Assistant II (Community & Economic Development)
• An additional Engineering Assistant II is needed to perform CAD work for the many design projects that are currently funded. We do not have sufficient staff to complete the required CAD work. Expense of this position is completely offset by the full overhead rate charged. Without the addition of this position, staff will be unable to complete the CIP projects within the anticipated schedules. This opportunity supports 2015-2018 City Council Strategic Plan Objective II to provide vibrant infrastructure and sustainable environment.

Housing Rehabilitation Specialist I (Community & Economic Development)
• This City receives approximately $250,000 in revolving loan funds annually to expend on new rehabilitation loans for eligible applicants. Currently there is one Housing Rehabilitation Specialist to provide technical assistance to eligible property owners participating in various subsidized housing rehabilitation programs; to inspect dwelling units of program participants to identify substandard conditions and other eligible work; to prepare specifications for work to be performed; and to estimate costs, monitor work, and maintain records. The $250,000 is funds received from monthly loan payments, loan payoffs, etc. The Neighborhood Stabilization Program II (NSP2) funds provided acquisition/rehabilitation activities to eligible individuals. The City will begin seeing approximately $16,000 a month in program income for loan repayments of these loans in late 2015. This program income, in addition to the funds already being receipted from CDBG RLF program funds, will provide funding for future acquisition/rehabilitation or demolition activities. 10% of NSP2 funds and the CDBG Entitlement funds received annually would pay for management oversight of these programs. Staff does not foresee any burden to the City General Fund with this addition of an additional Housing Rehabilitation Specialist. Adding an additional Housing Rehabilitation Specialist position will not only provide the support needed to work through the high volume of request being received for rehab programs, but will provide a valued resource to ensure program continuity is retained. The current Housing Rehabilitation Specialist can begin mentoring this individual to learn program funding expectations and to gain institutional knowledge of roles and responsibilities. This opportunity supports 2015-2018 City Council Strategic Plan Objective IV to provide great neighborhoods.

Account Clerk (Finance)
• The Payroll area currently only has two full-time positions and one part-time temporary employee who manage over 1,100 employee payroll records for the City of Modesto bi-weekly payroll. This enhancement is requesting one FTE Account Clerk position to provide additional payroll support to cover the key payroll functions needed to ensure backfill coverage is available at all times.
This position will be funded from the part-time temporary budget and new Direct Charge Agreements that were established as part of the FY 15-16 budget. With the on-going changes with union agreements and the necessity to managing our payroll system there is a very high risk that the City could not produce a payroll check due to the lack of payroll staff available. It is very difficult to structure job-sharing in this area due to the specific knowledge required to complete the various payroll duties. There has been a major increase in payroll reporting required by the State on an annual, quarterly and bi-weekly basis and with some of the new Affordable Care Act rules this will continue to increase. The most recent Risk Assessment performed by Moss Adams noted under Internal Controls the risk associated with 2 FTEs managing a payroll of over 1,000 employees and their risk mitigation was to add an additional FTE.

**Police Civilian Supervisor (Police Department)**
- The Police Department is requesting allocation of one (1) FTE Police Civilian Supervisor to provide supervision of non-sworn employees in the Crime Prevention and Crime Analysis Units in the Operations Division. The Crime Prevention Unit serves as the community education arm of the Police Department. This unit organizes and promotes the following programs and services to the community: National Night Out, Neighborhood Watch, Business Watch, CPTED inspections, Crime Free Multi-Housing Programs, Safety Fairs, and Fingerprinting. This unit also distributes educational materials, gives presentations to schools and special interest groups on a variety of safety issues, organizes specialized units for Public Safety Fairs, and virtually all of the Department's community outreach programs. The Crime Prevention Unit assists with organizing some of the Police Department's newest outreach programs including Town Hall Meetings and Coffee with Cops. This position would also provide supervision to the Crime Analysis Unit in the Operations Division. Crime Analysts work to identify crime trends, neighborhoods experiencing high crime rates and suspect information to help Area Commanders focus patrol resources where they are needed most. A sworn Police Lieutenant currently supervises the Crime Prevention and Crime Analysis Units, both of which are staffed with non-sworn employees. The allocation of one (1) Police Civilian Supervisor to provide supervision and oversight of these non-sworn functions would allow the Police Lieutenant, who is also the Assistant Division Commander to focus more of his time and attention on managing projects and directing the work of sworn Operations staff for all of the other units assigned to him and in support of the Area Command Lieutenants and the Operations Division Captain. This action would further enhance the Police Department's ability to promote, enhance and increase community-based partnerships in crime prevention, life safety and community policing by providing a supervisor to direct, plan, strategize, assign and effectively deploy non-sworn staff assigned to these units, which include Crime Analysts in the Crime Analysis Unit and Community Services Officers, Police Cadets, Part-time employees, volunteers and interns in the Crime Prevention Unit.

**Police Evidence & Property Technician (Police Department)**
- The Police Department is requesting allocation of one (1) FTE Property and Evidence Technician I/II to perform administrative and technical duties associated with the acceptance, storage, control and disposal of police evidence and property, to protect the integrity of evidence throughout the judicial process,
and to ensure compliance with all State and local laws regarding the storage and
disposition of property and evidence. This position will maintain records of
evidence tracking to ensure the integrity of the evidence for courtroom use in the
prosecution of offenders, and testify in court regarding handling and chain-of-
custody of evidence. The Property and Evidence Unit is currently staffed by a
supervising Police Sergeant and three full-time Property and Evidence
Technicians who are responsible for processing the intake of over 180,000
pieces of evidence on an annual basis. Past budget reductions have decimated
this area of the department. Current staffing levels are inadequate to meet
workload demands. In this last year arrests have increased exponentially. This
has had a significant impact on workload in this area of the department. Staff
cannot continue to keep up with the workload demands. One (1) FTE Property
and Evidence Technician is being requested to provide the necessary
compliment of staffing needed to enable Property and Evidence to handle the
processing of large volumes of property and evidentiary items coming into the
Property and Evidence facility. Without this additional position, the Department
will have to continue to look at less optimal means of filling this gap in its labor
force and in building the depth of knowledge base within the department that
goes with it, in order to meet the needs of the community.

Police Animal Control Officer (Police Department)
- The Police Department is requesting allocation of one (1) FTE Animal Control
  Officer to provide the necessary complement of staffing to provide animal control
  services coverage 7 days per week and relieve patrol officers of having to
  respond to priority AC calls. Animal Control Officers respond to complaints of
  vicious and dangerous animals, injured animals, barking dogs, unleashed/unlicensed dogs, investigate animal bites, animal cruelty and neglect.
  They are also responsible for educating the public on responsible pet ownership,
  and removing dead animals from city properties and streets. Two full-time Animal
  Control Officers and one supervisor respond to animal related patrol calls and
  also investigate and enforce City municipal code violations pertaining to animals.
  This is not a sufficient level of staffing for a city this size.

Police Tactical Training Center Coordinator (Range Master) (Police Department)
- The Police Department is requesting allocation of one (1) FTE Police Tactical
  Training Center Coordinator. This position will oversee all training and instruction
  at the Tactical Training Center. This position will also act as a facilities
  coordinator/manager addressing policy and liability issues at this facility.
  Additionally, this position would provide oversight for any construction
  improvements and/or remodeling of the buildings and grounds at this facility.
  The range is used by allied agencies and this position would be responsible for
  ensuring that those agencies adhere to policies and guidelines for use of the
  facility. A retired annuitant is currently overseeing the range and training center.
  A full-time Police Tactical Training Center Coordinator is needed to oversee
  these responsibilities. The Tactical Training Center is utilized by other law
  enforcement agencies and provides for a training facility here within Stanislaus
  County.

Police Clerk II (Police Department)
- The Police Department is requesting allocation of one (1) FTE Police Clerk II to
  handle the processing of warrants. The Police Clerk assigned to Warrants has
the enormous task of both inputting and closing out warrants within 2-3 computer programs daily. These warrants come into the Police Department's system from the courts. Again, this is a situation wherein the workload demand exceeds the available labor to address it. Warrants must be processed in accordance with specified guidelines; otherwise the criminals(s)/suspect(s) will be released from jail rather than arrested or cited. This represents a significant workload in the Records Unit, that it is too short-staffed to be able to address without adding another position to help support this function. The current workload for the processing of warrants is simply too great for one Police Clerk to handle. The closing out of warrants, scanning, removing from system and daily influx of the new warrants that come into the system from the courthouse has increased significantly. All warrants must be added or deleted from two to three computer programs daily. If the Warrants Clerk cannot perform these steps for each warrant in a timely manner, the criminal(s)/suspect(s) will be let go rather than arrested or cited.
MODESTO CITY COUNCIL  
RESOLUTION NO. 2015-198

RESOLUTION AUTHORIZING THE CITY OF MODESTO TO EXECUTE A FIRST AMENDMENT TO THE LEGAL SERVICES AGREEMENT DATED JUNE 24TH, 2014 WITH ARATA, SWINGLE, SODHI AND VAN EGMOND IN AN AMOUNT NOT TO EXCEED $30,000 TO CONTINUE REPRESENTING THE CITY OF MODESTO IN TORT LIABILITY CASES

WHEREAS, the City Attorney’s Office is still in need of outside counsel services; and

WHEREAS, the City Council by Resolution 2014-241 had previously approved an agreement with Arata, Swingle, Sodhi and Van Egmond to represent the City in the following types of cases: tort, trip and fall, sidewalk, road and other similar cases; and

WHEREAS, the City Attorney’s Office desires to extend the agreement with Arata, Swingle, Sodhi and Van Egmond; and

WHEREAS, the City Attorney’s office has drafted a First Amendment to the Legal Services agreement with Arata, Swingle, Sodhi and Van Egmond.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City of Modesto to execute a First Amendment to the Legal Services Agreement with Arata, Swingle, Sodhi and Van Egmond to continue representing the City of Modesto in tort liability matters, as provided in Exhibit A attached hereto and incorporated herein, and further authorizes the City Attorney to execute such agreement in a form substantially similar to Exhibit A.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney
FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT

This First Amendment for Legal Services (this “First Amendment”), is made and entered into on ______ day of _______ 2015 (“Effective Date”), by and between the CITY OF MODESTO, a California Municipal Corporation (“City”), and ARATA, SWINGLE, SODHI & VAN EGMOND, a Professional Corporation (“Attorney”), located at 912 11th Street, Modesto, California 95354. City and Attorney are hereinafter collectively referred to as the “Parties,” and singularly as “Party”.

RECITALS

WHEREAS, City and Attorney entered into a Legal Services Agreement (“Agreement”) to provide legal advice, representation and assistance to City in defense of tort claims, as assigned; and

WHEREAS, Attorney is specially trained, experienced and competent to perform such services; and

WHEREAS, the public interest, economy and general welfare will be served by the Agreement; and

WHEREAS, City and Attorney desire to amend the Agreement for further services by increasing the previously approved amount of fees from $200,000 to $230,000.

NOW, THEREFORE, it is hereby agreed that the Legal Services Agreement between the City of Modesto and Arata, Swingle, Sodhi and Van Edmond dated June 24, 2014 and authorized by Resolution No.2014-241 is amended as follows:

1. Fees and Costs. Section 2(a) of Paragraph 2, “Fees and Costs,” Hourly Rates is amended to state as follows:

“The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (thereafter the “Service”), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed a total sum of two hundred and thirty thousand dollars ($230,000).”

2. Entire Agreement. The parties to this First Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement, dated June 24th, 2014, remain in full force and effect to the extent they are not in conflict with this First Amendment. This document, including all exhibits, contain the entire amendment to the Agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this First Amendment. No alteration to the terms of this First Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.
3. **Authority.** The person signing this First Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this First Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the dates stated below.

**CITY OF MODESTO,**
A Municipal Corporation

By: ________________________________

Print name: _________________________

Title: ______________________________

APPROVED TO AS FORM:

_______________________________
Adam U. Lindgren, City Attorney

ATTEST:

_______________________________
Stephanie Lopez, City Clerk

[Signatures Continued on Next Page.]
ATTORNEY:

______________________________,
a Professional Corporation

________________________________________

Federal I.D. No.

________________________________________

State I.D. No.

________________________________________


TYPE OF BUSINESS ENTITY (check one):

_____ Individual/Sole Proprietor

_____ Partnership

_____ Corporation

_____ Limited Liability Company

_____ Other (please specify: ________________)

________________________________________

Signature of Authorized Person

Title

________________________________________

Additional Signature (if required)

Title
RESOLUTION AUTHORIZING THE CITY OF MODESTO TO EXECUTE A FIRST AMENDMENT TO THE LEGAL SERVICES AGREEMENT DATED JULY 3RD, 2014 WITH BORTON PETRINI, LLP IN AN AMOUNT NOT TO EXCEED $30,000 TO CONTINUE REPRESENTING THE CITY OF MODESTO IN TORT LIABILITY CASES

WHEREAS, the City Attorney’s Office is still in need of outside counsel services; and

WHEREAS, the City had previously approved an agreement with Borton Petrini, LLP to represent the City in the following types of cases: tort, trip and fall, sidewalk, road and other similar cases; and

WHEREAS, the City Attorney’s Office desires to extend the agreement with Borton Petrini, LLP; and

WHEREAS, the City Attorney’s office has drafted a First Amendment to the Legal Services Agreement with the Borton Petrini, LLP.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City of Modesto to execute a First Amendment to the Legal Services Agreement with Borton Petrini, LLP to continue to represent the City of Modesto in tort liability matters, as provided in Exhibit A attached hereto and incorporated herein, and further authorizes the City Attorney to execute such agreement in a form substantially similar to Exhibit A.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Gunderson,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREEN, City Attorney
FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT

This First Amendment for Legal Services (this “First Amendment”), is made and entered into on _____ day of ________ 2015 (“Effective Date”), by and between the CITY OF MODESTO, a California Municipal Corporation (“City”), and BORTON PETRINI, LLP a Professional Corporation (“Attorney”), located at 201 Needham Street, Modesto, California 95354. City and Attorney are hereinafter collectively referred to as the “Parties,” and singularly as “Party”.

RECITALS

WHEREAS, City and Attorney entered into a Legal Services Agreement (“Agreement”) to provide legal advice, representation and assistance to City in defense of tort claims, as assigned; and

WHEREAS, Attorney is specially trained, experienced and competent to perform such services; and

WHEREAS, the public interest, economy and general welfare will be served by the Agreement; and

WHEREAS, City and Attorney desire to amend the Agreement for further services by increasing the previously approved amount of fees from $40,000 to $70,000.

NOW, THEREFORE, it is hereby agreed that the Legal Services Agreement between the City of Modesto and Borton Petrini, LLP dated July 3, 2014 is amended as follows:

1. Fees and Costs. Section 2(a) of Paragraph 2,”Fees and Costs,” Hourly Rates is amended to state as follows:

“The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (thereafter the “Service”), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed a total sum of seventy thousand dollars ($70,000).”

2. Entire Agreement. The parties to this First Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement, remain in full force and effect to the extent they are not in conflict with this First Amendment. This document, including all exhibits, contain the entire agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this First Amendment. No alteration to the terms of this First Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.
3. **Authority.** The person signing this First Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this First Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the dates stated below.

**CITY OF MODESTO,**
A Municipal Corporation

By: _______________________________

Print name: _______________________

Title: _____________________________

APPROVED TO AS FORM:

_________________________________
Adam U. Lindgren, City Attorney

ATTEST:

_________________________________
Stephanie Lopez, City Clerk

[Signatures Continued on Next Page.]
ATTORNEY:

________________________________________,  
a Professional Corporation  

________________________________________

Federal I.D. No.  

________________________________________  
State I.D. No.  

________________________________________  

TYPE OF BUSINESS ENTITY (check one):

_____ Individual/Sole Proprietor

_____ Partnership

_____ Corporation

_____ Limited Liability Company

_____ Other (please specify: __________________)

________________________________________  
Signature of Authorized Person  

Title  

________________________________________  
Additional Signature (if required)  

Title
RESOLUTION AUTHORIZING THE CITY OF MODESTO TO EXECUTE A FIRST AMENDMENT TO THE LEGAL SERVICES AGREEMENT DATED JUNE 24TH 2014 WITH BURKE, WILLIAMS & SORENSEN, LLP IN AN AMOUNT NOT TO EXCEED $250,000 TO CONTINUE REPRESENTING THE CITY OF MODESTO IN THE REED V. CITY OF MODESTO CASE

WHEREAS, the Reed v. City of Modesto case is still pending; and

WHEREAS, the City of Modesto requires representation for this matter; and

WHEREAS, the City by Resolution 2014-242 had previously approved an agreement with Burke, Williams and Sorensen, LLP to represent the City of Modesto in the Reed v. City of Modesto case; and

WHEREAS, the City Attorney’s office has drafted a First Amendment to the Legal Services Agreement with Burke, Williams and Sorensen, LLP.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City of Modesto to execute a First Amendment to the Legal Services Agreement with Burke, Williams and Sorensen, LLP to continue representing the City of Modesto in the Reed v. City of Modesto case, attached hereto and incorporated herein as Exhibit A, and further authorizes the City Attorney to execute such agreement in a form substantially similar to Exhibit A.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion was seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT

This First Amendment for Legal Services (this “First Amendment”), is made and entered into on [ ] day of [ ] 2015 (“Effective Date”), by and between the CITY OF MODESTO, a California Municipal Corporation (“City”), and BURKE WILLIAMS & SORENSEN, a Professional Corporation (“Attorney”), located at 444 S. Flower Street, Suite 2400, Los Angeles, California 90071. City and Attorney are hereinafter collectively referred to as the “Parties,” and singularly as “Party”.

RECITALS

WHEREAS, City and Attorney entered into a Legal Services Agreement (“Agreement”) to provide legal advice, representation and assistance to the City in defense of Reed v. City of Modesto; and

WHEREAS, Attorney is specially trained, experienced and competent to perform such services; and

WHEREAS, the public interest, economy and general welfare will be served by the Agreement; and

WHEREAS, City and Attorney desire to amend the Agreement for further services by increasing the previously approved amount of fees from $200,000 to $450,000.

NOW, THEREFORE, it is hereby agreed that the Legal Services Agreement between the City of Modesto and Burke Williams & Sorensen dated June 24, 2014 and authorized by Resolution No.2014-242 is amended as follows:

1. Fees and Costs. Section 2(a) of Paragraph 2, “Fees and Costs,” Hourly Rates is amended to state as follows:

“The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (thereafter the “Service”), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed a total sum of four hundred and fifty thousand dollars ($450,000).”

2. Entire Agreement. The parties to this First Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement remain in full force and effect to the extent they are not in conflict with this First Amendment. This document, including all exhibits, contain the entire amendment to the agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this First Amendment. No alteration to the terms of this First Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.
3. **Authority.** The person signing this First Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this First Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the dates stated below.

**CITY OF MODESTO,**
A Municipal Corporation

By: ______________________________

Print name: _______________________

Title: ______________________________

APPROVED TO AS FORM:

_________________________________
Adam U. Lindgren, City Attorney

ATTEST:

_________________________________
Stephanie Lopez, City Clerk

[Signatures Continued on Next Page.]
ATTORNEY:

a Professional Corporation

______________________________________

Federal I.D. No.

______________________________________

State I.D. No.

______________________________________


TYPE OF BUSINESS ENTITY (check one):

____ Individual/Sole Proprietor

____ Partnership

____ Corporation

____ Limited Liability Company

____ Other (please specify: ______________________)

______________________________________

Signature of Authorized Person

Title

______________________________________

Additional Signature (if required)

Title
RESOLUTION AUTHORIZING THE CITY OF MODESTO TO EXECUTE A
SECOND AMENDMENT TO THE LEGAL SERVICES AGREEMENT DATED
MARCH 28, 2007 WITH DAVIDOVITZ & BENNETT IN AN AMOUNT NOT TO
EXCEED $200,000 FOR SERVICES ON THE FOLLOWING MATTERS: MID
LITIGATION, PCE LITIGATION, SIFA, AND STANISLAUS COUNTY V. COM
(GEER ROAD LANDFILL) LITIGATION

WHEREAS, Davidovitz & Bennett have represented and advised the City in the
above matters; and

WHEREAS, the City Attorney’s office has drafted a Second Amendment to the
Legal Services Agreement with the Davidovitz & Bennett dated March 28, 2007; and

WHEREAS, this second Amendment will replace all other prior agreements with
Davidovitz & Bennett, except for the new Standard Legal Services Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the City of Modesto to enter into an agreement with Davidovitz
& Bennett in an amount not to exceed $200,000 to represent and advise the City of
Modesto on the following matters: MID litigation, PCE litigation, SIFA, and Stanislaus
County v. COM (Geer Road Landfill) litigation, as provided in Exhibit A attached
hereeto and incorporated herein, and further authorizes the City Attorney to execute such
agreement in a form substantially similar to Exhibit A.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
SECOND AMENDMENT TO LEGAL SERVICES AGREEMENT

This Second Amendment for Legal Services (this “Second Amendment”), is made and entered into on _____ day of _______ 2015 (“Effective Date”), by and between the CITY OF MODESTO, a California Municipal Corporation (“City”), and DAVIDOVITZ & BENNETT, a California limited partnership (“Attorney”), located at 101 Montgomery Street, Suite 2550, San Francisco, California, 94104. City and Attorney are hereinafter collectively referred to as the “Parties,” and singularly as “Party.”

RECITALS

WHEREAS, City and Attorney entered into a Legal Services Agreement (“Agreement”) to provide legal advice, representation and assistance to City in defense and advice in matters of Special Advisory Counsel, as assigned; and

WHEREAS, Attorney is specially trained, experienced and competent to perform such services; and

WHEREAS, the public interest, economy and general welfare will be served by the Agreement; and

WHEREAS, City and Attorney desire to amend the Agreement to update the Scope of Work and repeal the First Amendment dated December 11, 2012.

NOW, THEREFORE, it is hereby agreed that the Legal Services Agreement dated March 28, 2007 between the City of Modesto and Davidovitz & Bennett LLP and the Amendment Number One to the Legal Services Agreement dated December 11, 2012, are amended as follows:

1. Exhibit “A” of the Legal Services Agreement dated March 28, 2007 regarding the “Scope of Work” is amended to state as follows:

“The firm shall provide its services to the City under this Agreement on the following matters: MID litigation, PCE litigation, SIFA, and Stanislaus County v. COM (Geer Road Landfill) litigation.”

2. Exhibit “B” of the Legal Services Agreement dated March 28, 2007 is amended to state as follows:

“Schedule of Fees

Moris Davidovitz $195 per hour
Charles Bolcom $185 per hour
James English $185 per hour
3. The first sentence of paragraph (c) of Section 24, “Insurance Requirements,” of the Legal Services Agreement dated March 28, 2007 is amended to state as follows:

“(c) Professional Liability: insurance with a minimum limit of $2,000,000 combined single limit per occurrence.”

4. The Amendment No. 1 to the Legal Services Agreement-Special Advisory Counsel between Davidovitz & Bennett LLP and the City of Modesto, dated December 11, 2012, is repealed in its entirety.

5. Entire Agreement. The parties to this Second Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement dated March 28, 2007, remain in full force and effect for the indicated matters to the extent they are not in conflict with this Second Amendment. This document, including all exhibits, contains the entire amendment to the agreements between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Second Amendment. No alteration to the terms of this Second Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto Municipal Code.

6. Authority. The person signing this Second Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this Second Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.
IN WITNESS WHEREOF, the Parties have executed this Second Amendment as of the dates stated below.

CITY OF MODESTO,
A Municipal Corporation

By: _____________________________
Print name: ___________________________
Title: _____________________________

APPROVED TO AS FORM:

___________________________________
Adam U. Lindgren, City Attorney

ATTEST:

___________________________________
Stephanie Lopez, City Clerk

ATTORNEY:
Davidovitz & Bennett,
a California limited partnership

___________________________________

Federal I.D. No.

___________________________________

TYPE OF BUSINESS ENTITY (check one):

_____ Individual/Sole Proprietor
_____ Partnership
_____ Corporation
_____ Limited Liability Company
____ X _____ Other (please specify: limited partnership)

___________________________________
Signature of Authorized Person

___________________________________
Title
RESOLUTION AUTHORIZING THE CITY OF MODESTO TO EXECUTE A NEW STANDARD OUTSIDE LEGAL SERVICES AGREEMENT WITH DAVIDOVITZ & BENNETT IN AN AMOUNT NOT TO EXCEED $120,000 ANNUALLY FOR LEGAL ADVICE, REPRESENTATION AND ASSISTANCE TO THE CITY IN RELATION TO SERVICES AS SPECIAL ADVISORY COUNSEL

WHEREAS, Davidovitz & Bennett have represented and advised the City in a variety of specialized matters for many years; and

WHEREAS, the City Attorney’s office has drafted a standard legal services agreement with Davidovitz & Bennett for legal advice, representation and assistance to the City in relation to services as Special Advisory Counsel; and

WHEREAS, this new agreement will replace all other prior agreements with Davidovitz & Bennett, except for the Second Amendment to Legal Services Agreement which will only be in effect for the following matters: MID litigation, PCE litigation, SIFA, and Stanislaus County v. COM (Geer Road Landfill) litigation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City of Modesto to enter into an agreement with Davidovitz & Bennett to represent the City of Modesto on specialized matters, as provided in Exhibit A attached hereto and incorporated herein, and further authorizes the City Attorney to execute such agreement in a form substantially similar to Exhibit A.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

(Seal)

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
LEGAL SERVICES AGREEMENT

This Agreement for Legal Services (this "Agreement") is made and entered into on the ___ day of ___, 2015 ("Effective Date"), by and between the CITY OF MODESTO, a California Municipal Corporation ("CITY"), located at 1010 Tenth Street, Sixth Floor, Modesto, California 95353 and DAVIDOVITZ + BENNETT, a California limited partnership ("Attorney"), located at One 101 Montgomery Street, Suite 2550, San Francisco, California, 94104. City and Attorney are hereinafter collectively referred to as the "Parties," and singularly as a "Party."

RECITALS

WHEREAS, City desires to obtain Attorney’s services with respect to providing litigation, trial counsel, legal advice, representation and assistance to City in relation to services as Special Advisory Counsel to the City on an as-needed/as-required basis to perform tasks as assigned by the City Attorney; and

WHEREAS, Attorney is specially trained, experienced and competent to perform such services; and

WHEREAS, the public interest, economy and general welfare will be served by this Agreement.

NOW, THEREFORE it is hereby agreed as follows:

1. Services.

   a. Scope of Work: Subject to the terms and conditions set forth in this Agreement, Attorney shall provide to City the following services ("Services"): litigation, trial counsel, legal advice, representation and assistance to City in relation to services as Special Advisory Counsel to the City for legal advice and assistance as requested by the City Attorney relating to public contracts, utilities, environmental, land use, housing, public finance, municipal code integration, and public agency meetings.

   Attorney shall not be compensated for services outside the scope of work identified under this Section unless prior to the commencement of such services: (i) Attorney notifies City and City agrees that such services are outside the scope of work under this Section; (ii) Attorney estimates the additional compensation required for these additional services; and (iii) City, after notice, approves in writing a Supplemental Agreement specifying the additional services and amount of compensation therefor.
b. **Term:** This Agreement shall become effective on the Effective Date, and shall continue in effect until both Parties have fully performed their respective obligations under this Agreement unless sooner terminated as provided in Section 7.

2. **Fees and Costs.**

   a. **Hourly Rates:** The hourly rate for Attorney, ordinarily $250 per hour, is modified as follows for matters where the City is not obtaining attorney services paid by an insurer(s):

   - Moris Davidovitz $195 per hour
   - Charles Bolcom $185 per hour
   - James English $185 per hour
   - Roland Stevens $185 per hour
   - Patricia Lakner $185 per hour

   The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (hereafter the "Services"), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed the total sum of one-hundred twenty thousand dollars ($120,000) annually.

   b. **Reimbursable Expenses.** City shall reimburse Attorney for the actual, reasonable and necessary expense of travel out of the Modesto metropolitan area, at the then current Internal Revenue Service approved rate (currently at $0.575 per mile), other than air fare which shall be paid at the actual cost for coach air travel. Attorney will not charge City for the cost of telephone calls other than a vendor's conference call charges. Litigation costs and expenses for statutory fees, witness fees, reporters' per diem and stenographic transcriptions, jury fees, and the expenses of serving process shall be advanced by Attorney and reimbursed by City. Expert consultants and witnesses may be retained by Attorney on terms acceptable to City, approved in advance by email or letter by the City Representative (as defined hereafter), in which case City shall reimburse Attorney or pay such consultants or experts directly.

   c. **Billing:**

   i. Legal billings shall be submitted to City every thirty (30) days unless otherwise agreed in writing by City and Attorney. Bills shall be submitted to:

---

Legal Services Agreement
City of Modesto and Davidovitz & Bennett

2
City Attorney
c/o Finance Director
1010 Tenth Street, 5th Floor
Modesto, CA 95354

ii. Each task shall be distinctly and completely identified. In litigation matters, City will not pay invoices that contain block billing. Each billing entry must contain the initials of the individual performing the task, the nature of the task, the date it was performed, and the length of time it took.

iii. Costs under $1,000.00 shall be paid by Attorney and submitted with their normal billing.

iv. City reserves the right to audit all invoices.

v. Payments to Attorney shall be made within a reasonable time after receipt of Attorney’s invoice, generally within thirty (30) days of receipt for invoices for Special Advisory Counsel and forty five (45) days of receipt for invoices for other services. Attorney shall be responsible for supplying all documentation necessary to reasonably verify the monthly billings to the City.

vi. In addition to the provisions stated elsewhere in this Agreement regarding the payment of fees, billing and budgeting, the following guidelines for billing apply:

(1) City expects each individual working on the matter for which Attorney is retained to have the necessary experience to perform the services required to protect or pursue City’s interests in the matter in a cost effective manner, consistent with high professional and ethical standards.

(2) City expects Attorney to select the individual most suitable for the task required and the specific needs of the matter, and to use the maximum efficiencies available. Billings for services performed by the inappropriate level of personnel will be reduced by City based on rate adjustments for the appropriate level of personnel.

(3) City will not pay for unnecessary review of texts, codes, rules of court, or other fundamental references. City will pay the hourly rate for specific legal research which is unique to the matter, assuming that Attorney has used maximum efficiencies and that
3. Reporting.

a. Attorney shall provide City with status reports on all matters under this Agreement within thirty (30) days of the assignment of such task.

b. Attorney shall upon request provide to City representative an electronic version
of all agreements, letters, memoranda or other documents it prepares under this Agreement in a Microsoft Word format compatible with that used by the City Attorney’s office.

4. **City Representative.** The City Attorney, or the City Attorney’s designee, shall be the “City Representative” under this Agreement and shall administer this Agreement for City, including any payments hereunder. All Attorney questions pertaining to this Agreement shall be referred to the City Representative or the Representative’s designee.

5. **Insurance Requirements.** During the entire term of this Agreement, Attorney shall maintain the following insurance:

   a. **Minimum Scope of Insurance:** Coverage should be at least as broad as:
      
      i. Insurance Services Office Form No. CG 0001 (Commercial General Liability);
      
      ii. Workers’ Compensation as required by the Labor Code of the State of California, and Employers’ Liability Insurance:
      
      iii. Professional Liability (Errors and Omissions) insurance against loss due to error, omission or malpractice.

   b. **Minimum Limits of Insurance:** Attorney shall maintain limits no less than:
      
      i. **Commercial General Liability:** $1,000,000 combined single limit per occurrence, including endorsements for contractual liabilities, broad form property damage and personal injury.
      
      ii. **Workers’ Compensation and Employers’ Liability:** Workers’ compensation limits as required by the Labor Code of the State of California and Employers’ Liability limits of $1,000,000 per accident.
      
      iii. **Professional Liability (Errors and Omissions):** $2,000,000 combined single limit per occurrence.

   c. **Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retentions must be declared to and approved by the City.

   d. **Other Insurance Provisions:** The policies are to contain, or be endorsed to contain, the following provisions:
      
      i. **General Liability Coverages:**
      
         (1) The General Liability policy shall be written on an occurrence
form and shall name City, its officers, officials, agents, employees
and volunteers as additional insureds. Such policy of insurance
shall be endorsed so that Attorney’s insurance shall be primary and
any insurance or self-insurance maintained by City, its officials,
employees or volunteers shall be in excess of Attorney’s insurance
and shall not contribute with it.

(2) Any failure to comply with reporting provisions of the policy shall
not affect coverage provided to City, its officials, employees or
volunteers.

(3) Coverage shall state that Attorney’s insurance shall apply
separately to each insured against whom claim is made or suit is
brought, except with respect to the limits of the insurer’s liability.

ii. All Coverages:

(1) Each insurance policy required by this Agreement shall be
endorsed to state that coverages shall not be canceled except after
thirty (30) days prior written notice has been given to City. In
addition, Attorney agrees that it shall not reduce its coverage or
limits on any such policy except after thirty (30) days prior written
notice has been given to City and City approves the reduction in
coverage or limits. Attorney further agrees that it shall not
increase any deductibles or self-insured retentions on any such
policy except after thirty (30) days prior written notice has been
given to City and City approves such increase.

(2) In the event claims made forms are used for any Professional
Liability coverage, either (i) the policy(ies) shall be endorsed to
provide not less than a five (5) year discovery period, or (ii) the
coverage shall be maintained for a minimum of two (2) years
following the termination of this Agreement and the requirements
of this section relating to such coverage shall survive termination
or expiration of this Agreement. Attorney shall furnish City with
the certificate(s) and applicable endorsements for ALL required
insurance prior to City’s execution of this Agreement.

c. Acceptability of Insurers: Insurance shall be placed with insurers with a Bests’
rating of no less than A:VII. This requirement may, however, be waived in
individual cases for Errors and Omissions Coverages only; provided, however,
that in no event shall a carrier with a rating below B:IX be acceptable.

d. Verification of Coverage: Attorney shall furnish City with certificates of
insurance showing compliance with the above requirements and with original
endorsements affecting all coverages required by this Agreement both prior to
the execution of this Agreement, and during the pendency of this Agreement at
any time upon request by City. The certificates and/or endorsements shall set
forth a valid policy number for City, and shall indicate the Issue Date, Effective
Date and Expiration Date. The certificates and endorsements for each insurance
policy shall be signed by a person authorized by the insurer to bind coverage on
its behalf. The certificates and endorsements shall be forwarded to the City
Representative.

g. Payment Withhold: City shall withhold payments to Attorney if the certificates
of insurance and endorsements required in this section are canceled or Attorney
otherwise ceases to be insured as required herein, with respect to services
provided after the date Attorney receives written notice from the insurer of such
cancellation or ceasing to be insured.

6. Indemnification.

a. Indemnity: Attorney shall fully indemnify and save harmless, City, its officers
and employees, including without limitation the City Attorney, and each and
every one of them, from and against all actions, damages, costs, liability, claims,
losses, judgments, penalties and expenses of every type and description,
including, but not limited to, any fees and/or costs reasonably incurred by City's
staff attorneys or outside attorneys and any fees and expenses incurred in
enforcing this provision, to which any or all of them may be subjected, to the
extent such Liabilities result from third party actions caused by any professional
negligent act or omission or willful misconduct of only Attorney, its
sub-attorneys, and their respective officers and employees, in connection with the
performance or nonperformance of this Agreement (hereafter collectively
referred to as “Liabilities”), whether or not the City, its officers or employees
reviewed, accepted or approved any service or work product performed or
provided by the Attorney, and whether or not such Liabilities are litigated, settled
or reduced to judgment. Attorney’s proposed contracts with expert consultants
shall be provided to City for prior review, including review for terms City may
require which provide indemnity obligation to City by such proposed consultants.

b. Obligation to Defend: Attorney shall, upon City’s request, defend at Attorney’s
sole cost any action, claim, suit, cause of action or portion thereof which asserts
or alleges Liabilities to the extent such Liabilities result from third party actions
caused by any professional negligent act or omission or willful misconduct of
only Attorney, its sub-attorneys, and their respective officers and employees, in
connection with the performance or nonperformance of this Agreement, whether
such action, claim, suit, cause of action or portion thereof is well founded or not.
c. **Insurance Policies; Intellectual Property Claims:** The existence or acceptance by City of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of City’s rights under this section, nor shall the limits of such insurance limit the liability of Attorney hereunder, except that City shall first look to Attorney’s insurance policies and coverages with respect to the indemnity and defense provisions of this Agreement, and the provision of defense and indemnity by such insurance shall be deemed to fully satisfy such indemnity and defense provisions. This section shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 4 (Confidentiality of City Information) above. The provisions of this section shall survive any expiration or termination of this Agreement.

7. **Termination.**

a. **By City.** City may terminate this Agreement at any time by written notice. After receiving such notice, Attorney will cease providing services. Attorney will cooperate with City in the orderly transfer of all related files and records to your new counsel.

b. **By Attorney.** Attorney may terminate this Agreement at any time with City’s consent or for good cause. Attorney may terminate this Agreement for any reason by giving to City Attorney not less than sixty (60) days prior written notice of termination. The notice shall specify the effective date of and reason for the termination. Good cause exists if (a) any statement is not paid within ninety (90) days of its receipt; (b) City fails to meet any other obligation under this Agreement and continues in that failure for 15 days after Attorney sends written notice to City; (c) City has misrepresented or failed to disclose material facts to Attorney, refused to cooperate with Attorney, refused to follow Attorney’s advice on a material matter, or otherwise made Attorney’s representation unreasonably difficult; (d) any other circumstance exists in which ethical rules of the legal profession mandate or permit termination, including situations where a conflict of interest arises. Any individual attorney listed in Paragraph 2 of this Agreement may at any time for any reason cease providing services to Attorney related to this Agreement. If Attorney terminates Services, City agrees to execute a substitution of attorneys promptly and otherwise cooperate in effecting that termination.

Termination of this Agreement, whether by City or by Attorney, will not relieve the obligation to pay for services rendered and costs incurred by Attorney before services formally ceased.

8. **General Provisions.**
a. Independent Contractor.

i. It is understood and agreed that Attorney (including Attorney’s employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto for any purpose whatsoever. Neither Attorney nor Attorney’s assigned personnel shall be entitled to any benefits payable to employees of City. City is not required to make any deductions or withholdings from the compensation payable to Attorney under the provisions of this Agreement, and Attorney shall be issued an IRS Form 1099 for its services hereunder. As an independent contractor, Attorney hereby agrees to indemnify and hold City harmless from any and all claims that may be made against City brought by any of Attorney’s employees or by any third party, including but not limited to any state or federal agency with respect to any of Attorney’s employees, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any Services under this Agreement.

ii. It is further understood and agreed by the Parties hereto that Attorney, in the performance of its obligations hereunder, is subject to the control and direction of City as to the designation of tasks to be performed and the results to be accomplished by the Services agreed to be rendered and performed under this Agreement, but not as to the means, methods, or sequence used by Attorney for accomplishing such results. To the extent that Attorney obtains permission to, and does, use City facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the Attorney’s sole discretion based on the Attorney’s determination that such use will promote Attorney’s efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the City does not require that Attorney use City facilities, equipment or support services or work in City locations in the performance of this Agreement.
iii. If, in the performance of this Agreement, any third persons are employed by Attorney, such persons shall be entirely and exclusively under the direction, supervision, and control of Attorney. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by Attorney. It is further understood and agreed that Attorney shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of Attorney’s assigned personnel and subcontractors.

b. Licenses; Permits, Etc.: Attorney represents and warrants that Attorney has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature which are legally required for Attorney to practice its profession or provide any services under the Agreement.

Attorney’s Initial

Attorney represents and warrants that Attorney shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Attorney to practice its profession or provide such Services. Without limiting the generality of the foregoing, if Attorney is an out-of-state corporation, Attorney warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.

c. Conflicts of Interest. Attorney represents and warrants that it has made a diligent effort to determine whether there are any actual or potential conflicts of interest that would preclude or interfere with Attorney’s performance of this Agreement, and that no such conflict of interest appears to exist. Attorney shall indemnify and hold harmless City from and against any and all liability, loss, expense and obligation arising directly or indirectly out of any breach of the foregoing representation and warranty. Attorney agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City at all times during the performance of this Agreement.

d. Confidentiality of City Information. Attorney understands and agrees that during the course performing the services required by this Agreement, or in contemplation thereof, Attorney may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Attorney agree that all
information disclosed by City to Attorney shall be held in confidence and used only in performance of the services required by this Agreement. A violation of this section shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

e. **Publicity.** The City Representative shall serve as the point of contact for press information regarding all matters performed by Attorney under this Agreement. If any publicity is generated by the subject matter of this representation, Attorney will consult with and obtain approval of the City Representative before making any statement to any media outlet (whether radio, print, internet or television) about the content and timing of such statement.

f. **Disqualification of Judges.** At the option of the City Attorney, judges may be disqualified from hearing City litigation, and Attorney shall adhere to such decision of the City Attorney. In the event that Attorney is of the opinion that a judge ought to be disqualified, the City Attorney must be consulted in advance by Attorney, and Attorney must obtain the City Attorney's written consent to such disqualification.

g. **Equal Employment Opportunity.** During the performance of this Agreement, Attorney, for itself, its assignees and successors in interest, agrees as follows:

i. **Compliance With Regulations:** Attorney shall comply with the Executive Order 11246 entitled "Equal Opportunity in Federal Employment", as amended by Executive Order 11375 and 12086, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), hereinafter collectively referred to as the "Regulations."

ii. **Nondiscrimination:** Attorney, with regards to the work performed pursuant to this Agreement, shall not discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation in selection and retention of subcontractors, including procurement of materials and leases of equipment. Attorney shall not participate either directly or indirectly in discrimination prohibited by the Regulations.

h. **Severability.** If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

i. **Waiver.** Neither City acceptance of, or payment for, any Service or Additional Service performed by Attorney, nor any waiver by either Party of any default, breach or condition precedent, shall be construed as a waiver of any provision of
this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

j. Enforcement of Agreement. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Stanislaus County in the State of California, and the Parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

k. Assignment Prohibited. The expertise and experience of Attorney are material considerations for this Agreement. City has a strong interest in the qualifications and capability of the persons and entities who will fulfill the obligations imposed on Attorney under this Agreement. In recognition of this interest, Attorney shall not assign any right or obligation pursuant to this Agreement without the written consent of the City. Any attempted or purported assignment without City's written consent shall be void and of no effect.

l. In any action to enforce the terms of this Agreement, the prevailing Party shall recover its reasonable attorneys' fees, providing that prior to the initiation of any such action the prevailing Party shall have participated in good faith in a mediation process through to its conclusion. The mediation process shall be conducted before a single, neutral, retired California judge. The mediation shall be concluded at such time as both Parties have terminated mediation sessions and mediation communications through the mediator. Evidence of the Parties' demands and offers in settlement, and the nature of the Parties' participation in the mediation process shall not be considered confidential and shall be admissible only to the limited extent necessary for a court to determine for purposes of recovery of attorneys' fees whether the prevailing Party participated in the mediation process in good faith.

m. Notice. Excluding bills; see section number 2 (b). Any notice, demand, request, consent, approval, communication either Party desires or is required to give the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail to the address set forth below. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this section.

To: City of Modesto:  
Attention: City Attorney  
Contact Information:  
1010 Tenth Street, 6th Floor  
To: Attorney:  
Attention: Moris Davidovitz  
Contact Information:  
101 Montgomery Street,
9. **Entire Agreement.** Except for the Second Amendment To Legal Services and its underlying Legal Services Agreement dated March 28, 2007, this document contains the entire agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by Attorney, and by City, in accordance with applicable provision of the Modesto City Code.

10. **Authority.** The person signing this Agreement for Attorney hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates stated below.

**CITY OF MODESTO,**  
A Municipal Corporation

By: __________________________

Print name: __________________________

Title: City Attorney

APPROVED TO AS FORM:

______________________________
City Attorney

ATTEST:

______________________________
City Clerk

**ATTORNEY:**  
**DAVIDOVITZ + BENNETT,**
a California limited partnership

Federal I.D. No.


TYPE OF BUSINESS ENTITY (check one):

_____ Individual/Sole Proprietor

_____ Partnership

_____ Corporation

_____ Limited Liability Company

_____ X_ Other (please specify: limited partnership

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Signature of Authorized Person

---

Title

---

Additional Signature (if required)

---

Title

2455094.2
RESOLUTION SUPPORTING THE PASSAGE OF ASSEMBLY BILL 700 CALIFORNIA DISCLOSE ACT

WHEREAS, ever-increasing amounts of funds are raised and spent in support of and opposition to state and local ballot measures; and

WHEREAS, in California, over $640 million was spent on California ballot measures in 2012 and 2014, much of the spending by groups with misleading names like “Stop Special Interest Money Now” or Californians Against Higher Health Care Costs; and

WHEREAS, Assembly Members Gomez and Levine have introduced Assembly Bill (AB) 700, the California Disclose Act, which would improve disclosure on political advertisements to help voters make well-informed decisions and have greater confidence in the electoral process; and

WHEREAS, the bill would require the three largest funders of ballot measure ads (the two largest on radio ads) to be clearly and prominently identified, on the ads themselves, so that viewers can immediately see who is funding the advertisement, and

WHEREAS, the Disclose Act would apply to television ads, radio ads, print ads, mass mailers, and robocalls for or against state and local ballot measures; and

WHEREAS, the Disclose Act would apply whether ads are paid for by corporations, PACs, or individuals; and

WHEREAS, “Follow the Money” rules would require ads to report the true corporate, PAC or individual contributors, not potentially misleading committee and non-profit names; and
WHEREAS, In the Supreme Court's Citizens United decision, eight of nine Supreme Court Justices noted the problems when groups run ads "while hiding behind dubious and misleading names" and said transparent disclosure is needed for voters "to make informed decisions and give proper weight to different speakers and messages;"

and

WHEREAS, voters deserve transparency in political advertising, and AB 700 would make significant strides toward this goal; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby supports the passage of Assembly Bill 700; and

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO DECLARING ITS INTENTION TO ESTABLISH THE DOWNTOWN MODESTO COMMUNITY BENEFIT DISTRICT AND TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT PURSUANT TO CITY OF MODESTO MUNICIPAL CODE TITLE 8, CHAPTER 9 PERTAINING TO THE FORMATION OF A COMMUNITY BENEFIT DISTRICT, AND CALLING AN ASSESSMENT BALLOT PROCEEDING AND ESTABLISHING A TIME AND PLACE FOR A PUBLIC HEARING (DECLAR ESTABLISH A COMMUNITY BENEFIT DISTRICT FOR 15 YEARS AND SETS A PUBLIC HEARING FOR AUGUST 11, 2015)

WHEREAS, the City of Modesto’s Community Benefit District Ordinance, Modesto Municipal Code Title 8, Chapter 9 (the “Ordinance”) authorizes the City to establish a Community Benefit District (“CBD”) for up to 20 years to enhance the security, safety, appearance, and economic viability within such districts; and

WHEREAS, the Ordinance authorizes the City to levy and collect assessments on real property within such districts for the purpose of providing improvements and promoting activities that specially benefit real property within such districts; and

WHEREAS, the Ordinance authorizes the City to use the procedures set forth in the Property and Business Improvement District Law of 1994 (Streets & Highways Code sections 36600 et seq.) (the “PBID Law”) as modified by the Ordinance for purposes of forming an assessment district; and

WHEREAS, Articles XIIC and XIID of the California Constitution and Section 53753 of the California Government Code (Proposition 218 Omnibus Implementation Act) also impose certain procedural and substantive requirements relating to the notice, protests and hearing requirements pertaining to new or increased assessments; and
WHEREAS, written petitions have been submitted by property owners within the area of the proposed CBD in Modesto that request the City Council initiate proceedings pursuant to the Ordinance to establish a Downtown Modesto Community Benefit District for a fifteen year period; and

WHEREAS, such petitions were signed by property owners in the proposed CBD who will pay more than thirty percent (30%) of the assessments proposed to be levied; and

WHEREAS, a Management District Plan entitled the Downtown Modesto Community Benefit District 2015 Management District Plan (the “Management Plan” attached hereto as Exhibit 1) for the proposed Downtown Modesto CBD has been prepared and contains all of the information required by the Ordinance, including, but not limited to, a description of the boundaries of the proposed CBD, the special benefit improvements and activities. The proposed boundaries of the Downtown Modesto CBD are also shown in the Management Plan that is attached.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MODESTO AS FOLLOWS:

Section 1. Pursuant to the Ordinance which incorporates provisions of Section 36621 of the PBID Law, the City Council declares its intention to establish the Downtown Modesto Community Benefit District (the “District”) for a period of fifteen (15) years, and to levy and collect assessments against lots and parcels of real property within the District commencing in fiscal year 2015-2016 and ending December 1, 2030.
Section 2. The City Council hereby approves the Management Plan, which contains the District’s Engineer’s Report, for the proposed Downtown Modesto CBD, which Management Plan is on file in the office of the City Clerk, and attached hereto as Exhibit 1.

Section 3. The City Clerk shall make the Management Plan and other documents related thereto available to the public for review during normal business hours.

Section 4. The proposed activities as set forth in the Management Plan include marketing, District identity, beautification, security, maintenance, administration/corporate operations and an appropriate contingency/reserve. All proposed services and improvements will provide a special benefit to businesses and real property located in the District.

Section 5. The total assessment proposed to be levied and collected within the proposed Downtown Modesto CBD for fiscal year 2015-2016 is $700,000. Section 7 of the Management Plan sets forth the proposed Downtown Modesto CBD annual assessment amount by Assessor’s Parcel Number. The amount to be levied and collected for subsequent years may be increased by an amount not to exceed five percent (5%) per year in accordance with increases in the Stanislaus County Consumer Price Index for all urban consumers from February to February.

Section 6. NOTICE IS HEREBY GIVEN that the City Council shall conduct a public hearing to establish the Downtown Modesto CBD, and the levy and collection of assessments for fiscal year 2015-2016 on the 11th day of August, 2015, at 5:30 p.m. or as soon thereafter as the matter may be heard, in the City Council Chambers located at 1010 10th Street, Modesto, CA 95354.
At the public hearing, the City Council will consider all objections or protests, if any, to the proposed establishment of the Downtown Modesto CBD, and all objections to the proposed assessment.

An assessment ballot proceeding is hereby called on behalf of the City Council on the matter of confirming assessments for any property within the District subject to a new assessment pursuant to Article XIIID of the California Constitution. The assessment ballot proceeding on the matter of authorizing the levy of the assessments, pursuant to Government Code Section 53753 and Section 4 of Article XIIID of the California Constitution, consists of a ballot and mailed notice, distributed to affected property owners. Each property owner’s ballot is weighted by the amount of his or her proposed assessment. Each property owner may return the ballot by mail or in person to the City Clerk, Modesto City Hall, at 1010 10th Street, Modesto, CA 95354, at or before the conclusion of public testimony at the public hearing. A written protest may be withdrawn in writing at any time before the public hearing.

At the conclusion of the public hearing, the City Clerk and/or an impartial designee shall tabulate the ballots to determine if a majority protest exists. The ballots shall be weighted according to the proportional financial obligation of each affected parcel. A majority protest exists if, upon the conclusion of the public hearing, weighted ballots submitted in opposition to the assessment exceed the weighted ballots submitted in favor of the assessment. Provided a majority protest does not exist, the City Council may then establish the Downtown Modesto CBD by adopting a resolution to that effect.
Section 7. The City Clerk is hereby authorized and directed to give notice of the public hearing as provided in Section 53753 of the Government Code and Article XIID, Section 4 of the California Constitution.

Section 8. The City Manager is hereby authorized to sign the ballots for the City-owned properties to establish the Downtown Modesto CBD.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: _____________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________

ADAM U. LINDGREN, City Attorney
The Downtown Modesto Community Benefit District 2015 Management District Plan

Final Plan – April 24th, 2015

Formed Under Title 8, Chapter 9 of the City of Modesto Municipal Code

Prepared by:
New City America, Inc.
and
The Downtown Modesto CBD Steering Committee
# Downtown Modesto Community Benefit District (CBD) Management District Plan

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<td>32</td>
</tr>
</tbody>
</table>

**Attachment:**

A. Engineer's Report
Section 1
Management District Plan Summary

The name of this Community Benefit District is the Downtown Modesto Community Benefit District (the “CBD”). The District is being formed pursuant of the City of Modesto Community Benefit District formed under [Ordinance] and hereinafter referred to as the “Ordinance”.

Developed by the Downtown Modesto CBD Steering Committee – this Management District Plan is proposed to improve and provide special benefits to individual parcels located within the boundaries of the newly proposed 2015 Downtown Modesto Community Benefit District. The proposed CBD will provide special benefit district improvements and activities, including cleaning, security, beautification, district identity, possible transportation related activities and other special benefit programs to parcels within the boundaries of the proposed district.

The proposed Downtown Modesto CBD serves to improve the individual parcels, attract new customers to their businesses, increase sales, increase occupancies and enhance the benefitting individual parcels within the CBD. The proposed CBD seeks to fund the special benefits that will be provided over the next fifteen years, based upon keeping the greater Downtown Modesto area clean, safe, orderly, attractive, well marketed with special events and programs, and increase commerce within the boundaries.

Boundaries:

The boundaries shall include approximately 47 whole or partial blocks with 318 parcels owned by 214 property owners. See Downtown Modesto Proposed CBD map in Section 2, pages 10 and 11. The District is generally bounded by:

- L Street between both sides of 8th Street and Needham on the northwest,
- Needham Street, between L Street and H Street on the north,
- H Street between 19th Street and 15th Street, and then on G Street from 15th Street to both sides of 8th Street on the southeast; and
- Both sides of 8th Street from G Street to L Street on the southwest;

Budget:

The total first year Downtown Modesto CBD budget based upon assessable individual parcel owners for FY 15/6, will be $ 700,000.00. Please see Section 3 for a breakdown of the categories of special benefit services.
Improvements, Activities and Services of the Downtown Modesto CBD Plan:
There are five basic categories of special benefit services that will be funded by the Downtown Modesto CBD. All of these services will confer a special benefit to the individual parcels within the Downtown Modesto CBD. The categories of special benefits are as follows:

1. **Sidewalk Operations, Beautification and Order**: This includes all sidewalk and gutter cleaning services, possible enhance security, sidewalk steam cleaning services, graffiti removal, trash removal, as well as enhanced services to beautify the district. Sidewalk operations services totals $425,000 or 61% of the first year annual budget of the new CBD.

2. **District Identity**: These services include the branding of the Downtown Modesto area, marketing and promotions, newsletter, public relations, media relations, social media, publicity, special events, website development and maintenance, public space develop and holiday decorations. These services equal $150,000 or 21% of the first year annual budget of the new district.

3. **Enhanced Residential Improvements**: Though there are currently not any single residential units in the form of condos within the boundaries of the revised district, future condo developments that will be constructed within the CBD boundaries will be assessed to fund their particular special benefits. These special benefit services will include, but are not limited to: enhanced beautification in blocks with a high density of condos, public space development, implementation of pet related services and administrative costs. These assessments will be allocated with the same percentages of the overall budget.

4. **Program Management and Corporate Operations**: These services equal $97,000 or 14% of the first year annual budget of the new district.

5. **Contingency/Reserve**: This contingency anticipates a “historic” non-payment rate percentage of 2 to 4%, and any City or County collection fees. This fund equals $28,000 or 4% of the first year annual budget of the new district.
**Downtown Modesto CBD FY 2015-16 Budget**

<table>
<thead>
<tr>
<th>PROGRAM OR ACTIVITY FUNDED BY THE DOWNTOWN MODESTO COMMUNITY BENEFIT DISTRICT</th>
<th>APPROXIMATE% OF FIRST YEAR ANNUAL BUDGET</th>
<th>ESTIMATED ANNUAL COSTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk Operations, Beautification and Order</td>
<td>61%</td>
<td>$425,000.00</td>
</tr>
<tr>
<td>District identity and Streetscape Improvement</td>
<td>21%</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>Administration/Corporate Operations</td>
<td>14%</td>
<td>$97,000.00</td>
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<tr>
<td>Contingency/City and County Fees/Reserves/Special projects</td>
<td>4%</td>
<td>$28,000.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100%</strong></td>
<td><strong>$700,000.00</strong></td>
</tr>
</tbody>
</table>

*The City, individuals, businesses, and groups that contributed to the investigation and formation costs of the Downtown Modesto CBD shall be entitled to be reimbursed within the first five years of the adoption of the CBD by the City Council. Costs that can be recovered include: (1) The costs of preparation of the management plan and engineer’s report required by state law; (2) The cost of circulating and submitting the petition to the City Council seeking establishment of the District; (3) The costs of printing, advertising and the giving of published, posted or mailed notices; (4) Compensation of any engineer or attorney employed to render services in proceedings associated with formation of the Downtown Modesto CBD; and (5) Costs associated with any ballot proceedings required by law for approval of the CBD assessment. Contributions to the investigation and formation effort shall be reimbursed fully in the amount contributed upon receipt of appropriate documentation of the contribution to the new management corporation Board of Directors. The total amount to be reimbursed shall not exceed $70,000.*

This plan proposes percentages for groups of services with the intent that they will provide individual parcels with an understanding of the portion of the budget allocated to fund those services, while simultaneously giving the property owners and businesses an understanding of the proportional benefit they will receive. Demands for prioritization of one special benefit need over another within the same category will occur year by year. Supplemental security may be a priority one year, however enhanced sidewalk sweeping and beautification may be a priority another year. Both of these services fall within the same special benefit category or sidewalk operations.

**Method of Financing:**
The financing of the Downtown Modesto CBD is based upon the levy of special assessments upon real property that receive special benefits from the improvements and activities. See Section 4 for assessment methodology and compliance with Proposition 218. There will be four
factors used in the determination of proportional benefit to the parcels in the CBD. Those four factors are:

- Linear frontage;
- Lot size or the footprint of the parcel;
- Building square footage (excluding parking structures built within the building that predominantly serve the tenants of the building and are not open to the public); and
- Future residential condos that will be constructed within the District.

The following data represents the foundation of the assessments that will generate the revenue to fund the Downtown Modesto CBD: (verified as of April 5th, 2015);

**Benefit Zones:**
State law and the State constitution, Article XIIIID require that special assessments be levied according to the special benefit each individual parcel receives. There is only one proposed under this plan.

**Data in the CBD:**

<table>
<thead>
<tr>
<th>Building Square Footage</th>
<th>Lot Size (square feet)</th>
<th>Linear Frontage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,632,178</td>
<td>5,070,262</td>
<td>59,911</td>
</tr>
</tbody>
</table>

**Residential Condos:**
0 assessable building square footage. Currently there are no residential condo developments within the Downtown Modesto CBD boundaries total. When constructed, these future units will be assessed at the rate of $0.20 per square foot for their verifiable building square footage per parcel.

**Costs:**
Annual assessments are based upon an allocation of program costs by assessable linear frontage (by Benefit Zone), assessable on all sides of the parcels that receive benefit; PLUS lot or parcel square footage; PLUS assessable building square footage, and in the case of residential condos, by building square footage.

Future residential condo owners will be assessed differently since they are, in essence, acquiring air rights with the purchase of their residential condos and linear frontage and lot size will not be relevant to their parcels. This alternate assessment methodology is created to respond to their special needs of homeowners within this growing Downtown district. All four property variables will be used in the calculation of the annual assessment.

The FY 2015-16 year annual assessments per property variable are as follows:

- **Linear Frontage costs:** $7.0938 per linear foot/year
- **Building Square Footage costs:** $0.056987 per square foot/year
Lot Size costs: $0.024654 per square foot/year
Future Residential Condo costs: $0.20 per square foot of parcel unit square footage

**Cap:**
The CBD budget and assessments may be subject to changes in the Consumer Price Index (CPI) for the Stanislaus County Consumer Price Index for all urban consumers from February to February, with annual increases not to exceed 5% (five per cent) per year. Increases will be determined by the Owners' Association/District Management Corporation and will vary between 0% and 5% annually. Changes in land use, development of empty parcels, conversion of tax exempt to profitable land uses, demolition of existing buildings, and creation of new parcels through new building or residential condo development may alter the budget from year to year based upon the changes in the building square footage of an individual parcels. Since linear frontage and lot size normally are not altered in the redevelopment of a site, the only changes realized in the CBD will be through the building square footage. In addition, changes in the budget may occur due to the conversion of single parcels to multiple parcels due to the construction of residential or commercial condos.

**Bonds:**
The District will not issue any bonds related to any program.

**District Formation:**
Under the local enabling ordinance, the District formation and modification requires a submission of petitions from property owners representing more than 30% of the total assessments.

Once the City verifies the petitions totaling a minimum of 30% or $210,000 in assessment contribution to the District, the Modesto City Council may adopt a Resolution of Intention to mail out ballots to all affected property owners. The City will then hold a public hearing and tabulate the mail ballots. The Downtown Modesto CBD will be formed if the weighted majority of all returned mail ballots support the District formation and if the City Council adopts a resolution of formation to levy the assessments on the benefiting parcels. At this point, that public hearing is scheduled for Tuesday, July 28th, 2015.

**Disestablishment:**
California State Law, Section 36670 provides for the disestablishment of a District. Provisions for annual disestablishment of the CBD are provided for in the local Modesto CBD ordinance. Property owners dissatisfied with the results, management or quality of the services may petition the City Council to disestablish the CBD, in the same method in which they petitioned the City Council to establish the District.
Section 36670 states:

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.”

Unexpended surplus funds will be returned to property owners based upon each parcel's percentage contribution to the previous fiscal year's assessments if the District is not renewed.

**Time and Manner for Collecting Assessments:**
The Downtown Modesto CBD assessments will appear as a separate line item on annual property tax bills prepared by the County of Stanislaus. The assessments shall be collected at the same time and in the same manner as for the ad valorem property tax paid to the County of Stanislaus. These assessments shall provide for the same lien priority and penalties for delinquent payment as is provided for the ad valorem property tax.

Any delinquent assessments owed for the first year will be added to the property tax roll for the following year together with any applicable interest and penalties. The “property owner” means any person shown as the owner/taxpayer on the last equalized assessment roll or otherwise known to be the owner/taxpayer by the City.

**Government Assessments:**
The Downtown Modesto CBD Management Plan assumes that the City of Modesto, the Successor Agency, Stanislaus County, the County Education Department and other government entities will pay assessments for the public property within the boundaries of the District. Article XIII D, Section 4 of the California Constitution was added in November of 1996 to provide for these payments.

Parcels owned by the City of Modesto, controlled by the Successor Agency, the State of California, the Stanislaus County shall receive benefits, commensurate with the assessments paid into the Downtown Modesto CBD. The publicly owned parcels are presumed to benefit equally to the privately owned parcels for the sidewalk and administrative special benefits provided, however City, County and County School District parcels shall be exempt from assessments on their building square footage since they will not derive benefit from the “District Identity” special benefit services, (see Section 3, page 15).
Duration:
The Downtown Modesto CBD shall have a fifteen-year term which shall commence on December 1st, 2015 and expire on November 30th, 2030, with operations winding down by November 30th, 2030, unless the district is renewed by the CBD property owners through a new assessment ballot proceeding in 2030.

Governance:
Pursuant to the City of Modesto Community Benefit District Ordinance and Section 36600 of the California Streets and Highway Code, a District Management Corporation or Owners’ Association, will review District budgets and policies annually within the limitations of the Management District Plan. The Management Corporation will file Annual Reports with the City of Modesto (City) and will oversee the day-to-day implementation of services as defined in the Management District Plan. Section 36614.5 states:

The "Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose.”
Section 2
Downtown Modesto Community Benefit District Boundaries

**Boundaries:** The following text will define the boundaries of the Downtown Modesto CBD.

- **Northwest boundary:** Starting at parcel 104-008-08 at the southeast corner of the intersection of 8th Street and L Street (including all of the parcels on the east side of L Street) and running northeast to the corner of 15th Street and L Street, parcel number 105-010-16;

- **North Boundary:** Starting at parcel 105-010-16 at the southeast corner of the intersection of Needham and L Street and running eastward (including all of the parcels on the south side of Needham) to the parcel 105-001-13 at the southwestern corner of the intersection of 19th Street and Needham Street/Downey Avenue and H Street;

- **Southeastern Boundary:** Starting at parcel 105-001-14 and running southwest to the intersection of 15th Street (including only the parcels on the west side of the street), running one block southeast (including parcels on the south side of 15th Street only) to the parcel at the southwestern corner of the intersection of 15th Street and G Street, and then continuing in a southwesterly direction (including only the parcels on the west side of G Street) and terminating intersection of 8th Street and G Street, ending at parcel 103-003-06.

- **Southwestern Boundary:** Starting at the parcel 103-003-6 at the southwestern corner of 8th Street and G Street, running in a northwesterly direction (to include all of the parcels on the north side of 8th Street) and terminating at the corner of 8th Street and L Street, parcel number 104-008-8.
Section 3
District Improvement and Activity Plan

Process to Establish the Improvement and Activity Plan/Outreach Efforts:
Since summer of 2014 business and property owners in Downtown Modesto have met to discuss the advantages of creating this downtown special benefits district. An initial survey was sent to every property owner in the proposed CBD area in the summer of 2014 to ascertain their level of conceptual support for the establishment of this assessment district and obtain information regarding the type of enhanced services they were interested in receiving. The survey information was instrumental in determining the services to be delivered by the CBD.

Priority Special Benefit Services – According to the Survey and CBD Steering Committee discussions:

1. Improving the image of Downtown, the overwhelming majority of survey respondents believed that the image of Downtown Modesto is highly problematic stating that Downtown is “relatively safe, but suffers an image as an unsafe district”;
2. Responding to the issues that arise from street people, homeless and panhandling issues;
3. Supporting property owner marketing and promotions campaign to bring new business and attract new tenants;
4. Supporting planting, trimming and maintenance of trees, flowers and shrubs throughout the Downtown area to beautify the community;
5. Supporting sidewalk and curb sweeping, and enhanced trash receptacle emptying over and above City services;
6. Supporting public relations and social media programs to improve the image of Downtown;
7. Supporting property owner funded special events and branding efforts to improve the identity and bringing positive attention to the Downtown

Numerous public meetings have been held with the Downtown Modesto CBD Steering Committee. Public meeting dates follow:

- August 1st, 2014
- Sept. 3rd, 2014
- October 8th, 2014
- November 19th, 2014
- December 10th, 2014
- January 21st, 2015
- Feb. 11th, 2015
- March 4th, 2015
- May 6th, 2015
Marco Li Mandri of New City America also met with Josh Bridegroom of the City Manager’s office and many property owners individually, the City Attorney and City staff throughout this process.

**Explanation of Special Benefit Services:**

All of the improvements and activities detailed below are provided only to properties defined as being within the boundaries of the Downtown Modesto CBD, as the improvements and activities will provide special benefit to the owners of those properties. No improvements or activities will be provided to properties outside the Downtown Modesto CBD boundaries.

The City will continue to provide services from the general fund to the Downtown which will include public safety, street tree trimming, street sweeping, trash collection of public refuse containers, etc. The frequency of these general benefits may change from year to year and time to time based upon budget constraints. However, City general benefits will not be withdrawn from the Downtown Modesto CBD unless they are withdrawn by an equal amount City wide. *The CBD funded special benefits will not replace City funded general benefits, but rather will provide special benefits to parcel owners over and above the general benefits provided by the City of Modesto.*

All services funded by the assessments outlined in the Management District Plan are intended to directly benefit the property, business owners and residents within this area to support increased commerce, business attraction and retention, retain and increase commercial property rentals, enhanced safety and cleanliness in the CBD, improved district identity, and eventually fund specialized beautification and enhanced services for the condo residential unit parcels within the District.

The total improvement and activity plan budget for FY 2015-16, which is funded entirely by property assessments within the CBD boundaries, is projected to be $700,000.00. The costs of providing each of the budget components was developed from actual experience obtained in reviewing these same services in similar districts throughout the State of California.

Based upon the survey of property owners, as well as the discussions held in the eight CBD Steering Committees held since August 2014, the Committee has prioritized the following categories of special benefit services for the new CBD. The categories of special benefit services set forth the intent of the budget category, but also gives the new District Management Corporation the flexibility to allocate the services based upon the changing needs of the District from year-to-year within each budgeted category.
Improvements Activities and Services of the Downtown Modesto CBD Plan:
There will be four basic categories of special benefit services that will be funded within the Downtown Modesto CBD. All of these services are designed to confer a special benefit to the individual parcels within the Downtown Modesto CBD over and above the general benefits they are currently receiving. The categories of special benefits are as follows:

Table 3 - A
First Year Downtown Modesto CBD Special Benefit Service Budget

<table>
<thead>
<tr>
<th>PROGRAM OR ACTIVITY FUNDED BY THE DOWNTOWN MODESTO COMMUNITY BENEFIT DISTRICT</th>
<th>APPROXIMATE% OF FIRST YEAR ANNUAL BUDGET</th>
<th>ESTIMATED ANNUAL COSTS</th>
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</thead>
<tbody>
<tr>
<td>Sidewalk Operations, Beautification and Order</td>
<td>61%</td>
<td>$ 425,000.00</td>
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<td>District Identity and Streetscape Improvement</td>
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<td>Contingency/City and County Fees/Reserves/Special projects</td>
<td>4%</td>
<td>$ 28,000.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100%</strong></td>
<td><strong>$ 700,000.00</strong></td>
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*The City, individuals, businesses, and groups that contributed to the investigation and formation costs of the Downtown Modesto CBD shall be entitled to be reimbursed within the first five years of the adoption of the CBD by the City Council. Costs that can be recovered include: (1) The costs of preparation of the management plan and engineer’s report required by state law; (2) The cost of circulating and submitting the petition to the City Council seeking establishment of the District; (3) The costs of printing, advertising and the giving of published, posted or mailed notices; (4) Compensation of any engineer or attorney employed to render services in proceedings associated with formation of the Downtown Modesto CBD; and (5) Costs associated with any ballot proceedings required by law for approval of the CBD assessment. Contributions to the investigation and formation effort shall be reimbursed fully in the amount contributed upon receipt of appropriate documentation of the contribution to the new management corporation Board of Directors. The total amount to be reimbursed shall not exceed $70,000.

The following categories of special benefit services shall only be provided to parcels within the District.
SIDEWALK OPERATIONS, BEAUTIFICATION, ORDER:

Examples of these special benefit services and costs may include, but are not limited to:

- Regular sidewalk and gutter sweeping
- Regular sidewalk steam cleaning
- Beautification of the district;
- Enhanced trash emptying (over and above city services)
- Timely graffiti removal, within 24 hours as necessary
- Tree and vegetation maintenance (over and above city services)
- Special events maintenance and set up
- Maintenance of existing and new public spaces
- Hanging plants, planting flowers throughout the district;
- Possible private security and/or camera system

DISTRICT IDENTITY AND STREETSCAPE IMPROVEMENTS:

Examples of these special benefit services and costs may include, but are not limited to:

- Web site development and updating;
- App development;
- Management and coordination of special events
- Social media
- Public relations firm
- Holiday and seasonal decorations
- Branding of Downtown Modesto so a positive image is built
- Banner programs
- Public art displays
- Downtown landmark sign and maintenance
- Logo development
- Public space design and improvements
- Signage

ENHANCED RESIDENTIAL CONDO UNIT IMPROVEMENTS: (currently don't exist) $0

Examples of these special benefit services and costs may include, but are not limited to:

Future residential condos built within the boundaries of the Downtown Modesto CBD will be assessed separately due to their unique parcel status and special benefit needs in the district. Residential condos blocks will have the following special benefit services conferred on the frontage their parcels. These services in the future will include, but will not be limited to:

- Installation, stocking and upkeep of pet waste distribution stations on the frontages adjacent to the high concentrations of residential condo individually assessed parcels;
- Enhancement and beautification of sidewalks on the frontages adjacent to the high concentrations of residential individually assessed parcels;
- Installation of hanging plants, and enhanced upkeep in the sidewalks surrounding these frontages adjacent to these residential condos;
- Other services requested by the residents that confer special benefit to the areas directly adjacent to the parcels with high concentrations of residential condos;
- Proportional share of the Administrative and Contingency costs to cover the oversight of the Enhanced beautification special benefit services.

**ADMINISTRATION AND CORPORATE OPERATIONS:** $97,000 14%

Examples of these special benefit services and costs may include, but are not limited to:
- Staff and administrative costs
- Directors and Officers Insurance
- Office related expenses
- Rent
- Financial reporting and accounting
- Legal work

**CONTINGENCY/CITY AND COUNTY FEES/RESERVE:** $28,000 4%

Examples of these special benefit services and costs include, but are not limited to:
- Delinquencies
- City Fees
- County fees
- Reserves

**Fifteen-Year Operating Budget:**
A projected fifteen-year operating budget for the Downtown Modesto CBD is provided below. The projections are based upon the following assumptions:

- Assessments will be subject to changes in the Stanislaus County Consumer Price Index (CPI), with annual increases not to exceed 5% per year.
- Increases will be determined by the District Management Corporation and in no case shall annual increases exceed 5% per year.

The budget for specific programs may be reallocated within the categories by up to 10% of each budget category. The Management Corporation Board may alter the budget based upon service needs and such changes shall be included in the Annual report and submitted to the Modesto City Council for review and approval.
Table 3 – B

Fifteen-Year Projection of Maximum Assessment for the Downtown Modesto CBD

<table>
<thead>
<tr>
<th></th>
<th>FY1</th>
<th>FY2</th>
<th>FY3</th>
<th>FY4</th>
<th>FY5</th>
<th>FY6</th>
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<th>FY8</th>
<th>FY9</th>
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<th>FY11</th>
<th>FY12</th>
<th>FY13</th>
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<th>FY15</th>
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<tr>
<td>Sidewalk Operations, Beautification and Order</td>
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<td>$491,590.63</td>
<td>$516,590.16</td>
<td>$542,419.66</td>
<td>$569,540.65</td>
<td>$598,017.68</td>
<td>$627,918.56</td>
<td>$659,314.49</td>
<td>$692,280.22</td>
<td>$726,894.23</td>
<td>$763,238.94</td>
<td>$801,400.89</td>
<td>$805,306.98</td>
</tr>
<tr>
<td>District Identity</td>
<td>$150,000.00</td>
<td>$157,500.00</td>
<td>$166,375.00</td>
<td>$173,643.75</td>
<td>$182,325.94</td>
<td>$191,442.23</td>
<td>$201,014.35</td>
<td>$211,065.06</td>
<td>$221,618.32</td>
<td>$232,699.23</td>
<td>$244,334.19</td>
<td>$256,550.90</td>
<td>$269,378.45</td>
<td>$282,847.37</td>
<td>$283,520.82</td>
</tr>
<tr>
<td>Administration</td>
<td>$97,000.00</td>
<td>$101,850.00</td>
<td>$106,942.50</td>
<td>$112,269.63</td>
<td>$117,904.11</td>
<td>$123,799.31</td>
<td>$129,989.28</td>
<td>$136,488.74</td>
<td>$143,313.18</td>
<td>$150,478.84</td>
<td>$158,002.78</td>
<td>$165,902.92</td>
<td>$174,198.06</td>
<td>$182,507.97</td>
<td>$183,343.46</td>
</tr>
<tr>
<td>Contingency</td>
<td>$28,000.00</td>
<td>$29,400.00</td>
<td>$30,870.00</td>
<td>$32,413.50</td>
<td>$34,034.19</td>
<td>$35,735.88</td>
<td>$37,522.68</td>
<td>$41,358.75</td>
<td>$43,437.19</td>
<td>$45,699.05</td>
<td>$47,889.50</td>
<td>$50,283.68</td>
<td>$52,798.18</td>
<td>$55,449.00</td>
<td>$52,923.89</td>
</tr>
<tr>
<td>Total</td>
<td>$790,000.00</td>
<td>$835,060.00</td>
<td>$871,750.00</td>
<td>$910,337.50</td>
<td>$953,397.09</td>
<td>$983,066.95</td>
<td>$1,034,218.81</td>
<td>$984,970.30</td>
<td>$1,034,218.81</td>
<td>$1,085,929.75</td>
<td>$1,140,228.24</td>
<td>$1,197,237.55</td>
<td>$1,257,099.43</td>
<td>$1,319,954.40</td>
<td>$1,323,097.15</td>
</tr>
</tbody>
</table>

Notes:
- Assumes a 5% yearly increase on all budget items.
- Any accrued interest or delinquent payments will be expended in the above categories.
- Residential condo assessments are zero for the first year, and to be determined when the first residential condos are actually built in Downtown.
Section 4
Assessment Methodology

The Downtown Modesto CBD is a property-based special benefit assessment district being established pursuant to the Modesto Community Benefit District enabling ordinance adopted in April 2015 by the Modesto City Council. Due to the special benefit nature of assessments levied within a CBD, program costs are to be distributed amongst all identified specially benefited properties based on the proportional amount of special program benefit each property is expected to derive from the assessments collected.

The ordinance refers to the requirement that relative “benefit” received from CBD funded programs and activities be used to determine the amount of assessment paid. Only those properties expected to derive special benefits from CBD funded programs and activities may be assessed and only in an amount proportional to the relative special benefits expected to be received.

As stipulated by Proposition 218, assessment district programs and activities confer a combination of general and special benefits to properties, but the only program benefits that can be assessed are those that provide special benefit to the assessed properties. Special Benefit as defined by the California State Constitution means “a particular and distinct benefit over and above general benefits conferred on real property located in the District or to the public at large”. For the purposes of this analysis, “General Benefits” are benefits from the provided within Downtown Modesto that are not special in nature, are not "particular and distinct" and are not over and above the benefits that other city parcels receive.

General benefits are not restricted to benefits conferred only on persons and property outside the assessment district, but can include benefits both conferred on real property located in the district or to the public at large. “At large” means not limited to any particular person – and means all members of the public - including those who live, work, and shop within the district - and not simply transient visitors.

The property uses within the boundaries of the proposed Downtown Modesto CBD which will receive special benefits from CBD funded programs and services, are currently a mix of retail, service, office, religious, residential and parking. Services, programs and improvements provided by the Downtown Modesto CBD are primarily designed to provide special benefits to identified parcels within the boundaries of the District.

There are five basic categories of special benefit services that will be funded by the Downtown Modesto CBD. All of these services will confer a special benefit to the individual parcels within the Downtown Modesto CBD. The categories of special benefits are as follows:
1. **Sidewalk Operations, Beautification and Order (SOBO):** This includes, but are not limited to: all sidewalk and gutter cleaning services, sidewalk steam cleaning services, graffiti removal, trash removal, as well as beautifying the district. This category of the budget will be allocated $425,000 or 61% of the first year budget to fund its services.

2. **District Identity and Streetscape Improvement (DISI):** These services include, but are not limited to: the branding of the commercial and residential parcels Downtown including: marketing and promotions, newsletter, public relations, media relations, social media, publicity, special events, lighting, website development and maintenance, public space development and holiday decorations. This category of the budget will be allocated $150,000 or 21% of the budget to fund these services.

3. **Enhanced Residential Condo Services:** Future residential condos built within the boundaries of the Downtown Modesto CBD will be assessed separately due to their unique parcel status and special benefit needs in the district. Residential condos blocks will have the premium special benefits conferred on their parcels but will also have extra residentially related services provided.

4. **Administration/Management Services:** This category of the budget will be allocated $97,000 during the first year, or 14% of the first year budget.

5. **Contingency/Reserve.** This contingency anticipates a non-payment rate percentage of 2 to 5%, and any City or County collection fees. This category of the budget will be allocated $28,000.00 or approximately 4% of the first year annual budget of the new Downtown Modesto CBD.

Parcels that receive these programs, services and improvements attract more customers, employees, tenants and investors as a result of these programs, services and improvements, thereby increasing business volumes, sales transactions, occupancies, rental income and return on investments and for future residents, make this Downtown more walkable, attractive and livable. These benefits are particular and distinct in that they are not provided to non-assessed parcels within or outside of the District. Because these programs, services and improvements will only be provided to each individual assessed parcel within the Downtown Modesto CBD boundaries, these programs, services and improvements will constitute "special benefits".

Existing City of Modesto services will not be replaced or duplicated, by Downtown Modesto CBD funded services. The very nature of the purpose of this District is to fund supplemental programs, improvements and services within the Downtown boundaries above and beyond what is being currently funded either via normal tax supported methods or other funding sources. All benefits derived from the assessments to be levied on parcels within the Downtown CBD are for services, programs and improvements directly benefiting each individual parcel within this area and support increased cleanliness, commerce, business attraction and retention, increased commercial property rental income and improved District...
identity. No CBD funded services, activities or programs will be provided beyond the CBD boundaries.

While every attempt is made to provide CBD services and programs to confer benefits only to those identified assessed parcels within the district, the California State Constitution was amended via Proposition 218 to stipulate that general benefits exist, either by design or unintentionally, in all assessment districts and that a portion of the program costs must be considered attributable to general benefits and assigned a value. General benefits cannot be funded by assessment revenues. General benefits might be conferred on parcels within the District, or “spillover” onto parcels surrounding the District, or to the public at large who might be passing through the District with no intention of transacting business or residing within the District or interest in the District itself. Empirical assessment engineering analysis throughout California has found that general benefits within a given similar special benefits districts tend to range from 1-5% of the total costs. There are three methods that have been used by the Downtown CBD Assessment Engineer for determining general and special benefit values within assessment districts:

1. The parcel by parcel allocation method
2. The program/activity line item allocation method, and
3. The composite district overlay determinant method.

A majority of PCBDs and CBDs in California for which this Assessment Engineer has provided assessment engineering services since the enactment of Proposition 218, have used Method #3, the composite district overlay determinant method which will be used for this CBD. This method of computing the value of general benefit involves a composite of three distinct types of general benefit — general benefit to assessed parcels within the District, general benefit to the public at large within the District and general benefit to parcels outside the District.

**Downtown Modesto CBD Programs and Improvements**

The total special and general benefit program activities and budget allocations that will be provided to each individual parcel assessed in the proposed Downtown Modesto CBD are shown in the chart below:

**Total Year 1 – 2016 - Special + General Benefit Revenue**

<table>
<thead>
<tr>
<th>Service</th>
<th>YR 1 - 2016 Assessment Allocation</th>
<th>YR 1 - 2016 Non-Assessment Allocation</th>
<th>YR 1 - 2016 Total Allocation</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk Operations</td>
<td>$425,000</td>
<td>$8,673</td>
<td>$433,673</td>
<td>61%</td>
</tr>
<tr>
<td>District Identity</td>
<td>$150,000</td>
<td>$3,061</td>
<td>$153,061</td>
<td>21%</td>
</tr>
<tr>
<td>Administration</td>
<td>$97,000</td>
<td>$1,981</td>
<td>$98,981</td>
<td>14%</td>
</tr>
<tr>
<td>Contingency/Reserves</td>
<td>$28,000</td>
<td>$571</td>
<td>$28,571</td>
<td>4%</td>
</tr>
<tr>
<td>Total</td>
<td>$700,000.00</td>
<td>$14,286</td>
<td>$714,286.00</td>
<td>100%</td>
</tr>
</tbody>
</table>
All program costs associated with general benefits will be derived from sources or credits other than CBD assessments. Sample “other” revenue sources can be derived from special events, grants, volunteer hours and must simply equal a total of $14,286 per year which would equal the general benefit cost of 2% of the computed total CBD cost of $714,286.00 from the Table above. Here, program costs spreading variables include linear frontage, lot or parcel size and building square footage, and residential condo parcels. The following data represents the foundation of the assessments that will generate the revenue to fund the Downtown Modesto CBD: (verified as of April 5th, 2015);

**Benefit Zones:**

State law and the State constitution, Article XIIID require that special assessments be levied according to the special benefit each individual parcel receives. There is only one benefit zone in the proposed Downtown Modesto CBD.

**Data in the CBD:**

<table>
<thead>
<tr>
<th>Building Square Footage</th>
<th>Lot Size (square feet)</th>
<th>Linear Frontage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,632,178</td>
<td>5,070,262</td>
<td>59,911</td>
</tr>
</tbody>
</table>

**Assessment District Revenue Generation in Fiscal Year 2016 from each assessable property variable:**

- Linear Frontage: $425,000, 61%
- Building Square Footage: $150,000, 21%
- Lot Square Footage: $125,000, 18%
- Residential Condominiums Unit Square Footage: $0, 0%

**Total:** $700,000.00, 100%

**First Year Annual Costs:**

*The Downtown Modesto CBD FY 2016 year annual assessments per property variable are as follows:*

<table>
<thead>
<tr>
<th>Property Variable</th>
<th>First Year Annual Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Linear Frontage</td>
<td>$7.0938 per linear foot/year</td>
</tr>
<tr>
<td>Building Square Footage</td>
<td>$0.056987 per square foot/year</td>
</tr>
<tr>
<td>Lot Size</td>
<td>$0.024654 per square foot/year</td>
</tr>
<tr>
<td>Residential Condominiums</td>
<td>$0.20 per square foot</td>
</tr>
</tbody>
</table>
**Proportional Allocation of Assessments to Benefiting Property Owners**

*Generation of assessments which fund categories of special benefit services.*

<table>
<thead>
<tr>
<th>Program</th>
<th>Funded by Property Variable Assessment</th>
<th>Approximate Amount First Year Budget - %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk Operations, Beautification and Order sidewalk and gutter cleaning, landscaping, steam cleaning, public space maintenance</td>
<td>Funded by approximately 100% of the linear frontage assessments Residential Condo assessments will pay for services in the same proportion as allocated in the budget</td>
<td>$425,000 – 61% (the Board decides how this amount will be allocated month by month, prioritizing services and proportionally allocating per benefit zones based upon payments made)</td>
</tr>
<tr>
<td>District Identity and Streetscape Improvements (Marketing, promotions, website, social media, events, business attraction, public space design)</td>
<td>Funded by approximately 100% of the building square footage Residential Condo assessments will pay for services in the same proportion as allocated in the budget</td>
<td>$150,000 – 21%</td>
</tr>
<tr>
<td>Administration/ Corporate Operations Administration, outreach to public agencies, community relations, office rent, supplies, insurance, legal</td>
<td>Funded by Lot Size assessments Residential Condo assessments will pay for services in the same proportion as allocated in the budget</td>
<td>$97,000 – 14%</td>
</tr>
<tr>
<td>Contingency</td>
<td>Funded by Lot size assessments Residential Condo assessments will pay for services in the same proportion as allocated in the budget</td>
<td>$28,000 4%</td>
</tr>
<tr>
<td><strong>Total for all Special Benefit Services</strong></td>
<td></td>
<td>$700,000.00</td>
</tr>
</tbody>
</table>
**Linear Frontage Defined:**
Individual parcels will be assessed for all sides of each parcel fronting on a public street. Alley frontage is not assessed. Each side of the parcel (excluding alley areas) will receive Sidewalk Operations special benefit services based upon the frequency of services articulated in this plan, linear front footage data was obtained from the County Assessor’s parcel maps.

**Building Square Footage Defined:**
Building square footage is defined as gross building square footage throughout the Downtown Modesto CBD. The percentage of building square footage that is dedicated to private or internal tenant parking needs may be deducted from the gross building square footage. Only parking structures that are open to the public and charge fees to the general public on a regular basis will have their building square footage assessed as any other commercial building. Apartment buildings within the boundaries of the Downtown Modesto CBD will be assessed as commercial buildings since there is a landlord/tenant relationship in that property. Under this plan, City, County, Successor Agency and County Education owned parcels will pay assessments on their linear frontage and lot size, but will be exempted from assessments on building square footage since they will not derive special benefit from the District Identity services outlined in Section 3, page 15.

**Lot Square Footage Defined:**
Lot square footage is defined as the total amount of area within the borders of the parcel. The lot square footage of a parcel has been verified by the County Assessor’s parcel maps.

**Commercial Condominium Parcels Defined:**
Ground floor commercial condominiums will be treated as independent “mini” commercial buildings and assessed based on their actual building square footage, the footprint of land they cover or lot size of the commercial condo, and the amount of direct primary street frontage on the exterior of the building. Ground floor commercial condominiums will pay 100% of the special benefits for the assessment, based upon which benefit zone they are within.

**Future Residential Condo Unit Parcels Defined:**
Future residential condo units building square footage is defined as the livable building square footage within the walls of the condo residential unit parcel. They are included in a special zone to designate their unique special benefits relative to the other commercial parcels within the Downtown Modesto CBD. Unlike the other commercial parcels in the district, including commercially operated apartment buildings, residential condo parcels are assessed for building square footage only, and are not assessed for linear frontage and lot square footage.

Future residential condo individually assessed parcels are assessed as a separate category. These future residential condo individual parcels will be assessed for their building square footage only at the rate of $0.20 per square foot per year, commencing the first year of their completion. The rationale for assessing future residential condos only for the building square footage rate is provided below.
Future residential condo individually assessed parcels are assessed differently than multi-unit, for-rent apartment buildings, due to the frequency of special benefit services required by each parcel as described below. The multi-unit apartment buildings are commercial properties in which the tenant and landlord have an economic relationship as opposed to residential condo buildings where individual property owners own separate “air space parcels” on a single floor. Future residential apartment buildings can be bought or sold just as like commercial buildings whereas residential condo individual units are separately owned and must be individually bought and sold.

Distinctions between residential apartment buildings with tenants and residential condominium building with individual parcel owners are as follows:

1. The Davis Sterling Act establishes rules and regulations for residential condo owners based upon “separate interests” (i.e. ownership rights), as opposed to renters who only have a possessory interest.
2. Generally, residential condo unit owners demonstrate greater care for their property and concerns about quality of life issues due to their investment in real estate.
3. Residential owners have the right to vote in a Proposition 218 hearing, tenants do not have that right.
4. Residential condo owners are required to contribute to a legally established Homeowners Associations to oversee building maintenance, tenants are not.

The assessment methodology has been written to confer special benefits to future residential condo individual assessed parcels since future residential condo owners have unique investment backed expectations about the care and maintenance of the building and its surroundings compared to the interest of residential tenants who have a possessory not an ownership interest. The future residential condos’ special assessment methodology ensures that a fund will be established to maintain high levels of special benefit services that apply directly and proportional to the blocks that demand virtually seven days per week, 365 days per year special benefits.

**Exemptions:**
No benefitting parcels, regardless of taxable or tax-exempt property tax status, will be exempt from the assessments funding the special benefit services of the Downtown Modesto CBD. Special benefit services will not be provided to any parcels outside of the boundaries of the district. Publicly owned property will be assessed the same as privately owned parcels except that the County, County School District and City parcels shall not pay for District Identity services funded by their building square footage assessments. The County, County School District and City parcels will not derive the benefits of increased rents, business attraction or redevelopment potential from such special benefit services. We believe that this analysis is consistent with the “proportional benefit requirements outlined in Article XIII of the state constitution.
Single family residential land uses, in the form of single family homes on independent parcels, within the boundaries of the CBD are included in the District, however will be assessed only for the services they receive on their frontage or until such time that the single family land uses are converted to multi-family or commercial/retail uses.

**Calculation of Assessments:**
The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the improvement or the maintenance and operation expenses of an improvement or for the cost of property service being provided. Per California Constitutional Amendment Article XIII D, Section 2(i), “Special Benefit”, means a particular and distinct benefit over and above general benefits conferred on a real property located in the district or to the public at large. No assessment will be imposed on any parcel that exceeds the reasonable cost of the proportional special benefits conferred upon that parcel. Only special benefits are assessable and these benefits must be separated from any general benefits. Properties are assessed as defined on the County Assessor’s most current parcel maps. The preceding methodology is applied to the database of parcels within the District. The process for compiling the property database includes the following steps:

- A report was generated from data obtained from the Stanislaus County Tax Assessors office.
- A list of properties to be included within the CBD is provided in Section 7.

**Parcel Assessment —**
The annual assessment method to calculate all parcels and ground floor commercial condominiums for Benefit Zone 1 will be:

\[
\text{Total Street Frontage} \times 7.0938 \text{ per linear foot} \\
+ \text{Total Lot Square Footage} \times 0.024654 \text{ per square foot} \\
+ \text{Total Building Square footage} \times 0.056987 \text{ per square foot} \\
= \text{TOTAL PARCEL ASSESSMENT}
\]

**Residential Condo Assessment:**
The annual assessment method for a residential condo once they are built, regardless of Benefit Zone will be:

\[
\text{Total Residential Unit Building Square footage} \times 0.20 \text{ per Square Foot} \\
= \text{TOTAL RESIDENTIAL CONDO UNIT ASSESSMENT}
\]
Repayment of Formation Costs:
The City, individuals, businesses, and groups that contributed to the investigation and formation costs of the Downtown Modesto CBD shall be entitled to be reimbursed within the first five years of the adoption of the CBD by the City Council. Costs that can be recovered include: (1) The costs of preparation of the management plan and engineer’s report required by state law; (2) The cost of circulating and submitting the petition to the City Council seeking establishment of the District; (3) The costs of printing, advertising and the giving of published, posted or mailed notices; (4) Compensation of any engineer or attorney employed to render services in proceedings associated with formation of the Downtown Modesto CBD; and (5) Costs associated with any ballot proceedings required by law for approval of the CBD assessment. Contributions to the investigation and formation effort shall be reimbursed fully in the amount contributed upon receipt of appropriate documentation of the contribution to the new management corporation Board of Directors. The total amount to be reimbursed shall not exceed $70,000.

Future Development:
As a result of continued new development, the Downtown Modesto CBD will experience the addition or subtraction of assessable commercial buildings or the conversion of empty parcels into new commercial and residential buildings and units. The Management District 2016 Plan assessment methodology will accommodate any and all changes anticipated within the term of the District with annual adjustments being submitted to the City, as these assessment calculation and property variable alterations occur.

Maximum Assessment:
Assessments will be subject to changes in the Stanislaus County Consumer Price Index (CPI), for all urban consumers, annual increases not to exceed 5% per year. Increases will be determined by the CBD District Management Corporation and will vary between 0% and 5% in any given year. The maximum the assessments can be increased is 5% over the previous fiscal year’s base assessments. Not implementing the increase for one year does not give the District Management Corporation the authority to accumulate increases above 5% within any given fiscal year. The following projections illustrate a potential 5% annual increase.

<table>
<thead>
<tr>
<th>Projected Assessment</th>
<th>FY1</th>
<th>FY2</th>
<th>FY3</th>
<th>FY4</th>
<th>FY5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Linear Frontage</td>
<td>$</td>
<td>$7.0938</td>
<td>$7.4485</td>
<td>$7.8209</td>
<td>$8.2120</td>
</tr>
<tr>
<td>Building Sq. Ft.</td>
<td>$0.056987</td>
<td>$0.059836</td>
<td>$0.062828</td>
<td>$0.065970</td>
<td>$0.069268</td>
</tr>
<tr>
<td>Lot Square Footage</td>
<td>$0.024654</td>
<td>$0.025887</td>
<td>$0.027181</td>
<td>$0.028540</td>
<td>$0.029967</td>
</tr>
<tr>
<td>Condo Bldg. Sq. Ft.</td>
<td>$0.200000</td>
<td>$0.210000</td>
<td>$0.220500</td>
<td>$0.231530</td>
<td>$0.243100</td>
</tr>
</tbody>
</table>

Table
Maximum Assessments by Property Variable
Budget Adjustments:
Annual budget surpluses, if any, will be rolled into the following year’s budget. Assessments will be set annually, within the constraints of the CPI or land use changes. Revenues from the delinquent accounts may be expended in the year they are received. If the District is not renewed, any remaining funds will be returned to property owners in the proportion by what each property owner paid.

If after the initial term the District decides to renew and if there is money left over from the previous term, the balance of remaining funds will be rolled over into the renewed district. These “rolled over” funds may only be used within the boundaries of the renewed district and cannot be expended for activities, services, or improvements in an area expanded beyond the original District. However, the rolled over funds may be used to finish District Management Corporation activities in the original district.

Time and Manner for Collecting Assessments:
The Downtown Modesto CBD assessments will appear as a separate line item on annual property tax bills prepared by the County of Stanislaus. The assessments shall be collected at the same time and in the same manner as for the ad valorem property tax paid to the County of Stanislaus. These assessments shall provide for the same lien priority and penalties for delinquent payment as is provided for the ad valorem property tax.

Any delinquent assessments owed for the first year will be added to the property tax roll for the following year together with any applicable interest and penalties. The “property owner” means any person shown as the owner/taxpayer on the last equalized assessment roll or otherwise known to be the owner/taxpayer by the City.

Disestablishment:
California State Law, Section 36670 provides for the disestablishment of a District. Provisions for annual disestablishment of the CBD are provided for in Article 13 of the local Modesto CBD ordinance. Property owners dissatisfied with the results, management or quality of the services
may petition the City Council to disestablish the CBD, in the same method in which they petitioned the City Council to establish the District.

Section 36670 states:

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.”

Unexpended surplus funds will be returned to property owners based upon each parcels percentage contribution to the previous fiscal year’s assessments if the District is not renewed.

Upon the termination of the previous District, any remaining revenues shall be transferred to the renewed District, if one is established, pursuant to Streets and Highways Code Section 36660(b). Unexpended surplus funds will be returned to property owners based upon each parcels percentage contribution to the previous fiscal year’s assessments if the District is not renewed.

**Government Assessments:**

The Downtown Modesto CBD Management Plan assumes that the City of Modesto, the Successor Agency and other government entities will pay assessments for the public property within the boundaries of the District as per the methodology within this plan. Article XIII D, Section 4 of the California Constitution was added in November of 1996 to provide for these payments.

Parcels owned by the City of Modesto, Stanislaus County, the County School District, the Successor Agency, the State of California shall receive benefits, commensurate with the sidewalk operations administration and contingency assessments paid into the Downtown Modesto CBD. The publicly owned parcels are presumed to benefit equally to the privately owned parcels for the special benefits provided.

**Table**

<table>
<thead>
<tr>
<th>APN</th>
<th>Legal Owner</th>
<th>Site #</th>
<th>Site Street</th>
<th>Annual Assessment</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>104 003 010 000</td>
<td>City Of Modesto</td>
<td>1029</td>
<td>9th St</td>
<td>$13,000.25</td>
<td>1.86%</td>
</tr>
<tr>
<td>104 008 005 000</td>
<td>City Of Modesto</td>
<td></td>
<td>K St</td>
<td>$ 482.57</td>
<td>0.07%</td>
</tr>
<tr>
<td>104 008 009 000</td>
<td>City Of Modesto</td>
<td></td>
<td>8th St</td>
<td>$ 637.23</td>
<td>0.09%</td>
</tr>
<tr>
<td>105 002 001 000</td>
<td>City Of Modesto</td>
<td></td>
<td>Downey Ave</td>
<td>$ 3,106.11</td>
<td>0.44%</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Street</td>
<td>Amount</td>
<td>Interest</td>
<td></td>
</tr>
<tr>
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**TOTAL** $46,242.97 6.61%

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**TOTAL** $37,859.95 5.41%

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**TOTAL** $23,799.40 3.40%
Section 5

District Rules and Regulations and Governance

There are no specific rules and regulations prescribed for the proposed Downtown Modesto Community Benefit District Management Corporation except that it will adhere to the open meeting provisions of the Ralph M. Brown Act and will seek to be as open and transparent to the CBD assessees and the public at large as is reasonably possible.

Pursuant to the City of Modesto Community Benefit District Ordinance and Section 36600 of the California Streets and Highway Code, a District Management Corporation or Owners' Association, will review District budgets and policies annually within the limitations of the Management District Plan. The Management Corporation will file Annual Reports with the City of Modesto and will oversee the day-to-day implementation of services as defined in the Management District Plan. Section 36614.5 states:

"The "Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements specified in the management district plan. An owners' association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose."

Bonds:
The District will not issue any bonds related to any program.
Section 6
Implementation Timetable

The Downtown Modesto CBD is expected to be established and begin assessing benefiting parcels as of fiscal year 15-16. Due to the timing of revenue collection and need to establish the owners' association or District Management Corporation, implementation of the Management District Plan and the delivery of services is scheduled to commence in or around December 1st, 2015. Consistent with the local enabling ordinance, the Downtown Modesto CBD will have a fifteen-year term through December 1st, 2030 with operations winding down by November 30, 2030 unless renewed by Downtown property owners at that time.
### Section 7

#### Assessment Roll of Properties Included

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DOWNTOWN MODESTO
COMMUNITY BENEFIT DISTRICT

Title 8, “Finance, Revenue and Taxation,” of the Modesto Municipal Code by adding
Chapter 9, “Community Benefit Districts”.

DISTRICT
ASSESSMENT ENGINEER’S
REPORT

ATTACHMENT A

Prepared by
Edward V. Henning
California Registered Professional Engineer # 26549
Edward Henning & Associates

APRIL 29, 2015
DISTRICT ASSESSMENT ENGINEER'S REPORT

To Whom It May Concern:
I hereby certify to the best of my professional knowledge and experience that each of the identified benefiting properties located within the proposed Downtown Modesto Community Benefit District ("Downtown Modesto CBD") being formed for a fifteen (15) year term will receive a special benefit over and above the benefits conferred on the public at large and that the amount of the proposed assessment is proportional to, and no greater than the benefits conferred on each respective property.

Prepared by Edward V. Henning, California Registered Professional Engineer #26549

April 29, 2015

Introduction
This report serves as the “detailed engineer’s report” required by Section 4(b) of Article XIID of the California Constitution (Proposition 218) to support the benefit property assessments proposed to be levied within the proposed Downtown Modesto CBD in the City of Modesto, California being formed for a fifteen (15) year term. The discussion and analysis contained within this Report constitutes the required “nexus” of rationale between assessment amounts levied and special benefits conferred on properties within the Downtown Modesto CBD.

The Downtown Modesto CBD is a property-based benefit assessment district being formed for a fifteen (15) year term pursuant to the City of Modesto Community Benefit District Ordinance (the “Ordinance”) which is based in part on Section 36600 et seq. of the California Streets and Highways Code, also known as the Property and Business Improvement District Law of 1994 (the “Act”). Due to the benefit assessment nature of assessments levied within a Property Business Improvement District (“PBID”), district program costs are to be distributed amongst all identified
benefiting properties based on the proportional amount of program special benefit each property is expected to derive from funded programs and the assessments levied. Within the Ordinance and Act, frequent references are made to the concept of relative “benefit” received from PBID programs and activities versus amount of assessment levied. Only those properties expected to derive special benefits from PBID funded programs and activities may be assessed and only in an amount proportional to the relative special benefits expected to be received.

**Supplemental Proposition 218 Procedures and Requirements**

Proposition 218, approved by the voters of California in November of 1996, adds a supplemental array of procedures and requirements to be carried out prior to levying a property-based assessment like the Downtown Modesto CBD. These requirements are in addition to requirements imposed by State and local assessment enabling laws. These requirements were “chaptered” into law as Article XIIID of the California Constitution.

Since Proposition 218 provisions will affect all subsequent calculations to be made in the final assessment formula for the Downtown Modesto CBD, Proposition 218 requirements will be taken into account. The key provisions of Proposition 218 along with a description of how the Downtown Modesto CBD complies with each of these provisions are delineated below.

(Note: All section references below pertain to Article XIII of the California Constitution):

**Finding 1. From Section 4(a): “Identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed”**

There are 318 parcels within the Downtown Modesto CBD of which 316 are “identified” as assessable parcels with assessable property characteristics that will derive special benefit from the proposed District programs and activities. The benefits are special and unique only to the identified parcels within the District because programs and services (i.e. sidewalk operations/beautification; district identity; program management; and, contingency/reserve) will only be provided directly for the special benefit of the identified parcels. These identified benefiting parcels are located within the Downtown Modesto CBD perimeter boundary which is shown on the Boundary Map attached as Appendix 2 to this Report and are listed in Appendix 1 to this Report - identified by assessor parcel number. Any future development and/or land subdivisions will adhere to the assessment rate structures described herein. There is one benefit zone within the Downtown Modesto CBD.

The Downtown Modesto CBD is bounded roughly by Needham Avenue/Downey Avenue, H Street/G Street, the alley between 8th Street and 7th Street and L Street. The parcels selected to be included in the Downtown Modesto CBD form a unique retail and commercial business core that has long been recognized and identified by the Modesto community as a pedestrian friendly retail and commercial central business district of Modesto. Keeping the District clean and attractive
DOWNTOWN MODESTO COMMUNITY BENEFIT DISTRICT – ENGINEER’S REPORT

will increase pedestrian traffic and consumer activity and help create a strong symbiotic economic relationship between the Downtown Modesto CBD and the customers it serves. There is one benefit zone in the proposed Downtown Modesto CBD. The Downtown Modesto CBD boundaries are shown on the District Map in Appendix 2 of this Report. The assessment rates vary based on the proportionate levels of special benefit services to be provided for each parcel within the CBD.

Downtown Modesto CBD Boundary:
The boundaries of the proposed Downtown Modesto CBD are described as follows:

- **Northwest boundary**: Starting at parcel 104-008-08 at the southeast corner of the intersection of 8th Street and L Street (including all of the parcels on the east side of L Street) and running northeast to the corner of 15th Street and L Street, parcel number 105-010-16;

- **North Boundary**: Starting at parcel 105-010-16 at the southeast corner of the intersection of Needham and L Street and running eastward (including all of the parcels on the south side of Needham) to the parcel 105-001-13 at the southwestern corner of the intersection of 19th Street and Needham Street/Downey Avenue and H Street;

- **Southeastern Boundary**: Starting at parcel 105-001-14 and running southwest to the intersection of 15th Street (including only the parcels on the west side of the street), running one block southeast (including parcels on the south side of 15th Street only) to the parcel at the southwestern corner of the intersection of 15th Street and G Street, and then continuing in a southwesterly direction (including only the parcels on the west side of G Street) and terminating intersection of 8th Street and G Street, ending at parcel 103-003-06.

- **Southwestern Boundary**: Starting at the parcel 103-003-6 at the southwestern corner of 8th Street and G Street, running in a northwesterly direction (to include all of the parcels on the north side of 8th Street) and terminating at the corner of 8th Street and L Street, parcel number 104-008-8.

All identified parcels within the above-mentioned boundaries shall be assessed to fund special benefit programs, services and improvements as outlined herein. Services, programs and improvements will only be provided to these parcels inside the District boundaries and none will be provided outside of the District boundaries. Each of the individual parcels assessed shall receive special benefits from the proposed programs, services and improvements. All Downtown Modesto CBD funded programs, services and improvements are considered supplemental above normal base level services provided by the City of Modesto and are only provided for the special benefit of assessed parcels within the boundaries of the Downtown Modesto CBD.
Finding 2. From Section 4(a): "Separate general benefits (if any) from the special benefits conferred on parcel(s). Only special benefits are assessable."

BENEFIT ANALYSIS
As stipulated by Proposition 218, assessment District programs and activities confer a combination of general and special benefits to properties, but the only program benefits that can be assessed are those that provide special benefit to the assessed properties. Special Benefit as defined by the California State Constitution means "a particular and distinct benefit over and above general benefits conferred on real property located in the District or to the public at large. For the purposes of this analysis, "General Benefits" are benefits from the Downtown Modesto CBD activities and improvements that are not special in nature, are not "particular and distinct" and are not over and above the benefits that other parcels receive. General benefits are not restricted to benefits conferred only on persons and property outside the assessment district, but can include benefits both conferred on real property located in the district or to the public at large. "At large" means not limited to any particular person - means all members of the public - including those who live, work, and shop within the district - and not simply transient visitors.

The property uses within the boundaries of the Downtown Modesto CBD which will receive special benefits from Downtown Modesto CBD funded programs and services are currently a mix of retail, service, office, government, and parking. Services, programs and improvements provided by the Downtown Modesto CBD are primarily designed to provide special benefits to identified parcels within the boundaries of the District.

There are four basic categories of special benefit services that will be funded by the Downtown Modesto CBD. All of these services will confer a special benefit to the individual parcels within the CBD. The categories of special benefits are as follows:

1. Sidewalk Operations, Beautification and Order (SOBO): This includes all sidewalk and gutter cleaning services, sidewalk steam cleaning services, graffiti removal, trash removal, as well and beautifying the district based. This category of the budget will be allocated $425,000 of 61% of the first year assessment budget to fund its services.

2. District Identity and Streetscape Improvement (DISI): These services include the branding of the commercial and residential parcels in the proposed Downtown Modesto CBD including: marketing and promotions, newsletter, public relations, media relations, social media, publicity, special events, lighting, website development and maintenance, public space develop and holiday decorations. This category of the assessment budget will be allocated $150,000 or 21% of the budget to fund these services.

3. Program Management & Corporate Operations: This category of the assessment budget will be allocated $97,000 during the first year, or 14% of the first year budget.
4. **Contingency/Reserve.** This contingency anticipates a non-payment rate percentage of 3 to 5%, and any City or County collection fees. This category of the assessment budget will be allocated $28,000 or approximately 4% of the first year annual budget of the proposed CBD.

Assessed parcels within the CBD are conferred proportionate and unique special benefits from CBD funded programs, services and improvements. Commercial parcels that receive these programs, services and improvements attract more customers, employees, visitors, tenants and investors as a result of these programs, services and improvements, thereby increasing business volumes, sales transactions, occupancies, rental income and return on investments. Publicly owned parcels and future residential condominium uses specially benefit proportionately but different than commercial parcels. These differences are discussed later in this Report and are incorporated into the assessment formula used to calculate assessments for these types of parcels. CBD special benefits are particular and distinct in that they are not provided to non-assessed parcels outside of the District. These programs, services and improvements will only be provided for the direct benefit of each individual assessed parcel within the Downtown Modesto CBD boundaries and confer" special benefits” on each assessed parcel. Existing City of Modesto services will be enhanced, not replaced or duplicated, by Downtown Modesto CBD services.

In the case of the Downtown Modesto CBD, the very nature of the purpose of this District is to fund supplemental programs, improvements and services within the Downtown Modesto CBD boundaries above and beyond what is being currently funded either via normal tax supported methods or other funding sources. These services, programs and improvements, are designed to enhance the pedestrian and retail commercial core uses, increase tenancy and marketing of the mix of retail, service, office, government and parking properties in the Downtown Modesto CBD and improve the aesthetic appearance of each identified parcel. All benefits derived from the assessments to be levied on parcels within the Downtown Modesto CBD are for services, programs and improvements directly benefiting each individual parcel within this area and support increased cleanliness, commerce, business attraction and retention, increased commercial property rental income and improved District identity. No Downtown Modesto CBD funded services, activities or programs will be provided outside of the Downtown Modesto CBD boundaries.

These special benefits are particular and distinct to each and every assessed parcel within the Downtown Modesto CBD and are not provided to non-assessed parcels outside of the District. The City of Modesto does not provide these supplemental programs, services or improvements.

While every attempt is made to provide CBD services and programs to confer benefits only to those identified assessed parcels within the CBD, the California State Constitution was amended via Proposition 218 to stipulate that general benefits exist, either by design or unintentional, in all property based assessment districts and that a portion of the program costs must be considered attributable to general benefits and assigned a value. General benefits cannot be funded
by assessment revenues. General benefits might be conferred on parcels within the District, or “spillover” onto parcels surrounding the District, or to the public at large who might be passing through the District with no intention of transacting business within the District or interest in the District itself.

Empirical assessment engineering analysis throughout California has found that general benefits within a given business improvement district tend to range from 1-5% of the total costs. There are three methods that have been used by this Engineer for determining general and special benefit values within assessment districts:

(1) The parcel by parcel allocation method
(2) The program/activity line item allocation method, and
(3) The composite district overlay determinant method.

A majority of PBIDs in California for which this Assessment Engineer has provided assessment engineering services since the enactment of Proposition 218, have used Method #3, the composite district overlay determinant method which will be used for the Downtown Modesto CBD. This method of computing the value of general benefit involves a composite of three distinct types of general benefit – general benefit to assessed parcels within the District, general benefit to the public at large within the District and general benefit to parcels outside the District.

General Benefit – Assessed Parcels within District

CBD funded programs are narrowly designed and carefully implemented to specially benefit the assessed District parcels and are only provided for the special benefit to each and every assessed parcel within the District. It is the opinion of this Engineer, based on over 30 years of professional assessment engineering experience, that 100% of benefits conferred on assessed parcels within the District are distinct and special and that there are 0% general benefits conferred on these parcels. This is because the CBD funded programs and services are specially geared to the unique needs of each assessed parcel within the CBD and are directed specially only to these assessed parcels within the CBD. This concept is further reinforced by the proportionality of special benefits conferred on each assessed parcel within the District as determined by the special benefit assessment formula as it is applied to the unique and varying property characteristics unique to each assessed parcel.

General Benefit – Public At Large

While the CBD funded programs are narrowly designed and carefully implemented to specially benefit the assessed District properties and are only provided for the special benefit to each and every assessed parcel within the District, these CBD funded programs may also provide an incidental general benefit to the public at large within the District. Assessment Engineering experience in California has found that generally over 95% of people moving about within CBD boundaries are engaged in business related to assessed parcels and businesses contained on them within the District, while the public at large “just passing through” is typically much less than 5%. Based on this experience curve and the focused nature of the proposed Downtown Modesto CBD funded programs and over 30 years of assessment engineering
experience, it is the opinion of this Engineer that a general benefit factor of 0.03 of CBD funded special benefit program costs that might provide an immediate general benefit to the public at large will be applied to these applicable program costs in order to compute the dollar and percent value of general benefits to the public at large. It is the opinion of this Engineer that the programs that may provide immediate general benefits to the public at large are limited to the SOBO programs. The dollar value of this general benefit type equates to $7,778 as delineated in the following chart:

<table>
<thead>
<tr>
<th>Program Element</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>SOBO Services</td>
<td>$425,000</td>
<td>61%</td>
<td>0.03</td>
<td>1.83%</td>
<td>$7,778</td>
</tr>
</tbody>
</table>

General Benefits – Outside Parcels
While District programs and services will not be provided directly to parcels outside the District boundaries, it is reasonable to conclude that District services may confer an indirect general benefit on parcels outside the District boundaries. An inventory of the District boundaries finds that the District is surrounded by 82 parcels, with none tangent to assessed parcels within the District but all across streets and alleys from the District boundaries. These 82 parcels outside of the District can reasonably be assumed to receive some level of indirect general benefit as a result of CBD funded programs, services and improvements.

Based on over 30 years of assessment engineering experience, it is the opinion of this Engineer that a benefit factor of 1.0 be attributed to the 316 identified and assessed parcels within the District and a benefit factor of 0.01 be attributed to general benefits conferred on the 82 commercial parcels across streets and alleys from the exterior boundaries of the District. The cumulative dollar value of this general benefit type equates to $1,642 as delineated in the chart below.

<table>
<thead>
<tr>
<th>Parcel Type</th>
<th>Quantity</th>
<th>Benefit Factor</th>
<th>Benefit Units</th>
<th>Benefit Percent</th>
<th>Benefit Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessed parcels in the District</td>
<td>316</td>
<td>1.00</td>
<td>316.00</td>
<td>99.6364%</td>
<td>$700,000</td>
</tr>
<tr>
<td>Commercial parcels outside District (tangent)</td>
<td>0</td>
<td>0.05</td>
<td>0.00</td>
<td>0.0000%</td>
<td>$0</td>
</tr>
<tr>
<td>All other “spillover” parcels outside the District</td>
<td>82</td>
<td>0.01</td>
<td>0.82</td>
<td>0.25882%</td>
<td>$1,816</td>
</tr>
<tr>
<td>TOTAL</td>
<td>316.82</td>
<td>100.00%</td>
<td>$701,816</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Composite General Benefit
Based on the general benefit values delineated in the three sections above, the total value of general benefits conferred on assessed parcels within the District, the public at large and parcels outside the District equates to $9,594 ($0 + $7,778 +
$1,816) or 1.4% of total program costs of $709,594 [$700,000 (special benefit) + $9,594 (general benefits)]. For the purposes of this analysis, this 1.4% value will be conservatively rounded up to 2%. This leaves a value of 98% assigned to special benefit related costs. The 2% general benefit value now equates to $14,286 and when added to the special benefit value of $700,000 (Year 1 –2016 assessments) equates to a total Year 1 – 2016 program cost of $714,286. Remaining costs that are attributed to general benefits of $14,286 will need to be derived from other sources. A comparison of special and general benefit funding sources is shown on a chart on page 21, later in this Report.

**Downtown Modesto CBD Programs and Improvements**

The total special and general benefit program activities and budget allocations that will be provided to each individual parcel assessed in the proposed Downtown Modesto CBD are shown in the chart below:

### Total Year 1 – 2016 - Special + General Benefit Revenue

<table>
<thead>
<tr>
<th>Service</th>
<th>YR 1 - 2016 Assessment Allocation</th>
<th>YR 1 - 2016 Non-Assessment Allocation</th>
<th>YR 1 - 2016 Total Allocation</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk Operations</td>
<td>$425,000</td>
<td>$8,673</td>
<td>$433,673</td>
<td>61%</td>
</tr>
<tr>
<td>District Identity</td>
<td>$150,000</td>
<td>$3,061</td>
<td>$153,061</td>
<td>21%</td>
</tr>
<tr>
<td>Administration</td>
<td>$97,000</td>
<td>$1,981</td>
<td>$98,981</td>
<td>14%</td>
</tr>
<tr>
<td>Contingency/Reserves</td>
<td>$28,000</td>
<td>$571</td>
<td>$28,571</td>
<td>4%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$700,000.00</td>
<td>$14,286</td>
<td>$714,286.00</td>
<td>100%</td>
</tr>
</tbody>
</table>

The Year 1 special benefit budget cost allocations are shown in the table below:

### Year 1 –2016 Proposed Special Benefit Work Plan and Budget Allocations

<table>
<thead>
<tr>
<th>Program or Service</th>
<th>% of Budget</th>
<th>Projected Program Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk Operations, Beautification and Order (SOBO)</td>
<td>61%</td>
<td>$425,000</td>
</tr>
<tr>
<td>District Identity and Special Improvements (DISI)</td>
<td>21%</td>
<td>$150,000</td>
</tr>
<tr>
<td>Program Management &amp; Corporate Operations</td>
<td>14%</td>
<td>$97,000</td>
</tr>
<tr>
<td>Contingency/Reserve</td>
<td>4%</td>
<td>$28,000</td>
</tr>
<tr>
<td><strong>Total Year 1 Budget</strong></td>
<td>100%</td>
<td>$700,000</td>
</tr>
</tbody>
</table>
It is recognized that market conditions may cause the cost of providing goods and services to fluctuate from year to year. Accordingly, the Board of the Association shall have the right to reallocate up to 10% of the budget line item within the budget categories based on such cost fluctuations subject to the review and approval by the Board and included in the Annual Planning Report that will be approved by the Modesto City Council pursuant to the City CBD Ordinance. Accrued interest or delinquent payments may be expended in any budget category.

Any funds remaining after the fifteenth year of operation will be rolled over into the renewal budget or returned to stakeholders. Also, costs for the CBD renewal may be expended from funds available. If the District is not renewed or terminated for any reason, unexpended funds will be returned to the property owners pursuant to the City CBD Ordinance.

The proposed Downtown Modesto CBD services are described in more detail as follows:

**SIDEWALK OPERATIONS, BEAUTIFICATION, ORDER:** $425,000

Examples of these special benefit services and costs may include, but are not limited to:
- Regular sidewalk and gutter sweeping
- Regular sidewalk steam cleaning
- Beautification of the district;
- Enhanced trash emptying (over and above city services)
- Timely graffiti removal, within 24 hours as necessary
- Tree and vegetation maintenance (over and above city services)
- Special events maintenance and set up
- Maintenance of existing and new public spaces
- Hanging plants, planting flowers throughout the district;
- Possible private security and/or camera system

**DISTRICT IDENTITY AND STREETSCAPE IMPROVEMENTS:** $150,000

Examples of these special benefit services and costs may include, but are not limited to:
- Web site development and updating;
- App development;
- Management and coordination of special events
- Social media
- Public relations firm
- Holiday and seasonal decorations
- Branding of Downtown Modesto so a positive image is built
- Banner programs
Public art displays
Downtown landmark sign and maintenance
Logo development
Public space design and improvements
Signage

ENHANCED RESIDENTIAL CONDO UNIT IMPROVEMENTS: (when built) $0 0%
Examples of these special benefit services and costs may include, but are not limited to:

Future residential condos built within the boundaries of the Downtown Modesto CBD will be assessed separately due to their unique parcel status and special benefit needs in the district. Residential condos blocks will have the following special benefit services conferred on the frontage their parcels. These services in the future will include, but will not be limited to:

- Installation, stocking and upkeep of pet waste distribution stations on the frontages adjacent to the high concentrations of residential condo individually assessed parcels;
- Enhancement and beautification of sidewalks on the frontages adjacent to the high concentrations of residential individually assessed parcels;
- Installation of hanging plants, and enhanced upkeep in the sidewalks surrounding these frontages adjacent to these residential condos;
- Other services requested by the residents that confer special benefit to the areas directly adjacent to the parcels with high concentrations of residential condos;
- Proportional share of the Administrative and Contingency costs to cover the oversight of the Enhanced beautification special benefit services.

ADMINISTRATION AND CORPORATE OPERATIONS: $97,000 14%
Examples of these special benefit services and costs may include, but are not limited to:

- Staff and administrative costs
- Directors and Officers Insurance
- Office related expenses
- Rent
- Financial reporting and accounting
- Legal work
Examples of these special benefit services and costs include, but are not limited to:

- Delinquencies
- City Fees
- County fees
- Reserves

Parcels that receive these special benefit programs, services and improvements attract more customers, employees, tenants and investors as a result of these programs, services and improvements, thereby increasing business volumes, sales transactions, occupancies, rental income and return on investments. These benefits are particular and distinct in that they are not provided to non-assessed parcels within or outside of the District. Existing City of Modesto services will be enhanced, not replaced or duplicated, by Downtown Modesto CBD services.

In the case of the Downtown Modesto CBD, the very nature of the purpose of this District is to fund supplemental programs, improvements and services within the Downtown Modesto CBD boundaries above and beyond what is being currently funded either via normal tax supported methods or other funding sources. These services, programs and improvements, are designed to enhance the pedestrian and retail commercial core uses, increase tenancy and marketing of the mix of retail, service, office, government and parking parcels and land uses in the Downtown Modesto CBD and improve the aesthetic appearance of each identified parcel. All benefits derived from the assessments to be levied on parcels within the Downtown Modesto CBD are for services, programs and improvements directly benefiting each individual parcel within this area and support increased cleanliness, commerce, business attraction and retention, increased commercial property rental income and improved District identity. No Downtown Modesto CBD funded services, activities or programs will be provided outside of the Downtown Modesto CBD boundaries.

**Finding 3:** From Section 4(a): "(Determine) the proportionate special benefit derived by each parcel in relationship to the entirety of the.......cost of public improvement(s) or the maintenance and operation expenses........or the cost of the property related service being provided.

Each identified parcel within the district will be assessed based on property characteristics unique only to that parcel. Parcels will be, except as noted herein, assessed based on a combination of factors: building area, land area and street frontage. The calculated assessment rates are applied to the actual measured parameters of each parcel and thereby are proportional to each and every other identified parcel within the district as a whole. Larger parcels and ones with larger building areas or larger street frontages are expected to impact the demand for services and programs to a greater extent than smaller land and/or building areas, and, thus, are assigned a higher proportionate degree of assessment program and
service costs. The proportionality is further achieved by setting targeted formula component weights for the respective parcel by parcel identified property attributes.

The proportionate special benefit cost for each parcel has been calculated based on optimum proportionate formula components and is listed as an attachment to this Report as Appendix 1. The individual percentages (i.e. proportionate relationship to the total special benefit related program and activity costs) are computed by dividing the individual parcel assessment by the total special benefit program costs.

**Finding 4. From Section 4(a):** “No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.”

Not only are the proposed program costs reasonable due to the benefit of group purchasing and contracting which would be possible through the Downtown Modesto CBD, they are also considerably less than other options considered by the Downtown Modesto CBD formation proponent group. The actual assessment rate for each parcel within the Downtown Modesto CBD directly relate to the level of service and, in turn, special benefit to be provided based on the respective building area, land area, street frontage. There is one benefit zone. It is noted that residential condominiums will be assessed based on the individual building pad area of each unit.

**Finding 5. From Section 4(a):** “Parcels........that are owned or used by any (public) agency shall not be exempt from assessment...........”

There are 37 publicly owned parcels within the Downtown Modesto CBD of which 35 are identified and assessable for which CBD funded special benefit programs, services and improvements will be provided.

For publicly owned parcels and facilities within the CBD, each of these parcels specially benefit, but differently than other parcels, from CBD funded programs, services and improvements. The special benefits include cleaner facility entrances and perimeters for their employees, visitors, vendors and other users of these public locations and facilities. It is the opinion of this Engineer that publicly owned and occupied parcels will NOT benefit from District Identity related programs and, thus, will not be assessed for them. To account for the difference in special benefits conferred on publicly owner and occupied parcels and facilities as delineated above, it is the opinion of this Engineer that publicly occupied building areas on publicly owned parcels shall not be assessed since this property assessment factor funds 100% of the District Identity programs, services and improvements.

Each identified and assessable publicly owned parcel and facility within the CBD will proportionately specially benefit as delineated herein from the CBD funded supplemental clean and management programs, services and improvements. These services are designed to improve the cleanliness for visitors, their employees and users of public facilities on
publicly owned parcels within the CBD by reducing litter and debris, each considered detractions to employment, visitation and use of public facilities if not contained and properly managed.

There is no compelling evidence that these identified assessable publicly owned parcels and facilities would not proportionately specially benefit from all other CBD funded programs, services and improvements as delineated herein and, thus, will be assessed accordingly. All current publicly owned parcels within the CBD are shown in the following table:

**Publicly Owned Parcels**

<table>
<thead>
<tr>
<th>APN</th>
<th>Legal Owner</th>
<th>Site #</th>
<th>Site Street</th>
<th>Annual Assessment</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>104 003 010 000</td>
<td>City Of Modesto</td>
<td>1029</td>
<td>9th St</td>
<td>$13,000.25</td>
<td>1.86%</td>
</tr>
<tr>
<td>104 008 005 000</td>
<td>City Of Modesto</td>
<td>K St</td>
<td>$482.57</td>
<td>0.07%</td>
<td></td>
</tr>
<tr>
<td>104 008 009 000</td>
<td>City Of Modesto</td>
<td>8th St</td>
<td>$637.23</td>
<td>0.09%</td>
<td></td>
</tr>
<tr>
<td>105 002 001 000</td>
<td>City Of Modesto</td>
<td>Downey Ave</td>
<td>$3,108.11</td>
<td>0.44%</td>
<td></td>
</tr>
<tr>
<td>105 002 002 000</td>
<td>City Of Modesto</td>
<td>Downey Ave</td>
<td>$2,134.49</td>
<td>0.30%</td>
<td></td>
</tr>
<tr>
<td>105 006 011 000</td>
<td>City Of Modesto</td>
<td>H St</td>
<td>$5,473.63</td>
<td>0.78%</td>
<td></td>
</tr>
<tr>
<td>105 007 005 000</td>
<td>City Of Modesto</td>
<td>906</td>
<td>15th St</td>
<td>$2,047.67</td>
<td>0.29%</td>
</tr>
<tr>
<td>105 007 006 000</td>
<td>City Of Modesto</td>
<td>906</td>
<td>15th St</td>
<td>$1,054.54</td>
<td>0.15%</td>
</tr>
<tr>
<td>105 012 005 000</td>
<td>City Of Modesto</td>
<td>1421</td>
<td>I St</td>
<td>$1,782.90</td>
<td>0.25%</td>
</tr>
<tr>
<td>105 013 012 000</td>
<td>City Of Modesto</td>
<td>1402</td>
<td>I St</td>
<td>$2,540.66</td>
<td>0.36%</td>
</tr>
<tr>
<td>105 038 019 000</td>
<td>City Of Modesto</td>
<td>11th St</td>
<td>$2,106.06</td>
<td>0.30%</td>
<td></td>
</tr>
<tr>
<td>105 038 022 000</td>
<td>City Of Modesto</td>
<td>10th St</td>
<td>$295.27</td>
<td>0.04%</td>
<td></td>
</tr>
<tr>
<td>105 040 015 000</td>
<td>City Of Modesto</td>
<td>I St</td>
<td>$2,306.27</td>
<td>0.33%</td>
<td></td>
</tr>
<tr>
<td>105 041 006 000</td>
<td>City Of Modesto</td>
<td>10th St</td>
<td>$138.67</td>
<td>0.02%</td>
<td></td>
</tr>
<tr>
<td>105 048 006 000</td>
<td>City Of Modesto</td>
<td>1125</td>
<td>9th St</td>
<td>$7,088.48</td>
<td>1.01%</td>
</tr>
<tr>
<td>106 042 013 000</td>
<td>City Of Modesto</td>
<td>911</td>
<td>G St</td>
<td>$2,946.16</td>
<td>0.29%</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
<td>$46,242.97</td>
<td>6.61%</td>
</tr>
<tr>
<td>105 037 035 000</td>
<td>City-County Cap Imp Fin Agency</td>
<td>10th St</td>
<td>$5,593.57</td>
<td>0.80%</td>
<td></td>
</tr>
<tr>
<td>105 006 012 000</td>
<td>County of Stanislaus</td>
<td>1500</td>
<td>I St</td>
<td>$7,262.75</td>
<td>1.04%</td>
</tr>
<tr>
<td>105 024 010 000</td>
<td>County of Stanislaus</td>
<td>820</td>
<td>12th St</td>
<td>$3,905.18</td>
<td>0.56%</td>
</tr>
<tr>
<td>105 024 014 000</td>
<td>County of Stanislaus</td>
<td>832</td>
<td>12th St #3rd</td>
<td>$2,265.58</td>
<td>0.32%</td>
</tr>
<tr>
<td>105 024 015 000</td>
<td>County of Stanislaus</td>
<td>832</td>
<td>12th St #4th</td>
<td>$0.00</td>
<td>0.00%</td>
</tr>
<tr>
<td>105 024 016 000</td>
<td>County of Stanislaus</td>
<td>832</td>
<td>12th St #5th</td>
<td>$0.00</td>
<td>0.00%</td>
</tr>
<tr>
<td>105 025 002 000</td>
<td>County of Stanislaus</td>
<td>1100</td>
<td>I St</td>
<td>$4,925.01</td>
<td>0.70%</td>
</tr>
<tr>
<td>105 025 003 000</td>
<td>County of Stanislaus</td>
<td>1100</td>
<td>I St</td>
<td>$2,925.59</td>
<td>0.42%</td>
</tr>
<tr>
<td>105 038 023 000</td>
<td>County of Stanislaus</td>
<td>1021</td>
<td>I St</td>
<td>$3,724.91</td>
<td>0.53%</td>
</tr>
<tr>
<td>105 039 013 000</td>
<td>County of Stanislaus</td>
<td>11th St</td>
<td>$2,640.34</td>
<td>0.38%</td>
<td></td>
</tr>
<tr>
<td>105 039 014 000</td>
<td>County of Stanislaus</td>
<td>10th St</td>
<td>$10,210.60</td>
<td>1.46%</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
<td>$37,859.96</td>
<td>5.41%</td>
</tr>
<tr>
<td>105 037 032 000</td>
<td>Red. Agency City Of Modesto</td>
<td>11th St</td>
<td>$4,405.95</td>
<td>0.63%</td>
<td></td>
</tr>
<tr>
<td>105 037 033 000</td>
<td>Red. Agency City Of Modesto</td>
<td>10th St</td>
<td>$75.17</td>
<td>0.01%</td>
<td></td>
</tr>
<tr>
<td>105 037 034 000</td>
<td>Red. Agency City Of Modesto</td>
<td>10th St</td>
<td>$597.71</td>
<td>0.09%</td>
<td></td>
</tr>
</tbody>
</table>
Finding 6. From Section 4(b): “All assessments must be supported by a detailed engineer’s report prepared by a registered professional engineer certified by the State of California”.

This report serves as the “detailed engineer’s report” to support the benefit property assessments proposed to be levied within the Downtown Modesto CBD.

Finding 7. From Section 4(c): “The amount of the proposed assessment for each parcel shall be calculated (along with) the total amount thereof chargeable to the entire district, the duration of such payments, the reason for such assessment and the basis upon which the amount of the proposed assessment was calculated.”

The individual and total parcel assessments attributable to special property benefits are shown on Appendix 1 to the Management District Plan and this Report. The District and resultant assessment payments will continue for 15 years and may be renewed again at that time. The reasons (purposes) for the proposed assessments are outlined in Finding 2 above as well as in the Management District Plan. The calculation basis of the proposed assessment is attributed, except as noted herein, to building area, land area and street frontage. There is one benefit zone. It is noted that residential condominiums will be assessed based on the individual building pad area of each unit.

Assessment Formula Methodology

General
The method used to determine special benefits derived by each identified property within a CBD begins with the selection of a suitable and tangible basic benefit unit. For property related services, such as those proposed in the Downtown Modesto CBD, the benefit unit may be measured in linear feet of street frontage or parcel size in square feet or building size in square feet or number of building floors or any combination of these factors. Factor quantities for each parcel are then measured or otherwise ascertained. From these figures, the amount of benefit units to be assigned to each property can be calculated. Special circumstances such as unique geography, land uses, development constraints etc. are carefully reviewed relative to specific programs and improvements to be funded by the CBD in order to determine any levels of different benefit which may apply on a parcel-by-parcel or categorical basis.
Based on the factors described above such as geography and nature of programs and activities proposed, an assessment formula is developed which is derived from a singular or composite basic benefit unit factor or factors. Within the assessment formula, different factors may be assigned different "weights" or percentage of values based on their relationship to programs/services to be funded.

Next, all program and activity costs, including incidental costs, District administration and ancillary program costs, are estimated. It is noted, as stipulated in Proposition 218, and now required of all property based assessment Districts, indirect or general benefits may not be incorporated into the assessment formula and levied on the District properties; only direct or "special" benefits and costs may be considered. Indirect or general benefit costs, if any, must be identified, calculated and factored out of the assessment cost basis to produce a "net" cost figure. In addition, Proposition 218 no longer automatically exempts government owned property from being assessed and if special benefit is determined to be conferred upon such properties, they must be assessed in proportion to special benefits conferred in a manner similar to privately owned property assessments.

From this, the value of a basic benefit unit or "basic net unit cost" can be computed by dividing the total amount of estimated net program costs by the total number of benefit units. The amount of assessment for each parcel can be computed at this time by multiplying the Net Unit Cost times the number of Basic Benefit Units per parcel. This is known as "spreading the assessment" or the "assessment spread" in that all special benefit costs are allocated proportionally or "spread" based on special benefits conferred on benefitting properties within the PBID.

The method and basis of spreading program costs varies from one PBID to another based on local geographic conditions, types of programs and activities proposed, and size and development complexity of the District. PBIDs may require secondary benefit zones to be identified to allow for a tiered assessment formula for variable or "stepped-down" benefits derived.

**Step 1. Select "Basic Benefit Unit(s)"

Based on the specific needs and corresponding nature of the program activities to be funded by the Downtown Modesto CBD (i.e. sidewalk operations and beautification; district identity; administration/management services; and, contingency/reserve) it is the opinion of this Assessment Engineer that the assessment factors on which to base assessment rates relate directly to the proportionate amount of building area, land area and street frontage, except as noted herein, within one benefit zone.

The interactive application of building area, land area and street frontage quantities are a proven method of fairly and equitably spreading special benefit costs to the primary beneficiaries of Downtown Modesto CBD funded services, programs and improvements. Each of these factors, except as noted herein, directly relates to the degree of special benefit
each parcel will receive from Downtown Modesto CBD funded activities.

**Building area** is a direct measure of the static utilization of each parcel and its corresponding impact or draw on certain Downtown Modesto CBD funded activities (i.e. 100% allocated to district identity costs). In the opinion of this Assessment Engineer, the targeted weight of this factor, building area, based on measured property characteristics, should generate approximately 20% (21% when adjusted) of the total Downtown Modesto CBD revenue to proportionately fund the special benefit costs for these related programs and services.

**Land area** is a direct measure of the current and future development capacity of each parcel and its corresponding impact or draw on certain Downtown Modesto CBD funded activities (i.e. 50% allocated to sidewalk operations/beautification costs, and balance will fund 100% of program management costs and contingency/reserve costs). In the opinion of this Assessment Engineer, the targeted weight of this factor, land area, should generate approximately 20% (18% when adjusted) of the total Downtown Modesto CBD revenue to proportionately fund the special benefit costs for these related programs and services.

**Street frontage** is a direct measure of the static utilization of each parcel and its corresponding impact or draw on certain Downtown Modesto CBD funded activities (i.e. 100% allocated to fund sidewalk operations/beautification). In the opinion of this Assessment Engineer, the targeted weight of this factor, street frontage, should generate approximately 60% (61% when adjusted) of the total Downtown Modesto CBD revenue to proportionately fund the special benefit costs for these related programs and services.

**Special Circumstances**

1. **Publicly-Owned Parcels**
   In the opinion of this Engineer, publicly owned and occupied parcels will not specially benefit from CBD funded District Identity programs, services and improvements as other parcel types and ownerships do. Since this activity is funded 100% by building area, publicly owned parcels will not be assessed for publicly occupied building areas located on publicly owned parcels.

2. **Future Residential Condominiums**
   In the case of any future residential condominiums, land area and street frontage quantities do not relate precisely to the building orientation and configurations of multi-unit, multi floor residential condominium complexes. Thus, it is the opinion of this Engineer that the condo unit building pad area is a proven method of fairly and equitably spreading special benefit costs to these unique property ownerships and land uses. This assessment factor directly relates to the proportionate amount of special benefit each residential condominium parcel will receive from targeted Downtown Modesto CBD funded activities for this land use.
3. Future Commercial and Mixed-Use Condominiums (if any)

While there are no current commercial or mixed-use condominiums within the proposed Downtown Modesto CBD, it is the opinion of this Engineer that such units, if and when built, shall be assessed based on actual land area covered, condo building pad area and direct street frontage for each unit. Because such uses are typically developed as part of a multi-floor mixed-use complex, special methodologies are needed to address the levy of assessments on such land uses as follows:

**Multi-Floor Commercial Only Condominiums**
- Building pad area assessed at respective building area rate
- Land assessed at land area rate but pro-rated for each unit relative to total building area
- Frontage assessed at frontage rate but pro-rated relative to total building area

**Multi-Floor Mixed-Use Condominiums**
- Commercial condo building pad area assessed at respective commercial building area rate
- Residential condo units would be assessed at 20 cents per square foot of building pad area plus any annual approved rate adjustments
- Land assessed at land area rate (assessed on 1st floor commercial condos for land area covered)
- Frontage assessed at frontage rate (assessed on 1st floor commercial. condot for actual street frontage)

**Other Future Development**

Other than future maximum rates and the assessment methodology delineated in this Report, per State Law (Government Code Section 53750), future assessments may increase for any given parcel if such an increase is attributable to events other than an increased rate or revised methodology, such as a change in the density, intensity, or nature of the use of land. Any change in assessment formula methodology or rates other than as stipulated in this Report would require a new Proposition 218 ballot procedure in order to approve any such changes.

The "Basic Benefit Units" will be expressed as a combined function of gross building square footage (Benefit Unit “A”), land square footage (Benefit Unit “B”), street frontage (Benefit Unit “C”) and residential condominium building pad area (Benefit Unit “D”). Based on the shape of the Downtown Modesto CBD, as well as the nature of the District program elements, it is determined that all identified properties will gain a direct and proportionate degree of special benefit based, except as noted herein, on the respective amount of building size, parcel size and street frontage within one benefit zone. Future residential condominiums will gain a direct and proportionate degree of special benefit based on the individual building pad area of each unit.

There is one Benefit Zone within the proposed Downtown Modesto CBD. Except as noted herein, assessments are based on three formula components: building square footage; land square footage and street frontage. Residential condominiums
assessments if/when built will be based on the individual building pad area of each unit.

The Basic Benefit Units are delineated as follows: 1) Benefit Units for the building area, "Unit A", 2) Benefit Units for the land area, "Unit B"; 3) Benefit Units for street frontage, "Unit C"; and 4) Benefit Units for future residential condominium building pad area, "Unit D".

Step 2. Quantify Total Basic Benefit Units
Taking into account all identified benefiting properties and their respective assessable benefit units, there are 2,632,178 Benefit Units A, 5,070,262 Benefit Units B, 59,911 Benefit Units C, and 0 Benefit Units D. The measurable assessable quantities and corresponding revenue generated by each factor are shown in the tables below:

<table>
<thead>
<tr>
<th>Benefit Unit Quantities by Zone for YR 1 - 2016</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Area Sq Ft (Unit A)</td>
<td>2,632,178</td>
</tr>
<tr>
<td>Land Area Sq Ft (Unit B)</td>
<td>5,070,262</td>
</tr>
<tr>
<td>Street Frontage Linear Ft (Unit C)</td>
<td>59,911</td>
</tr>
<tr>
<td>Residential Condo Bldg Area (Unit D)</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Assessment Revenue by Factor for YR 1 - 2016</th>
<th>Assmt Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Area Sq Ft (Unit A)</td>
<td>$150,000</td>
</tr>
<tr>
<td>Land Area Sq Ft (Unit B)</td>
<td>$125,000</td>
</tr>
<tr>
<td>Street Frontage Linear Ft (Unit C)</td>
<td>$425,000</td>
</tr>
<tr>
<td>Residential Condo Bldg Area (Unit D)</td>
<td>$0</td>
</tr>
</tbody>
</table>

Step 3. Calculate Benefit Units for Each Property.
The number of Benefit Units for each identified benefiting parcel within the Downtown Modesto CBD was computed from data extracted from County Assessor records and maps. These data sources delineate current land uses, building areas, property areas and dimensions of record for each tax parcel. While it is understood that this data does not represent legal field survey measurements or detailed title search of recorded land subdivision maps or building records, it does provide an acceptable basis for the purpose of calculating property based assessments. All respective property data being used for assessment computations will be provided to each property owner in the Downtown Modesto CBD for their review. All known or reported discrepancies, errors or misinformation will be corrected.

Step 4. Determine Assessment Formula
Based on the nature of the programs to be funded as well as other rationale outlined in Step 1 above, it is the opinion of this
Engineer that the Downtown Modesto CBD assessments will be based on building area, land area, and street frontage, except as noted herein.

The proposed assessment formula is as follows:

\[
\text{Assessment} = \text{Building Area (Unit A) Sq Ft} \times \text{Unit A Rate, plus} \\
\text{Land Area (Unit B) Sq Ft} \times \text{Unit B Rate, plus} \\
\text{Street Frontage (Unit C) Lin Ft} \times \text{Unit C Rate}
\]

Residential Condominium Assessments = Building Pad Area (Unit D) Sq Ft x Unit D Rate

**Assessment Formula Unit Rates Year 1 – 2015-16**

**Building Area Rate (Unit A)**
$150,000 / 2,632,178 \text{ sq ft} = \$0.056987/\text{sq ft}

**Land Area Rate (Unit B)**
$125,000 / 5,070,262 \text{ sq ft} = \$0.024654/\text{sq ft}

**Street Frontage Rate (Unit C)**
$425,000 / 59,911 \text{ linear ft} = \$7.0938/\text{lin ft}

**Residential Condo Rate (Unit D)**
$0.20/\text{sq ft}

The complete Yr 1 – 2015/16 assessment roll of all parcels to be assessed by this CBD is included as Appendix I.

**Step 5. Estimate District Costs**
The projected 15 year special benefit District costs for 2016 – 2030 of the Downtown Modesto CBD are shown in the Table below assuming a 5% increase per year.
15 Year Projected District Special Benefit Costs (not to exceed 5% annual increase)

<table>
<thead>
<tr>
<th></th>
<th>FY1</th>
<th>FY2</th>
<th>FY3</th>
<th>FY4</th>
<th>FY5</th>
<th>FY6</th>
<th>FY7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk Operations,</td>
<td>$425,000.00</td>
<td>$446,250.00</td>
<td>$468,562.50</td>
<td>$491,990.63</td>
<td>$516,590.16</td>
<td>$542,419.66</td>
<td>$568,540.65</td>
</tr>
<tr>
<td>Beautification and</td>
<td>$150,000.00</td>
<td>$157,300.00</td>
<td>$165,375.00</td>
<td>$173,643.75</td>
<td>$182,325.94</td>
<td>$191,442.23</td>
<td>$201,014.35</td>
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<tr>
<td>Order</td>
<td>$97,000.00</td>
<td>$101,850.00</td>
<td>$106,942.50</td>
<td>$112,289.63</td>
<td>$117,904.11</td>
<td>$123,799.31</td>
<td>$129,989.28</td>
</tr>
<tr>
<td>Administration</td>
<td>$28,000.00</td>
<td>$29,400.00</td>
<td>$30,870.00</td>
<td>$32,413.50</td>
<td>$34,034.18</td>
<td>$35,735.88</td>
<td>$37,522.68</td>
</tr>
<tr>
<td>Contingency</td>
<td>$211,065.06</td>
<td>$221,618.32</td>
<td>$232,699.23</td>
<td>$244,334.19</td>
<td>$256,550.90</td>
<td>$269,378.45</td>
<td>$282,847.37</td>
</tr>
<tr>
<td>Total</td>
<td>$700,000.00</td>
<td>$735,000.00</td>
<td>$771,750.00</td>
<td>$810,337.50</td>
<td>$850,854.38</td>
<td>$893,397.09</td>
<td>$938,066.95</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>FY8</th>
<th>FY9</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>FY13</th>
<th>FY14</th>
<th>FY15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk Operations,</td>
<td>$598,017.68</td>
<td>$627,918.56</td>
<td>$659,314.49</td>
<td>$692,280.22</td>
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<td>$763,238.94</td>
<td>$801,400.89</td>
<td>$803,308.98</td>
</tr>
<tr>
<td>Beautification and</td>
<td>$211,055.06</td>
<td>$221,618.32</td>
<td>$232,699.23</td>
<td>$244,334.19</td>
<td>$256,550.90</td>
<td>$269,378.45</td>
<td>$282,847.37</td>
<td>$283,520.82</td>
</tr>
<tr>
<td>Order</td>
<td>$136,488.74</td>
<td>$143,313.18</td>
<td>$150,478.84</td>
<td>$158,002.78</td>
<td>$165,902.92</td>
<td>$174,198.06</td>
<td>$182,907.97</td>
<td>$183,343.46</td>
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<tr>
<td>Administration</td>
<td>$39,398.81</td>
<td>$41,368.75</td>
<td>$43,437.19</td>
<td>$45,609.05</td>
<td>$47,889.50</td>
<td>$50,283.98</td>
<td>$52,758.18</td>
<td>$52,923.89</td>
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<tr>
<td>Contingency</td>
<td>$8,993.50</td>
<td>$9,088.75</td>
<td>$9,195.00</td>
<td>$9,314.25</td>
<td>$9,444.50</td>
<td>$9,584.75</td>
<td>$9,734.99</td>
<td>$9,894.72</td>
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<tr>
<td>Total</td>
<td>$984,970.30</td>
<td>$1,034,218.81</td>
<td>$1,085,929.75</td>
<td>$1,140,226.24</td>
<td>$1,197,237.55</td>
<td>$1,257,099.43</td>
<td>$1,315,954.40</td>
<td>$1,323,097.15</td>
</tr>
</tbody>
</table>

It is recognized that market conditions may cause the cost of providing goods and services to fluctuate from year to year. Accordingly, the Association Board shall have the right to reallocate up to 10% of the budget line item within the budget categories based on such cost fluctuations subject to the review and approval by the Board of Directors and included in the Annual Planning Report that will be approved by the Modesto City Council. Accrued interest or delinquent payments may be expended in any budget category.

Any funds remaining after the fifteenth year of operation will be rolled over into the renewal budget or returned to stakeholders. Also, CBD funds may be used to pay for renewal costs. If the District is not renewed or terminated for any reason, unexpended funds will be returned to the property owners pursuant to the City CBD Ordinance.

**Step 6. Separate General Benefits from Special Benefits and Related Costs (Prop 218)**

Total costs are estimated at $714,286 (see Table below). General benefits are factored at 2% of total (see Finding 2 on page 8 of this report) with special benefits set at 98%. Proposition 218 limits the levy of property assessments to costs...
attributed to special benefits only. The 2% general benefit cost is computed to be $14,286 with a resultant 98% special benefit limit computed at $700,000. This is the maximum amount of revenue that can be derived from property assessments from the subject CBD.

**Total Year 1 - 2016 - Special + General Benefit Revenue**

<table>
<thead>
<tr>
<th>Service</th>
<th>YR 1 - 2016 Assessment Allocation</th>
<th>YR 1 - 2016 Non-Assessment Allocation</th>
<th>YR 1 - 2016 Total Allocation</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk Operations</td>
<td>$425,000</td>
<td>$8,673</td>
<td>$433,673</td>
<td>61%</td>
</tr>
<tr>
<td>District Identity</td>
<td>$150,000</td>
<td>$3,061</td>
<td>$153,061</td>
<td>21%</td>
</tr>
<tr>
<td>Administration</td>
<td>$97,000</td>
<td>$1,981</td>
<td>$98,981</td>
<td>14%</td>
</tr>
<tr>
<td>Contingency/Reserves</td>
<td>$28,000</td>
<td>$571</td>
<td>$28,571</td>
<td>4%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$700,000.00</strong></td>
<td><strong>$14,286</strong></td>
<td><strong>$714,286.00</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

All program costs associated with general benefits ($14,286) will be derived from monetary sources other than Downtown Modesto CBD assessments.

**General + Special Benefit Revenue Sources**

<table>
<thead>
<tr>
<th>Revenue Source</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Downtown Modesto CBD Assessment Revenue - Year 1 - 2016)</td>
<td>$700,000</td>
</tr>
<tr>
<td>Other revenues to fund general benefit costs (grants, dues, program income)</td>
<td>$14,286</td>
</tr>
<tr>
<td><strong>Total Costs – General and special benefits</strong></td>
<td><strong>$714,286</strong></td>
</tr>
</tbody>
</table>

**Step 7. Calculate “Basic Unit Cost”**

With a Year 1 – 2016 budget of $700,000 (special benefit only), the Basic Unit Costs (rates) are delineated above in Step 4. Since the Downtown Modesto CBD is being formed for a 15 year term, maximum assessments for future years (2017-2030) must be set at the inception of the CBD. An annual inflationary assessment rate increase not to exceed 5% may be imposed for future year assessments, on approval by the Association Board. The maximum assessment rates for the 15 year CBD term of 2016-2030 are shown in the Table below. The assessment rates listed constitute the maximum assessment rates that may be imposed for future years of the Downtown Modesto CBD (2016-2030).
FIFTEEN (15) YEAR MAXIMUM ASSESSMENT RATES (Not to exceed 5% per year)

<table>
<thead>
<tr>
<th>Year</th>
<th>Building Area Rate ($/SF)</th>
<th>Land Area Rate ($/SF)</th>
<th>Street Frontage Rate ($/LF)</th>
<th>Residential Condo Rate ($/SF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$0.056987</td>
<td>$0.024654</td>
<td>$7.093800</td>
<td>$0.200000</td>
</tr>
<tr>
<td>2</td>
<td>$0.059836</td>
<td>$0.025887</td>
<td>$7.448490</td>
<td>$0.210000</td>
</tr>
<tr>
<td>3</td>
<td>$0.062828</td>
<td>$0.027181</td>
<td>$7.820915</td>
<td>$0.220500</td>
</tr>
<tr>
<td>4</td>
<td>$0.065970</td>
<td>$0.028540</td>
<td>$8.211960</td>
<td>$0.231525</td>
</tr>
<tr>
<td>5</td>
<td>$0.069268</td>
<td>$0.029967</td>
<td>$8.622558</td>
<td>$0.243101</td>
</tr>
<tr>
<td>6</td>
<td>$0.072731</td>
<td>$0.031465</td>
<td>$9.053686</td>
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</tr>
<tr>
<td>7</td>
<td>$0.076368</td>
<td>$0.033039</td>
<td>$9.506370</td>
<td>$0.268019</td>
</tr>
<tr>
<td>8</td>
<td>$0.080186</td>
<td>$0.034691</td>
<td>$9.981689</td>
<td>$0.281420</td>
</tr>
<tr>
<td>9</td>
<td>$0.084196</td>
<td>$0.036425</td>
<td>$10.480773</td>
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</tr>
<tr>
<td>10</td>
<td>$0.088406</td>
<td>$0.038246</td>
<td>$11.004812</td>
<td>$0.310266</td>
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<tr>
<td>11</td>
<td>$0.092826</td>
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<td>12</td>
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<td>13</td>
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<td>$0.112830</td>
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<td>$14.045239</td>
<td>$0.395986</td>
</tr>
</tbody>
</table>

Step 8. Spread the Assessments

The resultant assessment spread calculation results for each parcel within the Downtown Modesto CBD are shown in Appendix 1 attached to this Report and were determined by applying the District assessment formula to each identified assessed property.
APPENDIX 1

YR 1 – 2015/2016 ASSESSMENTS
<table>
<thead>
<tr>
<th>APN</th>
<th>Yr 1 – 2015/16 Assessment</th>
<th>2015 008 000</th>
</tr>
</thead>
<tbody>
<tr>
<td>103 001 002 000</td>
<td>$749.39</td>
<td>105 004 008 000</td>
</tr>
<tr>
<td>103 001 003 000</td>
<td>$2,031.74</td>
<td>105 005 002 000</td>
</tr>
<tr>
<td>103 001 004 000</td>
<td>$5,358.40</td>
<td>105 005 003 000</td>
</tr>
<tr>
<td>103 001 006 000</td>
<td>$1,561.53</td>
<td>105 005 004 000</td>
</tr>
<tr>
<td>103 001 007 000</td>
<td>$3,638.14</td>
<td>105 005 006 000</td>
</tr>
<tr>
<td>103 001 008 000</td>
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<tr>
<td>103 003 001 000</td>
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<tr>
<td>103 003 002 000</td>
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<td>105 005 009 000</td>
</tr>
<tr>
<td>103 003 003 000</td>
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<td>105 005 010 000</td>
</tr>
<tr>
<td>103 003 004 000</td>
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<td>105 006 011 000</td>
</tr>
<tr>
<td>103 003 005 000</td>
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</tr>
<tr>
<td>103 003 006 000</td>
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<td>105 007 004 000</td>
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<tr>
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<tr>
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<tr>
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<tr>
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<tr>
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APPENDIX 2

DOWNTOWN MODESTO CBD BOUNDARY MAP
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-205

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF EIGHT (8) CHEVROLET IMPALA LIMITED SEDANS FOR THE MODESTO POLICE DEPARTMENT THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO AMERICAN CHEVROLET, MODESTO, CA, FOR A TOTAL ESTIMATED COST OF $156,531

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The eight (8) Chevrolet Impala Limited Sedans were included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the eight (8) replacement sedans have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, the State of California, Department of General Services (DGS) went through a competitive bid process for the purchase of various vehicles including the Chevrolet Impala Limited Sedan, and issued contract No. 1-14-23-10 A-G. A local vendor can provide these vehicles and a Request for Quotation was issued to American Chevrolet. The bid from American Chevrolet came in lower than the State Contract by a total of $1,728.04, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2014-15, in account # 5409-53246-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of eight (8) Chevrolet Impala
Limited Sedans for the Modesto Police Department through the Public Works Department, Fleet Services Division, to American Chevrolet, Modesto, CA, conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of eight (8) Chevrolet Impala Limited Sedans for the Modesto Police Department through the Public Works Department, Fleet Services Division, to American Chevrolet, Modesto, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of $156,531.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION ESTABLISHING THE CALCULATION FOR THE APPROPRIATION LIMIT FOR THE FISCAL YEAR 2015-2016 ANNUAL BUDGET

WHEREAS, Proposition IV of the California State Constitution requires the City to establish an appropriation limit calculation each fiscal year, and

WHEREAS, Article XIIIB of the California Constitution specifies that appropriations made by state and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction, and

WHEREAS, the attached schedule shows the preferred price and population factors to be used and the appropriation limit with the recommended factors in calculating the limit are the price factor of “state growth in per capita income” and the population factor of “growth rate in the city limits of Modesto,” and

WHEREAS, a copy of said report is on file with the City of Modesto Finance Department.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appropriation limit calculation is hereby established as shown on Schedule A, attached hereto, and made a part hereof.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following votes:

**AYES:** Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Madrigal

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
FISCAL YEAR 2015-16

PROPOSITION 4

APPROPRIATION LIMIT CALCULATION

FY 2014-2015 Appropriation Limit $367,931,710

Adjustment Factors

Per Capita Personal Income Change 3.82%
Population Change (Modesto) 0.63%

Per Capita converted to a ratio 1.0382
Population converted to a ratio 1.0063

Calculation of factor for FY 2015-2016 1.0447

Adjustment $16,446,547

FY 2015-2016 Appropriation Limit $384,378,257

Article XIIIIB places a limit on most, but not all, government revenue sources. The limit applies to appropriations from proceeds of taxes from both the general fund and special funds of government entities. Proceeds of taxes include tax revenues, interest earnings on invested tax revenues, and any revenues collected by a regulatory license fee or user charge in excess of the amount needed to cover the cost of providing the regulation, product, or service.

Appropriations from nontax revenues, including the City’s enterprise funds, are not subject to the limit.
RESOLUTION APPROVING IN-KIND SUPPORT FOR THE MODESTO KIWANIS CLUB 4TH OF JULY FESTIVITIES

WHEREAS, the City of Modesto recognizes the importance of family friendly activities; and

WHEREAS, the Modesto Kiwanis Club is hosting the 4th of July Parade in Modesto; and

WHEREAS, the Modesto Kiwanis have expressed the desire to host a family friendly event after the parade; and

WHEREAS, the Modesto Kiwanis Club has requested in-kind sponsorship use of Centre Plaza tables, chairs, linens and applicable labor to set up and breakdown the event; and

WHEREAS, the Modesto Kiwanis Club has requested the City of Modesto provide labor to install custom poles in Tenth Street Place Plaza; and

WHEREAS, the Modesto Kiwanis Club is requesting the City of Modesto waive fees associated with permits; and

WHEREAS, the Modesto Kiwanis Club is requesting a waiver of rental costs associated with Tenth Street Place Plaza; and

WHEREAS, the Modesto Centre Plaza will incur a loss of rental revenue of approximately $240, plus labor charges. The General Fund will also incur approximately $1,200 in labor costs to install and remove custom poles in the Tenth Street Place Plaza, as well as fees associated with permits and the rental of the Tenth Street Place Plaza.
THEREFORE, LET IT BE RESOLVED, by the Council of the City of Modesto that it hereby approves the in-kind sponsorship use of the requested Centre Plaza equipment, agrees to provide necessary labor to install custom poles in the Tenth Street Place Plaza, waive necessary permit fees and waive rental costs for Tenth Street Place Plaza for the 4th of July festivities. The total cost of the City’s in-kind sponsorship, necessary labor and waiver of necessary permit fees and rental costs shall not exceed $5,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: 

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION NO. 2015-208

A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT BETWEEN THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FORMULA PROGRAM FISCAL YEAR 2015 LOCAL SOLICITATION AUTHORIZING A JOINT APPLICATION WITH THE COUNTY OF STANISLAUS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF AGREEMENT

WHEREAS, the allocation of Edward Byrne Memorial Justice Assistance Grant (JAG) is based on a formula of population and violent crime statistics, in combination with a minimum allocation to ensure that each state and territory received an appropriate share of funding, and

WHEREAS, the JAG Program allows states, tribes and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions, and

WHEREAS, the City of Modesto Police Department is eligible to apply for $115,970 and Stanislaus County is eligible for $27,249, and

WHEREAS, the City of Modesto Police Department is considered a “disparate” under the terms of this grant because the City is eligible to receive one and one-half (1 ½) times more than a County (150% more than the County with concurrent jurisdiction), and

WHEREAS, the Modesto Police Department and Stanislaus County are required to submit a joint application for the total eligible allocation of $143,219 and

WHEREAS, recommended distribution of the 2014 JAG funds are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Probation</td>
<td>$6,812</td>
</tr>
<tr>
<td>Sheriff</td>
<td>$20,437</td>
</tr>
<tr>
<td>Sheriff (Admin)</td>
<td>$3,479</td>
</tr>
<tr>
<td>Modesto Police</td>
<td>$112,491</td>
</tr>
</tbody>
</table>
WHEREAS, the City of Modesto will use its allocation to purchase 800 MHz radios for police officers.

WHEREAS, there is no match required for this grant, and

WHEREAS, the awards are made in the first fiscal year of the appropriation and may be expended during the following three years for a total of four years, and

WHEREAS, Stanislaus County will be the fiscal agent for this grant, and

WHEREAS, the County will charge the City a three percent (3%) administrative fee in the amount of $3,479 to cover the reporting costs associated with the grant, and

WHEREAS, the administrative fee reduces the City’s total projected grant award to $112,491 ($115,970 less the 3% administrative fee of $3,479), and

WHEREAS, the grant requires that a trust fund must be established for fund deposits, and funds cannot be commingled with funds from any other source, and

WHEREAS, the Memorandum of Agreement states that the City agrees to provide the County a quarterly financial and programmatic report not later than fifteen (15) calendar days after the end of the quarter, and

WHEREAS, grant requires a signed Memorandum of Agreement for the application,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Agreement between the County of Stanislaus and the City of Modesto for the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program Fiscal Year 2015 Local Solicitation, authorizing a joint application with the County of Stanislaus.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant application upon award.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: ________________________________
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________
ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AMENDMENT NO. 1 TO AGREEMENT WITH STANISLAUS COUNTY FOR THE LEASE OF SPACE AT THE CITY OF MODESTO TRANSPORTATION CENTER, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, the City of Modesto Downtown Transportation Center was designed to be an intermodal public transit facility, and

WHEREAS, a lease agreement was entered into by the City of Modesto and Stanislaus County on the 4th Day of November, 2009 to lease space in the Modesto Transportation Center located at 1001 Ninth Street, Modesto, and

WHEREAS, the Stanislaus County transit service (Stanislaus Regional Transit) has been using the Center as a transfer point since 1994, and

WHEREAS, Stanislaus County currently leases three (3) bus parking bays at the Center as described in the Lease Agreement between the City and County dated November 4, 2009; and,

WHEREAS, Stanislaus County desires to lease one (1) bus parking bay in addition to the three (3) parking bays it currently leases; and

WHEREAS, the City of Modesto has one (1) additional bus parking bay it is willing to lease to Stanislaus County.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 1 to the Lease Agreement with Stanislaus County for the lease of space at the City of Modesto Transportation Center.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment No. 1.
The forgoing resolution was introduced at a regular meeting of the Council of the
City of Modesto held on the 23rd day of June, 2015, By Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was
upon roll call carried and this resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO APPROVE AMENDMENT NO. 2 TO THE EXISTING EXTENSION OF THE AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING (MOU) WITH STANISLAUS COUNTY TO EXTEND THE TERM OF THE MOU FOR THE DISBURSEMENT OF FUNDS HELD IN THE AB939 SOURCE REDUCTION AND RECYCLING ACCOUNT

WHEREAS, pursuant to a Memorandum of Understanding ("MOU") between the City of Modesto ("City") and the County of Stanislaus ("County"), which was executed on August 25, 1994, the City’s proportional share of funds from the AB 939 Source Reduction and Recycling Account are disbursed to the City on an ongoing quarterly basis for waste diversion programs, and

WHEREAS, in June 1997, the City executed an Amendment to the MOU with the County to allocate a portion of the fees to cover the cost of preparing quarterly “disposal-based” reports for the City, and

WHEREAS, in November 2000, the City executed an extension to the Amendment to the MOU with the County for disbursement of funds held in the AB939 Source Reduction and Recycling Account, and

WHEREAS, said reports provide the basis for the City’s Annual Report to the State on attainment of the mandated reduction in disposal and the City’s portion of the costs of preparing the quarterly reports is $7,500.00, and

WHEREAS, AB 939 plans have been completed and are in continuous implementation phases, and the Public Resources Code allows the ongoing collection of solid waste fees for solid waste diversion program implementation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amendment No. 2 to the Amendment of the Extended Memorandum of Understanding
("MOU") between the City of Modesto and the County of Stanislaus is hereby approved for the extension and disbursement of funds held in the AB 939 Source Reduction and Recycling Account, and

BE IT FURTHER RESOLVED that the City Manager or his authorized designee is hereby authorized to execute said Amendment No. 2, and,

BE IT FURTHER RESOLVED that the City and the County desire to amend the AB 939 Memorandum of Understanding ("MOU") retroactive from the date of expiration to provide for the continuance of the existing MOU which will remain in effect until such time as the parties agree to terminate the MOU effective upon 30 days written notice to the other party.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) WITH STANISLAUS COUNTY FOR THE REDUCTION OF DISPOSAL CHARGES ("TIP FEES") AT THE FINK ROAD LANDFILL AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID MOU

WHEREAS, Stanislaus County's solid waste management system includes the Fink Road Landfill (Landfill), the Waste-to-Energy (WTE) facility, and the Household Hazardous Waste (HHW) facility, and

WHEREAS, delivery of adequate waste to each of these components of the County's solid waste management system is critical because tipping fees not only fund these current operations as required to meet State regulations, they also fund the ongoing closure and corrective action activities associated with the Geer Road Landfill, and

WHEREAS, the City and the County are obligated to deliver a minimum of 243,300 tons per year to the WTE facility under their Agreement with Covanta, Stanislaus, and

WHEREAS, the County has recently renegotiated its 2001 Regional Agency agreements with the other cities, and those jurisdictions have agreed to deliver 62% of their annual solid waste tonnages to the WTE facility and 38% of their annual solid waste tonnages to the Fink Road Landfill for the next 10 years, and

WHEREAS, this reduces the amount of waste that both the City and the County need to deliver to the two facilities, and

WHEREAS, Modesto now needs to deliver a minimum of 108,000 tons annually to the WTE facility (annual deliveries will remain at approximately 120,000 tons per year to keep the facility running at peak) and at least 12,000 tons per year to the Fink Road Landfill (annual deliveries are now 18,000 to 23,000 tons), and
WHEREAS, the current tip fee at the Landfill is $33 per ton, and

WHEREAS, the City has negotiated an MOU with Stanislaus County to decrease the tip fee charged for City wastes at the Fink Road Landfill to $26 per ton consistent with the fees to be charged to the other cities, and

WHEREAS, in exchange for the lower tip fee, the City will guarantee a minimum delivery of 12,000 tons to the landfill annually for 10 years, and

WHEREAS, under this MOU, the tip fee would escalate to $29 per ton in 2024/2025, and

WHEREAS, the decrease in costs at the Fink Road landfill will reduce disposal rates to the ratepayers by approximately $84,000 to $126,000 per year for residential and commercial bin customers, which decreases will be factored into the maximum rate structure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the attached Memorandum of Understanding ("MOU") between the City of Modesto and the County of Stanislaus is hereby approved for the reduction of tip fees at the Fink Road Landfill.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said MOU.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By:

ADAM U. LINDGREN, City Attorney
MEMORANDUM OF UNDERSTANDING BETWEEN
STANISLAUS COUNTY AND THE CITY OF MODESTO FOR SOLID WASTE DISPOSAL AT
THE FINK ROAD LANDFILL

This MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") is made and entered into by and between the County of Stanislaus, (hereinafter referred to as "County") and the City of Modesto (hereinafter referred to as "City"), on ___________.

RECITALS

WHEREAS, under California Integrated Waste Management Act of 1989 (the "Act"; Pub. Resources Code § 4000 et seq.), each of the parties is required to develop plans and implement programs for solid waste disposal and diversion within their respective jurisdictions; and

WHEREAS, the County and City have entered into a Service Agreement with Covanta Stanislaus, Inc. to supply acceptable solid waste to the Waste to Energy Facility, which Service Agreement guarantees the flow of a minimum of 243,300 tons of acceptable waste to the Waste to Energy Facility, and provides for disposal capacity for bypass waste from the Facility at the Fink Road Landfill, and for the disposal of combustion ash in a designated Class II monofill at the Fink Road Landfill; and

WHEREAS, the County and City have entered into an "Agreement Relating to the Administration of the Service Agreement for Supply and Acceptance of Solid Waste", which Agreement establishes the proportional responsibilities of County and City for deliveries of acceptable waste to the Waste to Energy Facility; and

WHEREAS, the Countywide Siting Element, Summary Plan, and the City of Modesto's Source Reduction and Recycling Element identify waste disposal capacity which is located in the unincorporated area of the County as the method of meeting the state's 15-year minimum disposal capacity requirement; and,

WHEREAS, to ensure that each party has sufficient long term disposal capacity to meet the requirements of state law and the contractual commitments of the Service Agreement with Covanta, the County and City now desire to enter into an MOU for Disposal to ensure that the Fink Road Landfill (hereinafter referred to as "Landfill") both remains in operation and is operated as economically as possible.

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:
AGREEMENT

1. Scope of Agreement

1.1 County and City acknowledge that it is beneficial to ensure optimum deliveries of acceptable solid waste to the Fink Road Landfill to maintain the financial viability of the Landfill and to ensure ongoing capacity to meet regulatory and contractual obligations.

1.2 County shall provide City, and City's contracted Haulers ("Haulers") on behalf of City, the right to deposit for disposal in a lawful manner, acceptable solid waste and nonhazardous solid waste generated within the limits of City, as such may now exist and as such limits may exist at any time during the term of this contract.

1.3 The City, in cooperation with its Haulers, agrees to direct its Haulers to transport no less than 12,000 tons and up to 18,000 tons annually of its acceptable solid waste disposal tonnage, to the Landfill in conformance with the provisions of the City's adopted AB 939 Plans.

2. Consideration

2.1 In consideration for entering into this MOU, wastes from the City delivered by its Haulers, will be charged a discounted tipping fee beginning at $26 per ton, at the Landfill, as set by the Stanislaus County Board of Supervisors (hereinafter referred to as the "Board"), and adjusted periodically as set forth in Schedule 1 of this MOU.

2.2 The Hauler shall pay the County the Schedule 1 discounted per ton tipping fee for each ton of municipal solid waste directed by the City to be delivered to the Landfill per this MOU.

3. Payment Terms

3.1 County shall calculate the fees owed by each Hauler based on the scale-house reports.

4. Term

4.1 The term of this MOU shall be from June 1, 2015, and end June 30, 2025, unless sooner terminated as provided below or unless some other method or time of termination is listed herein.

4.2 Should either party default in the performance of this MOU or materially breach any of its provisions, the other party, at that party's option, may terminate this MOU by giving written thirty (30) day notification to the other party.

5. MOU Extension

5.1 This MOU may be extended, for a five (5) year term extension with the same terms and conditions, with the exception of the tipping fee. A written notice of renewal or nonrenewal shall be served by either party 60 days prior to the end of initial term. If the notice of nonrenewal is served by either party then the MOU shall terminate on June 30, 2025.


6.1 Amendment. This MOU may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed by the City and by the County.
6.2 Notices. All notices permitted or required by this MOU or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To:  
**County of Stanislaus:**  
Department of Environmental Resources  
3800 Cornucopia Way, Suite C  
Modesto, CA 95358  
Attn: Susan M. Garcia, C.P.M

To:  
**City of Modesto:**  
Solid Waste Manager  
Public Works Department  
P.O. Box 642  
Modesto, Ca. 95353

6.3 Disposal Site. The Waste to Energy Facility and Fink Road Landfill are served by a scale house which is operated by County staff and which weighs materials delivered to the two facilities. The parties agree that for the tonnages of waste the City commits to delivering to the County in this MOU the City will direct its Hauler to take the waste to the Landfill and County staff will ensure that the waste is directed to the correct facility. County staff will notify the City of any failure of City's Hauler to deliver waste to the designated facility.

6.4 Nonhazardous Solid Waste. “Nonhazardous Solid Waste” means, for the purpose of this MOU waste which may be disposed of in a Class III sanitary landfill in accordance with local, State and Federal regulations.

6.5 Collection and Transportation Within the City. Notwithstanding the provisions of this MOU, the City retains the right to regulate all aspects of the collection, transportation, and disposition of all solid waste originating within the boundaries of City.

7. Force Majeure. Except as otherwise expressly provided in this MOU, if the performance of any act required to be performed by either County or City is prevented or delayed or made impracticable by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, Change in Law or regulations, or any other cause (except financial inability) not the fault of the Party required to perform the act, the time for performance of the act will either be extended for a period equivalent to the period of delay or performance of the act will be excused.

7.1 “Change in Law” as used herein means the enactment, promulgation, amendment or official interpretation or reinterpretation by any order, decision or judgment of any federal, state or local court, administrative agency or governmental body after the Effective Date of (i) any federal statute or regulation not enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or (ii) any state, County or City statute, ordinance, or regulation that was not so enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or establishes requirements making the ownership, operation or maintenance of the Landfill more burdensome than the most stringent requirements (x) in effect as of the Effective Date, (y) agreed to in any applications of the County for official permits, licenses, or approvals, or (z) contained in any official permits, licenses, or approvals with respect to the Landfill obtained as of the Effective Date; provided that a lawful change in federal, State, County, City, or any other tax law shall not be a Change in Law.

a. If there is a Change in Law that materially affects operations of the Fink Road Landfill, the Parties hereto agree to act in good faith to amend or renegotiate this MOU to effectuate the purpose of this MOU as stated herein above.
b. If there is a Change in Law that materially affects the requirements for the City regarding the reuse, recycling, composting or any other form of diversion of solid waste from disposal, including, but not limited to an increase in the percentage of solid waste required to be diverted, as well as changes to applicable diversion credits, the Parties hereto agree to act in good faith to amend or renegotiate this MOU.

c. The Party whose performance of this MOU is affected pursuant to this Section shall give notice of the conditions affecting performance to the other Party within thirty (30) calendar days that the Party becomes aware that any Change in Law will materially affect performance of this MOU.

d. Upon receiving notice pursuant to this Section, the Parties will have one hundred eighty (180) days to renegotiate this MOU. If the Parties do not agree that a Change in Law materially affects performance of this MOU pursuant to this Section, then either Party may request binding mediation, to be paid equally by both Parties, to determine whether the Change in Law is material. Either Party may terminate the MOU upon three days written notice if it is determined that a material Change in Law has occurred, and the Parties do not renegotiate the Agreement within one hundred eighty (180) days.

IN WITNESS WHEREOF, the parties have executed this MOU on ____________, 2015.

COUNTY OF STANISLAUS

By: ____________________________
Terrance Withrow
Chair of the Board of Supervisors

“County”

ATTEST: Christine Ferraro Tallman
Clerk of the Board of Supervisors or the
County of Stanislaus, State of California

By: ____________________________
County Clerk

APPROVED AS TO CONTENT:
Department of Environmental Resources

By: ____________________________
Jami Aggers
Director
APPROVED AS TO FORM:

John P. Doering
County Counsel

By: __________________________
    Thomas Bose
    Deputy County Counsel

(City Signatures on the next page)

APPROVED AS TO FORM: CITY OF ____________________

By: __________________________
    City Attorney

ATTEST:

By: __________________________
    City Clerk
    "CITY"
### SCHEDULE 1 - DISPOSAL RATES (per ton):

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fink Road Landfill</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015/2016</td>
<td>$26.00</td>
</tr>
<tr>
<td>2016/2017</td>
<td>$26.00</td>
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<td>$29.00</td>
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<tr>
<td>2024/2025</td>
<td>$29.00</td>
</tr>
</tbody>
</table>
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, 
TO APPROVE THE AWARD OF BID FOR CONSTRUCTION OF THE 
AIRPORT PERIMETER FENCE REHABILITATION PROJECT, AIRPORT 
RUNWAY 10L-28R SHOULDER REHABILITATION PROJECT AND THE 
WEST APRON RECONSTRUCTION PROJECT

WHEREAS, the Modesto City-County Airport (Airport) is a federally obligated 
facility and is required to meet Federal Aviation Administration (FAA) standards, per 
FAA Regulation (FAR) Part 139.305 Maintaining paved areas, Part 139.311 Maintaining 
FAA approved marking, signage and lighting and 139.335 providing Public Protection, 
Subpart D, and 

WHEREAS, the FAA previously identified deficiencies that include runway, 
shoulder and west apron maintenance; marking, signage and lighting; and public 
protection through security and perimeter fencing, and 

WHEREAS, Council approved Resolutions 2014-237, 2013-343 and 2013-344 
for agreements with Kimley-Horn and Associates (KHA) to perform engineering, design 
and construction on various airport projects, including the runway 10L-28R shoulder 
rehabilitation, west apron reconstruction, perimeter fence rehabilitation, electrical, 
signage and marking plan and stormwater/drainage master plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto 
that it hereby authorizes the City Manager, or his designee, to approve the award of bid 
for construction to the contractor with the lowest most responsive and responsible bid for 
the Airport Perimeter Fence Rehabilitation Project, Airport Runway 10L-28R Shoulder 
Rehabilitation Project and the West Apron Reconstruction Project, and
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the award of bid for construction regarding the Airport Perimeter Fence Rehabilitation Project, Airport Runway 10L-28R Shoulder Rehabilitation Project and the West Apron Reconstruction Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: ____________________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________

ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO APPROVE AND SIGN A FEDERAL AVIATION ADMINISTRATION (FAA) GRANT OFFER FOR $3,706,362

WHEREAS, the Modesto City-County Airport (Airport) is part of the Federal airport system and eligible for Federal funding, and

WHEREAS, as airport sponsor, the City is eligible each year for entitlement and discretionary funds that provide 90.66% for the FAA Airport Capital Improvement Program (ACIP), and

WHEREAS, the local 9.34% match required for grants will be paid from a City Local Match (TBD) and potentially Passenger Facility Charges (PFC's) that have been previously collected, and

WHEREAS, the Airport has various airport improvement projects and FAA Grant Applications that will be made regarding those projects, and

WHEREAS, the FAA Grant offers when made, require a seven (7) day acceptance and signature timeline.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to approve and sign a FAA grant offer $3,706,362.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE FUNDING AND IMPLEMENTATION OF A RESIDENTIAL TURF REPLACEMENT PROGRAM AT AN ANNUAL COST OF $100,000

WHEREAS, California is experiencing exceptional drought conditions and the State Water Resources Control Board (Water Board) has adopted emergency drought regulations to govern the use of urban water in California, and

WHEREAS, the Water Board recently mandated the City of Modesto’s water system to decrease water use by 36%, and

WHEREAS, for several years the City of Modesto has been proactive in educating our customers via our Water Conservation Program through increased advertising, providing information and educational materials at public events, and funding rebate incentives such as the High Efficiency Toilet and Washer Rebate Programs, and

WHEREAS, Outdoor water use accounts for approximately 70% of total residential water consumption during the summer months, and

WHEREAS, to decrease outdoor water use, a number of California water agencies and cities have implemented turf replacement programs such as “Cash for Grass” or Lawn to Garden”, and

WHEREAS, these agencies are estimating an average savings of 34-40 gallons per square foot of converted lawn, and

WHEREAS, a Residential Turf Replacement Rebate Program has been developed for homeowners who receive their water from the City of Modesto’s water system, and
WHEREAS, customers will be required to convert their lawn areas to low water use plants or other permeable landscapes to be approved for the rebate program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the funding and implementation of a Residential Turf Replacement Program at an annual cost of $100,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
The City of Modesto is offering rebates to our residential water customers who replace their grass with drip-irrigated low-water-use plants, permeable hardscape, or polyethylene/nylon artificial turf products. Funding is limited and applications will be accepted on a first-come, first-served basis. The City reserves the right to terminate this program at any time, for any reason.

**Rebate Offer**

The City is offering $0.50 per square foot of turf removed, per site with a maximum of $500 per Single-Family residence (equivalent to 1,000 square feet converted area). Offer is limited to one rebate per City of Modesto water account.

Customers may remove more turf area than is covered by the rebate program, but the per site maximum rebate amount will still apply.

**Application and Inspection Process**

Customers must submit an application to the City and provide a photo, a sketch of the plan for the area to be converted (rough sketch okay), and a list of the low-water-use plants to be used.

Customers must consent to Pre- and Post-Inspection site visits by the City of Modesto Water Conservation staff in order to apply and qualify for the Turf Replacement rebate.

At the Pre-Inspection visit, City staff will measure the proposed conversion area and verify that the site meets the program's terms and conditions. If approved, the City will mail the customer a Notice to Proceed.

Lawn conversions must be completed within 60 days of the date of the Notice to Proceed. To ensure water savings are achieved, the converted area must remain in compliance with the program terms and conditions for a period of five (5) years following receipt of the rebate. An applicant may be charged part or the entire rebate amount at the City's discretion if the terms or conditions have been violated.

At Post-Inspection, applicant must provide a list of plants, hardscape, and artificial turf materials used in the conversion. If conversion fails inspection, applicant will be given thirty (30) days to bring the project into compliance.

Following the Post-Inspection visit, and up on final approval by the City's Water Conservation staff, the City will issue a rebate to the applicant within four to six weeks.

**Terms and Conditions**

- Program is open to all homeowners whose property is served by the City of Modesto's Water System. Applicant's account must be in good standing.
- Lawn areas to be converted must be currently maintained and in healthy condition. Lawns already removed at the time of Pre-inspection are not eligible for rebate.
- Landscaping Requirements for Converted Area:
  - Plants – must be drought tolerant and adapted to our climate. Helpful resources for water wise plant selection are available: [http://www.modestogov.com/pwd/water/conservation/links.asp](http://www.modestogov.com/pwd/water/conservation/links.asp). All planting areas must have a minimum of three (3) inches of mulch.
  - Hardscape – must be of permeable material (e.g., decomposed granite.) Impermeable materials such as concrete are not allowed as part of the conversion area.
  - Artificial Grass – must be installed by a licensed contractor in accordance with manufacturer's specifications. Installation must be permeable to water and air. Only polyethylene and nylon artificial turf products are eligible for rebate. Patio carpet and other "Astroturf" type products are not eligible.
  - Irrigation System – if used for the converted area must be low-volume drip. The system must be in good working order, free of leaks and malfunctions. If only part of the lawn is converted the new planting area must be irrigated on a separate valve from the remaining lawn. Sprinkler system for the remaining lawn must be modified to avoid spray onto the converted area.

If you are interested in applying for the Residential Turf Replacement Program rebate, please call the City of Modesto Water Services Division at (209) 342-2246 to schedule a Pre-Inspection visit. A Water Conservation staff member will inspect and measure your conversion area. Do not remove lawn until you receive the Notice to Proceed and pre-approved Application from the City.
RESOLUTION APPROVING AN AGREEMENT WITH RAND COMMERCIAL PROPERTIES FOR ON-CALL REAL ESTATE BROKER SERVICES FOR VARIOUS UTILITIES DEPARTMENT – CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR ONE YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $100,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utilities Department (Utilities) occasionally receives requests to market and sell certain surplus City parcels, and

WHEREAS, in order to facilitate the requests, Utilities has determined the best method to market the properties is through the use of professional real estate brokers, and

WHEREAS, real estate firms have the resources to widely list the surplus properties, by using numerous listing and advertising services for maximum exposure to the general public, and

WHEREAS, on December 10, 2014, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, a Request for Qualifications and Proposals was initiated to perform on-call real estate broker services, and

WHEREAS, the Request for Qualifications was sent to seven (7) real estate broker firms and we received responses from two (2) firms who provided Qualification Statements and Proposals, and

WHEREAS, one firm, Rand Commercial Properties (Rand) was chosen as the most qualified since it is licensed by the state and has several years’ experience in marketing and selling Modesto area properties, and
WHEREAS, Rand Commercial Properties is deemed qualified to provide the requested on-call real estate broker services in a timely, efficient, and cost effective manner, and

WHEREAS, Rand Commercial Properties of Modesto, has over 35 years of local real estate experience and has previously worked with the City of Modesto successfully selling and leasing various properties, and

WHEREAS, Rand will charge the City a five percent (5%) commission rate, which is less than the real estate industry standard rate, and

WHEREAS, Rand is a smaller firm, not associated with a national chain, and

WHEREAS, Rand has a proven track record of successfully bringing together sellers and buyers, and has previously represented the City in selling and leasing City property, and

WHEREAS, no new budget allocation will be sought because the project specific task orders under the agreement will be paid from existing CIPs, and

WHEREAS, Rand will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Rand will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Rand prior to commencement of services, and

WHEREAS, at time of closing, Rand shall be paid commission out of proceeds from the sale of the subject property by the title company, and
WHEREAS, revenues from the proceeds from property sales will be returned to each specific CIP project that originally funded the project, or determined on a case by case basis, and

WHEREAS, City staff recommends an On-call Appraisal and Consultant Services Agreement with Rand be approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Rand Commercial Properties for On-call Appraisal and Consultant Services for various Utilities Department – Capital Improvement Program projects for one year, with two one-year extension options at the sole discretion of the City in an amount not to exceed $100,000 per year. Total cost for three years is not to exceed $300,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Rand Commercial Properties, and up to two one-year extension options.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH KLEINFELDER, INC. TO PROVIDE ADDITIONAL TEST BORING SERVICES FOR TIVOLI WELL IN AN AMOUNT NOT TO EXCEED $133,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the Tivoli Test Well project was created to drill a pilot test hole in the Tivoli Specific Plan (SP) area to determine if a developer’s proposed location is capable of providing 1,500 gallons per minute (gpm) of water suitable for water supply, and

WHEREAS, Community and Economic Development Department-Planning Division staff has indicated a new well is required to be operational within two years to meet these projected development needs, and

WHEREAS, the project was initially advertised for bids on April 12, 2014, with no bids received, and

WHEREAS, drillers who received bid documents were contacted and all indicated a backlog of work ranging from 6 to 18 months, and

WHEREAS, the project was re-advertised for bids on October 15, 2014 and, three bids were received, and

WHEREAS, the lowest bid was 101.6% above the engineer’s estimate; the other two bids were 105.8% and 213.2% above with no local bidders, and

WHEREAS, several local well drillers were contacted and all indicated a backlog of work ranging from 18 to 24 months due to the intense demand for drilling new irrigation wells in the area, and
WHEREAS, on January 27, 2015, City Council rejected bids, by Resolution No. 2015-18, based on staff recommendations to re-evaluate the existing water supply and reduce the scope of work, and

WHEREAS, staff explored alternate methods of subsurface investigation, with the emphasis on shortened time and reduced costs, and

WHEREAS, on March 19, 2015, the City Manager approved an agreement with Kleinfelder, Inc. (a local consultant) to conduct a test boring in the amount of $49,000, and

WHEREAS, because the fees for this work were less than $50,000, it was considered a Minor Project per Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, and

WHEREAS, drilling was performed April 20 through 27, 2015, to a depth of 500 feet below ground surface, and

WHEREAS, results showed the proposed site was not suitable for a production well, and

WHEREAS, two alternative locations have been identified, the City-owned Mary Grogan park site, and the future well location indicated in the Tivoli SP area, and

WHEREAS, staff recommends that the amendment to the agreement with Kleinfelder be approved to include similar investigations to a depth of 600 feet bgs at these two potential well sites to determine suitability for a 1,500 gpm production well, as required by the SP,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Kleinfelder, Inc. to provide additional test boring services for Tivoli Well in an amount not to exceed $133,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Zoslocki, Mayor Marsh
NOES: Councilmembers: None
ABSENT: Councilmembers: Madrigal

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE WATERFORD-HICKMAN WATER SYSTEMS PURCHASE AGREEMENT WITH THE CITY OF WATERFORD TO PURCHASE THE WATERFORD-HICKMAN WATER SYSTEMS FOR $2.6 MILLION, EFFECTIVE JULY 1, 2015, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 1995, the City of Modesto purchased the water systems owned by Del Este Water Company, which included the independent systems that served the City of Waterford (Waterford) and the City of Hickman; and

WHEREAS, the two systems include eight wells with approximately 2,400 customers; and

WHEREAS, previously, Waterford had requested to purchase the system in 1996 and 2003; however, due to financial constraints, the negotiations were stopped; and

WHEREAS, negotiations resumed in late 2012, and Waterford hired an engineering firm to update the previous appraisal done by Bookman-Edmonston that valued the Waterford and Hickman water systems at $2.625 million; and

WHEREAS, the updated study produced a value of $2.607 million for the water systems; and

WHEREAS, Waterford made offers to the City of Modesto for $1 million, $1.5 million, and finally $2 million in late 2013; and

WHEREAS, the City of Modesto countered with $2.6 million and, after negotiations stalled for over a year, Waterford agreed to the sale price of $2.6 million in October 2014; and

WHEREAS, this Agreement was conditional on Waterford obtaining the necessary permits from the State Water Resources Control Board to operate the water
systems, contingent upon the City of Modesto providing temporary operations and
maintenance assistance, and Waterford demonstrating they have the capability to fund the
required water system improvements; and

WHEREAS, City staff is recommending approval of this agreement for the sale of
the Waterford-Hickman water systems to the City of Waterford effective July 1, 2015.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the Waterford-Hickman Water Systems Asset Purchase
Agreement with the City of Waterford to purchase the Waterford-Hickman water systems
for $2.6 million effective July 1, 2015, in a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute said Agreement with the City of Waterford.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE SHORT-TERM OPERATIONS AND MAINTENANCE SERVICES AGREEMENT FOR THE WATERFORD AND HICKMAN WATER SYSTEMS WITH THE CITY OF WATERFORD FOR THE CITY OF MODESTO TO PROVIDE TEMPORARY ASSISTANCE IN OPERATING THESE WATER SYSTEMS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 1995, the City of Modesto purchased the water systems owned by Del Este Water Company, which included the independent systems that served the City of Waterford (Waterford) and the City of Hickman; and

WHEREAS, the two systems include eight wells with approximately 2,400 customers; and

WHEREAS, previously, Waterford had requested to purchase the system in 1996 and 2003; however, due to financial constraints, the negotiations were stopped; and

WHEREAS, negotiations resumed in late 2012, and Waterford hired an engineering firm to update the previous appraisal done by Bookman-Edmonston that valued the Waterford and Hickman water systems at $2.625 million; and

WHEREAS, the updated study produced a value of $2.607 million for the water systems; and

WHEREAS, Waterford made offers to the City of Modesto for $1 million, $1.5 million, and finally $2 million in late 2013; and

WHEREAS, the City of Modesto countered with $2.6 million and, after negotiations stalled for over a year, Waterford agreed to the sale price of $2.6 million in October 2014; and
WHEREAS, this Agreement was conditional on Waterford obtaining the necessary permits from the State Water Resources Control Board to operate the water systems, contingent upon the City of Modesto providing temporary operations and maintenance assistance, and Waterford demonstrating they have the capability to fund the required water system improvements; and

WHEREAS, Staff is recommending approval of the Short-term O and M Agreement with the City of Waterford to provide these services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Short-term Operations and Maintenance Agreement for the Waterford and Hickman water systems for the City of Modesto to provide temporary assistance in operating these systems, in a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with the City of Waterford.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________

SEAL

APPROVED AS TO FORM:

By: ________________________________

ADAM U. LINDGREN, City Attorney
RESOLUTION ADOPTING THE "SAFER NEIGHBORHOODS INITIATIVE," A CITYWIDE PLAN, WHICH IS A COMPONENT OF THE CITY'S STRATEGIC PLAN, TO EXPLORE NEW APPROACHES TO PUBLIC SAFETY TO REDUCE CRIME, IMPROVE POLICE AND FIRE RESPONSE TIMES, AND INCREASE PARTICIPATION AND COLLABORATION WITH NEIGHBORHOOD GROUPS BY FOCUSING RESOURCES ON: CRIME AND FIRE PREVENTION, PUBLIC SAFETY RESOURCES DEPLOYMENT, GROWING NEIGHBORHOOD LEADERSHIP CAPACITY, POSITIVE YOUTH ACTIVITIES, AND HOMELESSNESS AND TAGGING PREVENTION

WHEREAS, on June 9, 2015, staff conducted a Council workshop to discuss the Safer Neighborhood Initiative; and

WHEREAS, at this workshop staff presented information on the state of the City, including its economic recovery from the recession, the changing environment of City government, and the increased momentum of community collaboration, and

WHEREAS, the Safer Neighborhood Initiative is contained in Attachment A; and

WHEREAS, additional revenues of approximately $14 million are needed by the City's General Fund to implement the Safer Neighborhood Initiative; and

WHEREAS, at the conclusion of the special Council meeting on June 16, 2015, Council directed staff to prepare agenda items for consideration on June 23, 2015 to adopt the Safer Neighborhood Initiative as well as one half of one percent (.50%) sales tax ballot measure and an accompanying advisory measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the "Safer Neighborhoods Initiative," a Citywide plan, which is a component of the City's Strategic Plan, to explore new approaches to public safety to reduce crime, improve police and fire response times, and increase participation and
collaboration with neighborhood groups by focusing resources on: crime and fire prevention, public safety resources deployment, growing neighborhood leadership capacity, positive youth activities, and homelessness and tagging prevention.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: Lopez

ABSENT: Councilmembers: None

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
ADAM U. LINDGREN, City Attorney
Safer Neighborhoods Initiative

Explore new approaches to public safety, working in partnership with the community to reduce crime and maintain a safe and inviting community in which to live, work and play. Increase collaboration with neighborhoods and school district(s) to achieve quality of life improvements, and safe neighborhoods through supporting community self-reliance, problem solving, capital improvements, and public/private partnerships.

1. Explore progressive crime and fire prevention techniques

   a. Engage in community policing with a target of 35% unassigned time allotment for patrol officers to have the available time to engage members of our community, solve neighborhood issues and proactively engage in fighting crime. The Modesto Police Department currently has one of the highest workloads per officer in the top 25 most Violent Cities in California. **INVEST — $2.85M for 20 additional police officers, and 3 patrol sergeants**

   Part 1 Crimes per FTE in Top 25 Most Populous Cities in California in 2012
b. **Re-establish the “Beat Health” Program** creating a multi-functional team consisting of police officers, code enforcement officers, community service officers and a dedicated city attorney that works together with property owners, neighborhoods and businesses to mitigate and rehabilitate nuisance properties that draw crime into our neighborhoods. **INVEST $2.7 M for 16 police officers, 2 police sergeants, 2 Code Enforcement officers and 1 city attorney**

c. **Enhance Detective Unit** – Currently the City of Modesto has approximately one detective to every 10,000 citizens with 21 detectives. Crimes are triaged and only cases with the most suspect information is assigned to detectives. Enable Investigations Division to investigate crimes with workable leads rather than triaging cases and only assigning cases with the most suspect information. Further enhance safety in our neighborhoods by creating a team of detectives to work human trafficking, sex registrants and vice related investigations. **INVEST $1.8M for 12 detectives, 1 community service officer and 2 police sergeants**

d. **Enhance Area Commands** - Area commanders for the police department work as both a watch commander as well as the area commander. Due to duties that running operations as a watch commander as well as numerous other ancillary assignments, the area commanders are not able to spend the time necessary to fully incorporate and optimize our area command concept. Investing in four additional lieutenants would allow for a full time Area Commander for each command in the city, further building accountability and ensuring the mission of the great safe neighborhoods is carried out in an optimal manner. **INVEST - $550K for 4 police lieutenant / area commanders**

e. **Enhance Fire Inspection Service** – Fire Inspectors ensure a safe community by providing fire inspections, plan check and approvals on new buildings and businesses and provide fire and life safety education to our citizens. The number building fires have increased by 35% since 2010. Many of these fires are in vacant buildings and houses. Adding two fire inspectors would allow us to be more proactive in preventing these fires through working with NPU and PD to eradicate vacant and blighted buildings. The new positions would also dedicate time to Emergency Preparedness which is a position that is not currently filled. **Invest- $215 k for 2 fire inspectors**
Performance – Call Volume

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<td>353</td>
<td>365</td>
<td>406</td>
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| Total Incidents     | 20,028| 20,650| 22,476| 23,353| 24,739|

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<td>Fire</td>
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<td>Medical Aid</td>
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<td>Total</td>
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f. Increase Blight Abatement and proactive code enforcement – Invest $200k

g. Explore new ordinances to enhance enforcement and compliance tools – Invest $100k for legal service

2. Ensure the effective use and efficient deployment of public safety resources based on local need and increase public safety coordination and communication among all city departments

a. Create interdepartmental teams who work with police divisions to provide support for neighborhood residents to reduce crime and improve the health and safety within our neighborhoods (shift of existing resources).

b. Expand traffic enforcement as part of neighborhood safety efforts – Traffic and School safety are key components of safe neighborhoods. Currently four traffic officers and one sergeant are responsible for traffic enforcement citywide, investigating traffic fatalities, driving under the influence enforcement and Office of Traffic Safety Grant programs. Traffic fatalities have risen in each of the past two years, Modesto has been ranked high 13 out of 56 in cities 100,000 to 250,000 population for traffic accidents and fatalities with 1,333 citizens injured or killed in 2012. The numbers for accident rates after 9pm in Modesto go up to 5 out of 56. In addition the rate of driving under the influence arrests rank 46 out of 56. Traffic officers are also used around schools and school zones to ensure safe passage of children to school. **Invest $1.4M for 12 traffic officers**

c. Establish Permanent Funding for Fire Station 6 - Currently Fire Station 6 is funded through one time funds from the MRFA dissolution. Our 11 fire stations are strategically located in neighborhoods throughout the city. Emergency calls continue to increase at
alarming rates while at the same time staffing and fire department resources have been reduced. Further reductions will increase response times and place added stress on fire companies that are already extremely busy. **Invest $1.6M annually**

d. **Re-Staff an additional ladder truck** - An effective force is defined as the minimum number of fire apparatus and personnel on scene of a fire to effectively contain and extinguish the fire. An efficient effective force is essential to provide safe neighborhoods and decrease life loss and property damage. The Modesto Fire Department has seen a dramatic reduction on the ability to place an effective force on scene of a fire within 10 minutes of dispatch. The closure of Truck 5 due to budget cuts has had a direct result on the ability to meet the effective response. Currently, the MFD meets the effective response within 10 minutes of dispatch only 49% of the time. Re-establishing a ladder truck will improve the number of times the fire department provides the effective force within 10 minutes. An additional ladder truck also increases department rescue capabilities, auto extrication, system reliability, and safety for the firefighters and citizens of Modesto. **Invest $1.8M**

e. **Re-Establish the Battalion 2 position** (3 Battalion Chiefs). The fire department operates one shift Battalion Chief per day, as an operational platform. Under the Current platform, the Battalion Chief is responsible for supervising 11 Captains and 5 Relief Engineers each day. The span of control for the Battalion Chief is 16 to 1, well above the standard 3-7 to 1. In addition to the supervision of employees, the shift Battalion Chief is responsible for the command and control of emergency incidents city wide. Due to the heavy call volume and distance of travel, the availability of the shift Battalion Chief for emergencies, is strained. The lack availability is a factor in the declining ability of the fire department to provide an effective force to fires within ten minutes. An additional shift Battalion Chief will provide an increase in leadership, mentorship, system reliability, improve response times and safety for the firefighters and citizens and bring the span of control to a manageable level of 8-1. **Invest $720K for 3 Battalion Chiefs**

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Performance

![Graph showing 10 Minute Response Average from 2004 to 2014.](image)
f. **Implement Alternate Response Vehicle Program (ARV)** – Two person medical squads, staffed with a paramedic and an EMT, responds to medical and public service calls. These units would be a smaller vehicle, pickup, SUV or ambulance and would keep the fire engines and trucks available for more serious emergencies. Units could also be “peak staffed” meaning they could be utilized in a 10 hour, 12 hour or traditional 24 hour status. These units could also align us for future revenue through public/private partnerships with the private ambulance companies. **INVEST 715k – $1.1M per ARV unit**

## Challenges

- More than 2,000 time per year, stations respond to simultaneous calls for service
- Results in neighboring stations responding
- Creates increased response times
- Leaves portions of city uncovered
- Increase of 33% since 2011

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<td>2012</td>
<td>1,741</td>
</tr>
<tr>
<td>2013</td>
<td>1,996</td>
</tr>
<tr>
<td>2014</td>
<td>2,172</td>
</tr>
</tbody>
</table>

3. **Grow neighborhood leadership and capacity and identify self-help strategies to strengthen neighborhoods**

   a. **Implement the Great Neighbors Building Great Neighborhoods Strategy.** The City of Modesto has a rich proud history of civic engagement. Citizens are actively engaged in their neighborhoods, churches and schools. Community based problem solving can be found throughout the City with citizens partnering with the City of Modesto to abate tagging, rebuild infrastructure and to organize community needs. This great work allows for leveraging of resources and maximizing opportunities.

   b. **Neighborhood watch is an important program for our Neighborhoods.** The City of Modesto currently has over 300 neighborhood watch groups that are assisted by two Community Service Officers. In order to reach our goal of safe neighborhoods, it is important to have staff available for each area command to focus on outreach, crime-free multi-housing, business watch and capacity building in our neighborhoods. **INVEST 180K for three community service officers in Crime Prevention / Safe Neighborhoods.**
c. Expand outreach with neighborhoods (PRNS) — INVEST $150k
   • To be used to strengthen joined efforts through Modesto Neighborhoods Inc. through collateral materials, support and Neighborhood Projects

4. Support positive youth activities and engagement and increase public awareness of city-provided services and partnership opportunities

   a. Expand and enhance Gang prevention, intervention and suppression efforts through interagency partnerships and collaboration with the community.

   b. Expand and create youth programs that provide alternatives to gang participation.

   • Due to staffing reductions over the past several years, the Street Gang Unit has been reduced to one team. In order to ensure our neighborhoods are safe, the police department needs the resources to prevent gang activity through enforcement. The young people in our city need alternatives to becoming involved in gangs. One strategy is the use of School Liaison Officers, whose mission would be outreach and leadership building as well as gang resistance training in our schools. These officers would focus efforts on early intervention in elementary / junior high schools. They would also focus on leadership development and training through programming with our local high schools in association with the school districts and student unions. INVEST $1.5M for eight police officers

   • Creation of Neighborhood Coordinator Position 2. FTE (Recreation Coordinator) Upgrade Current Recreation Six Coordinators from .75-1.0 FTE-increases Hours at Neighborhood Youth Centers, Modesto Senior Center and Programs. INVEST Approx. $265K - This will be offset somewhat by increased program revenue. Total of 2 Coordinators will focus on Neighborhood Development, Partnerships and Volunteerism.

   • Invest $200,000 for youth programing. An ounce of prevention is worth a pound of cure. Budget reductions in municipalities and in our schools have reduced programing available to young people. There is particular need for summer programs, teen programs and programs that engage youth in civic matters.

5. Create additional strategic objective on implementing best practices (homeless; graffiti)

   a. Initiative anti-tagging “Tag We’re On It” — Invest $300k

   b. Participate in “Focus on Prevention” homeless collaborative — October 1, 2015
A RESOLUTION OF THE MODESTO CITY COUNCIL DIRECTING THE CITY CLERK TO SUBMIT TO THE QUALIFIED VOTERS OF THE CITY OF MODESTO AT THE NEXT REGULAR MUNICIPAL ELECTION A CERTAIN MEASURE RELATING TO A PROPOSED ORDINANCE IMPOSING A ½ PERCENT TRANSACTIONS AND USE (SALES) TAX FOR GENERAL FUND PURPOSES

WHEREAS, the City Council of the City of Modesto desires to restore critical City services and to implement its Safer Neighborhoods Initiative, aimed at restoring funding to critical city services, reducing crime, restoring public safety funding, maintaining a safe and inviting community, improving quality of life, and increasing neighborhood collaboration; and

WHEREAS, when compared to similar cities, Modesto is approximately 60 percent below its average for property tax revenue and 29 percent below average for sales tax per capita; and

WHEREAS, Modesto’s sales tax rate of 7.625 percent is in the 16th lowest percentile statewide and most Central Valley cities have sales tax rates from 0.5 percent to 1.375 percent higher than Modesto’s; and

WHEREAS, a ½ percent general sales tax would help restore critical City services cut as a result of the recession, particularly police and fire services, which account for the majority of General Fund expenditures; and

WHEREAS, it is the City Council’s intention to use the tax proceeds to restore critical City services, and not to finance salary and benefit increases for current personnel; and
WHEREAS, if the City, for any reason, does not spend all the budgeted funds from this tax on the Safer Neighborhoods Initiative during a given fiscal year, it would intend to carry over the funds in the general fund and spend those funds on one-time Safer Neighborhoods Initiative capital priorities; and

WHEREAS, out of California's 25 most populous cities, Modesto ranks fourth highest in violent crimes committed and second highest in property crimes committed; and

WHEREAS, since the economic recession started in 2008, the Modesto Police Department has reduced the number of sworn officers from 287 to 219, and due to this reduction the Department has the highest per-employee workload among the State's 25 most populous cities; and

WHEREAS, the reduction in sworn officers included: the elimination of a unit dedicated to neighborhood nuisance properties, the elimination of all school resource officers, the elimination of focused DUI enforcement, the elimination of participation in the regional auto theft task force, a reduction of gang suppression unit officers from 16 to 8 officers, a reduction of traffic unit officers from 8 to 4 officers, a reduction of detectives from 32 to 21 detectives, and a reduction in community service officers from 38 to 20 officers; and

WHEREAS, a ½ percent general sales tax would enable the City to spend more general fund revenues on restoring critical staffing positions to the Police Department and allow for more officers patrolling neighborhoods, more collaboration with residents, increased responsiveness to complaints, more officers dedicated to crime prevention and
gang suppression, restoration of detectives to respond to crimes, and restoration of code
enforcement in blighted areas; and

WHEREAS, since the economic recession started in 2008, the Modesto Fire
Department has reduced personnel and apparatus resources by about 25 percent, yet
experienced a 22 percent increase in emergency incidents requiring a response since
2010, of which 35 percent are structure fires; and

WHEREAS, this has resulted in a decrease in Fire Department response times to a
level that is far below industry standards, as the department arrives within 10 minutes to
50 percent of calls, but the industry standard is to arrive within 10 minutes to 90 percent
of calls; and

WHEREAS, a ½ percent general sales tax would enable the City to spend more
general fund revenues on restoring critical personnel and apparatus to the Fire
Department and as a result: increase response times to calls, prevent more structure fires,
improve fire and ambulance services generally in the community, and prevent the closure
of one or more fire stations; and

WHEREAS, the City Council would have the authority to spend the tax proceeds
consistent with current budget priorities, which include spending 72 percent of general
fund revenues on police and fire services; and

WHEREAS, the City of Modesto is committed to fiscal prudence, responsibility,
and self-reliance; and

WHEREAS, pursuant to Elections Code Section 9222, the City Council may
submit to the qualified voters of the City a proposition without a petition therefore, by
ordinance or resolution; and
WHEREAS, the City Council desires to submit to the qualified voters of the City a measure asking whether to amend the Modesto Municipal Code to enact a ½ percent (0.5%) transactions and use ("sales") tax as described above. The measure requires the tax to sunset in 8 years or sooner if the City’s annual general fund revenues reach levels from the 2006-2007 fiscal year, calls for annual audits related to the tax, and requires a citizen oversight board to oversee expenditures from the tax proceeds and report to the City Council regarding the same; and

WHEREAS, the City Council, pursuant to Resolution 2015-60, called for a general municipal election to be held on and consolidated with the November 3, 2015 general election and for the Stanislaus County Elections Department to conduct such election on behalf of the City of Modesto and therefore the Council now desires to include this measure on the ballot at said election.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pursuant to California Elections Code section 9222, Revenue and Tax Code section 9285.9, and Section 2(b) of California Constitution Article XIIIC, the City Council of the City of Modesto proposes to and does hereby, by its own motion, submit to the qualified voters of the City of Modesto, a measure to amend the Modesto Municipal Code via ordinance, as set forth in Attachment A to this Resolution. The ordinance shall not take effect unless approved by a simple majority of voters voting on the measure at the November 3, 2015 election. The ordinance specifies that the rate of the transactions tax shall be one-half of one percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies
that the rate of the use tax shall be one-half of one percent (0.5%) of the sales price of
tangible personal property stored, used or otherwise consumed in the City, and that the
tax shall be in effect for eight (8) years. The State Board of Equalization shall collect the
tax from retailers subject to the tax and remit the funds to the City.

SECTION 2. In the sample ballot/voter information pamphlet for the November 3, 2015 election shall be printed the full text of the ordinance, which is attached as Exhibit A, and included herein by reference.

SECTION 3. On the ballot to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question:

MEASURE ___

<table>
<thead>
<tr>
<th>Safer Neighborhoods Initiative</th>
<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
<td>To implement the Safer Neighborhoods Initiative by restoring police patrols, crime prevention,</td>
<td></td>
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<td>gang suppression and youth development efforts; removing tagging; reducing nuisance properties;</td>
<td></td>
<td></td>
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<tr>
<td>strengthening fire/emergency services; increasing neighborhood collaboration; and to maintain</td>
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<tr>
<td>other general city services, shall the City of Modesto enact a ½ percent general sales tax that</td>
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<tr>
<td>cannot be taken by the State, expires in 8 years, and requires audits, citizen oversight board reports, and all funds be spent in Modesto?</td>
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SECTION 4. The City Council hereby orders the City Clerk to submit said measure to the voters at the General Election on November 3, 2015.

SECTION 5. Pursuant to Elections Code section 12101 et seq., the City Clerk of the City of Modesto is hereby authorized to prepare all required notices related to the ballot measure and to publish such notices as required by law in *The Modesto Bee*, the
official newspaper of said City and a newspaper of general circulation printed and
published in said City.

SECTION 6. The Stanislaus County Elections Department is hereby authorized to
canvass the returns of the Regular Municipal Election.

SECTION 7. The City Clerk is hereby directed to file a certified copy of this
resolution with the Board of Supervisors and the Elections Department of the County of
Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution
and enter it into the book of original resolutions. The Board of Supervisors is hereby
requested to consolidated the election on the measures with the November 3, 2015
election.

SECTION 8. The approval of this Resolution is exempt from the California
Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14
Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). The transactions and use tax to
be submitted to the voters is a general tax that can be used for any legitimate
governmental purpose; it is not a commitment to any particular action. As such, under
CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of
CEQA because it creates a government funding mechanism that does not involve any
commitment to any specific project that may result in a potentially significant physical
impact on the environment. If revenue from the tax were used for a purpose that would
have either such effect, the city would undertake the required CEQA review for that
particular project. Therefore, under CEQA Guidelines section 15060 review under
CEQA is not required.
SECTION 9. This Resolution must be approved by a two-thirds (2/3) vote of all members of the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Madrigal, Mayor Marsh

NOES: Councilmembers: Lopez, Zoslocki

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
ORDINANCE NO.____________-C.S.

AN ORDINANCE ADDING ARTICLE 11 TO CHAPTER 2 OF
TITLE 8 OF THE MODESTO MUNICIPAL CODE
RELATING TO TRANSACTIONS AND USE TAX

The People and the City Council of the City of Modesto do ordain as follows:

WHEREAS, the People and the City Council of the City of Modesto desire to restore critical City services and to implement its Safer Neighborhoods Initiative, aimed at reducing crime, restoring public safety funding, maintaining a safe and inviting community, improving quality of life, and increasing neighborhood collaboration; and

WHEREAS, when compared to similar cities, Modesto is approximately 60 percent below average for property tax revenue and 29 percent below average for sales tax per capita; and

WHEREAS, Modesto’s sales tax rate of 7.625 percent is in the 16th lowest percentile statewide and most Central Valley cities have sales tax rates from 0.5 percent to 1.375 percent higher than Modesto’s; and

WHEREAS, a one-half of one percent (0.5%) general sales tax would help restore critical City services, particularly police and fire services, which account for the majority of General Fund expenditures; and

WHEREAS, since the economic recession started in 2008, the Modesto Police Department has reduced the number of sworn officers from 287 to 219, and due to this
reduction the City has the highest per-employee workloads among the State's 25 most populous cities; and

WHEREAS, the reductions in sworn officers includes: the elimination of a unit dedicated to neighborhood nuisance properties, the elimination of all school resource officers, the elimination of focused DUI enforcement, the elimination of participation in the regional auto theft task force, the reduction of gang suppression unit officers from 16 to 8 officers, the reduction of traffic unit officers from 8 to 4 officers, the reduction of detectives from 32 to 21 detectives and the reduction in community service officers from 38 to 20 officers; and

WHEREAS, a ½ percent (0.5%) general sales tax would enable the City to focus general fund revenues on restoring critical staffing positions to the Police Department and allow for more officers patrolling neighborhoods, more collaboration with residents, increased responsiveness to complaints, more officers dedicated to crime prevention and gang suppression, restoration of detectives to respond to crimes, and restoration of code enforcement in blighted areas; and

WHEREAS, since the economic recession started in 2008, the Modesto Fire Department has reduced personnel and apparatus resources by about 25 percent, yet experienced a 22 percent increase in emergency incidents requiring a response since 2010 including a 35 percent increase in structure fires; and

WHEREAS, this has resulted in a decrease in Fire Department response times to a level that is far below industry standards, as the department arrives with full alarm response
within 10 minutes to 50 percent of structure fire calls, but the industry standard is to arrive
within 10 minutes to 90 percent of calls; and

WHEREAS, a ½ percent (0.5%) general sales tax would enable the City to focus
general fund revenues on restoring critical personnel and apparatus to the Fire Department
and as a result: improve response times to calls, prevent more structure fires, improve fire
and emergency services generally in the community, and prevent the closure of one or
more fire stations; and

WHEREAS, the City of Modesto is committed to long term fiscal prudence,
responsibility, innovation and self-reliance, and has created a strategic plan that was
adopted by the City Council, which Plan focuses resources on critical priorities. The “Safer
Neighborhoods Initiative” adopted by City Council Resolution ____ implements important
components of the strategic plan; and

WHEREAS, if this sales tax is not approved, the City would be unable to implement
the Safer Neighborhoods Initiative; and

WHEREAS, this Ordinance requires for the tax to be temporary and to sunset in 8
years or sooner if the City’s annual general fund revenues reach levels from the 2006-2007
fiscal year, calls for annual audits related to the tax, and requires a citizen oversight board
to oversee expenditures from the tax proceeds and report to the City Council regarding the
same.
SECTION 1. INCORPORATION OF RECITALS. The City Council and the People of Modesto find that all the Recitals are true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF MUNICIPAL CODE. Article 11 is hereby added to Chapter 2 of Title 8 of the Modesto Municipal Code to read as follows:

ARTICLE 11. TRANSACTIONS AND USE TAX.

8-2.1101- Title.

This Ordinance shall be known as the Modesto Transactions and Use Tax Ordinance. This Ordinance shall be applicable in the incorporated territory of the City (hereinafter "City.")

8-2.1102 - Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance, the date of such adoption being as set forth below.

8-2.1103 - Purpose.

This Ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the
measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this Ordinance.

8-2.1104 - Contract With State.

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this
transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

8-2.1105 - Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half of one percent (0.5%) on the sale of all tangible personal property sold at retail in said territory on and after the operative date of this Ordinance.

8-2.1106 - Place of Sale.

For the purposes of this Ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.
8-2.1107 - Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this Ordinance for storage, use or other consumption in said territory at the rate of one-half of one percent (0.5%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

8-2.1108 - Adoption of Provisions of State Law.

Except as otherwise provided in this Ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this Ordinance as though fully set forth herein.

8-2.1109 - Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:
1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance;

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
   
a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

8-2.1110 - Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this Ordinance.

8-2.1111 - Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

   a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

   b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the
property for an amount fixed by the lease prior to the operative date of this Ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this Ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.
4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft
licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this Ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

8-2.1112- Amendments.

All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Ordinance.

8-2.1113 - Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this Ordinance, or Part 1.6 of
Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

8-2.1114 - Annual Audit.

Annually the City Council retains an independent auditor to conduct an audit of and provide audited financial statements for all of the City's financial activities. The auditor shall include an accounting of the revenue received from the tax in the audited financial statements. The auditor's report shall be presented to the City Council, be reviewed by the Oversight Board, made available on the City's website and made available to the public.

8-2.1115 – Oversight Board

The City Council shall appoint a nine- to eleven-member Oversight Board by June 30, 2016 to meet publically at least annually and to: review all revenues and expenditures from the tax measure, review annual audit reports related to the tax measure, and make at least one written annual report to the City Council at a public meeting summarizing the Oversight Board’s findings and including any appropriate recommendations. The minutes of the Oversight Board’s meetings shall be provided to the City Council and placed on the next available regular Council meeting agenda for information purposes. The members shall be representative of a cross-section of the community, possibly including, but not limited to, representatives of: each geographical police division, schools, local trade associations, chambers of commerce, nonprofit organizations, senior citizen groups, nonpartisan political organizations (such as the League of Women Voters), neighborhood organizations, and law enforcement and emergency services organizations (including individuals retired from such groups). The Oversight Board shall, upon request, be
provided with detailed information regarding crime statistics, public safety response times, and other available data regarding the performance of the programs funded by this tax measure.

8-2.1116 – Amendments by City Council.

The following amendments to this Ordinance must be approved by the voters of the City: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of Section 8-2.1112); or extending the tax. The City Council may otherwise amend this Chapter without submitting the amendment to the voters for approval.

8-2.1117 - Termination Date.

The authority to levy the tax imposed by this Ordinance shall continue until the earlier of: (i) March 31, 2024; (ii) actual annual general fund revenues reach 2006-2007 levels of $120,369,703.00, as reported in the Comprehensive Annual Financial Report (adjusted for inflation, as measured by the U.S. Bureau of Labor Statistics’ national Consumer Price Index for All Urban Consumers; excluding tax proceeds under this Ordinance; and excluding any irregular one-time revenues from State or Federal grants or programs); (iii) this Ordinance is repealed by a majority vote of the voters of the City; or (iv) this Ordinance is repealed or suspended by a majority vote of the City Council. In the event that the City Council repeals or suspends the tax, it may resume collection without voter approval as long as the transactions tax rate and use tax rate are not higher than the
rates set forth in Sections 8-2.1105 and 8-2.1107, respectively, and so long as collection ceases by the sunset date as set forth above.

SECTION 3. ADJUSTMENT OF APPROPRIATIONS LIMIT. Pursuant to Article XIIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the City is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2015-16 and each year thereafter.

SECTION 4. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). This Ordinance imposes a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the ordinance is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

SECTION 5. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.
SECTION 6. EFFECTIVE DATE. This Ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately upon applicable voter approval.

The foregoing Ordinance was adopted by City Council of the City of Modesto, subject to voter approval, on ________________, 2015 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

________________________________
Garrad Marsh, Mayor

ATTEST:
________________________________
Stephanie Lopez, City Clerk

APPROVED AS TO FORM:
________________________________
Adam U. Lindgren, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-221

A RESOLUTION OF THE MODESTO CITY COUNCIL DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE BALLOT MEASURE ENTITLED "SAFER NEIGHBORHOODS INITIATIVE" TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE

WHEREAS, the Modesto City Council had directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2015, a ballot measure requesting the enactment of a one-half of one percent (0.5%) general sales tax entitled "Safer Neighborhoods Initiative."

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Madrigal, Mayor Marsh

NOES: Councilmembers: Lopez, Zoslocki

ABSENT: Councilmembers: None

ATTEST: ____________________________

STEFHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ______________________________

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-222

A RESOLUTION OF THE MODESTO CITY COUNCIL AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE BALLOT MEASURE ENTITLED “SAFER NEIGHBORHOODS INITIATIVE”

WHEREAS, the Modesto City Council had directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2015, a ballot measure requesting the enactment of a one-half of one percent (0.5%) general sales tax entitled “Safer Neighborhoods Initiative.”

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9282 and 9827, [the Mayor] is hereby authorized to prepare and file written arguments in favor of the proposed measure, not to exceed 300 words each, on behalf of the City Council. At the Mayor’s discretion, the argument may be signed by up to five representatives of bona fide associations or individual voters who are eligible to vote. In the event that an argument is filed against the measure, [the Mayor] is also authorized to prepare and file a rebuttal argument on behalf of the City Council, which may be signed up to five representatives of bona fide associations or individual voters who are eligible to vote.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Madrigal, Mayor Marsh

NOES: Councilmembers: Lopez, Zoslocki

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
A RESOLUTION AT THE REQUEST OF THE MODESTO BOARD OF EDUCATION THAT AN AMENDMENT TO THE ChARTER BE PLACED ON THE BALLOT FOR THE NEXT REGULAR MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE MODESTO BOARD OF EDUCATION A PROPOSAL TO AMEND SECTION 1500 OF THE CHARTER RELATING TO THE METHOD OF ELECTION FOR THE BOARD OF EDUCATION

WHEREAS, Article XV, Section 1500 of the Charter of the City of Modesto ("Charter") vests the control, management and administration of the Modesto City School District of Stanislaus County and the Modesto High School District of Stanislaus County, jointly referred to as "Modesto City Schools" or "the District," in the Modesto Board of Education ("the Board of Education"); and

WHEREAS, Section 1500 the Charter requires that all seven (7) members of the Board of Education be elected at large from the territory within the District’s boundaries. The District’s boundaries encompass the City of Modesto and other surrounding territory; and

WHEREAS, an at large election system may be challenged as violating the California Voting Rights Act if it impairs the ability of a protected class to elect preferred candidates or influence the outcome of elections; and

WHEREAS, the method of election for a board of education is only subject to the jurisdiction of a city when it is set by city charter; if not established by a city charter, the method of election is governed by California Education Code Section 5019 et seq. and may be changed by the local board of education or voters petitioning the County
Committee on School District Organization subject to either voter approval or granting a waiver of the voter approval requirement by the State Board of Education; and

WHEREAS, the City of Modesto does not desire to restrict the authority of the Board of Education to determine the method of election of its members pursuant to the California Education Code; and

WHEREAS, on June 22, 2015, the Modesto Board of Education adopted a resolution requesting that the City, on its own motion, submit to voters a proposal to amend the Charter to eliminate the requirement that Board elections be at large, and allow the Board determine its election system in accordance with the California Education Code on the November 2015 ballot; and

WHEREAS, Article XI, Section 3 of the California Constitution and Government Code Section 34458 provide that the governing body of a city, on its own motion, may submit a proposal to amend its charter to voters; and

WHEREAS, Article IX, Section 16 (b) of the California Constitution establishes that city charter amendments changing the manner in which members of boards of education are elected must be submitted to and approved by a majority of all of the qualified electors of the school district, not just the qualified electors of the City; and

WHEREAS, pursuant to Elections Code Section 1415(a)(2), the City, on its own motion, may submit to voters a proposal to amend the Charter to comply with federal or state voting rights laws at the next regularly scheduled municipal election; and

WHEREAS, while Section 1604 of the Charter requires the City to review the Charter at least every ten (10) years, and while the City has established a charter review committee to assist it with such review, the City is authorized by Article XI, Section 3 of
the California Constitution and Government Code Section 34458 to amend the Charter without convening a charter review committee; and

WHEREAS, if approved by the voters, this ballot measure would allow the Board of Education to transition from at large elections to trustee area, i.e., district elections.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pursuant to Article XI, Section 3 and Article IX, Section 16 of the California Constitution, California Government Code Section 34458, and California Elections Code Section 1415(a)(2), the City Council of the City of Modesto proposes to and does hereby, by its own motion, submit to the qualified electors of the Modesto City Schools District, a proposal to amend Section 1500 of the Charter of the City of Modesto, at the regular municipal election to be held on November 3, 2015 as set forth below, and hereby designates and refers said proposal to be set forth in the form of a ballot measure as hereinafter prescribed for use at said regular municipal election:

PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF MODESTO

Regular Municipal Election

November 3, 2015

The Council of the City of Modesto hereby proposes, on its own motion, to amend Section 1500 of the Charter of the City of Modesto as follows:

MEASURE ___

SECTION 1500. - BOARD OF EDUCATION.
The control, management and administration of the public schools of the City of Modesto, and the territory that is now or may hereafter be annexed thereto for school purposes, in accordance with the Constitution and general laws of
the State of California, are hereby vested in a Board of Education. In all matters not specifically provided for in this article, the Board shall be governed by the provisions of the general law relating to such matters and shall be vested with all the powers and charged with all the duties provided by the laws of the State for city boards of education. The Board of Education shall be the governing body of the Modesto City School District of Stanislaus County and the Modesto High School District of Stanislaus County.

The Board of Education shall consist of seven (7) members who may receive compensation pursuant to the applicable provisions of the Education Code of the State of California. The members of the Board of Education shall be elected at large from the territory within the boundaries of the school district or districts which are under the jurisdiction of the Board. The Board of Education shall select a method of election for its members, by resolution, including but not limited to trustee or at large, in accordance with Chapter 1, Part 4, Division 1, Title 1 of the California Education Code, or any succeeding statute. The members of the Board of Education shall hold office for a period of four (4) years from and after the first Tuesday following the Regular Municipal Election at which they are elected and continuing until their successors are elected and have qualified. No person shall be eligible to be nominated for or to hold office as a member of the Board of Education unless the person is and shall have been for at least thirty (30) days preceding the person's nomination or appointment a resident and registered elector of the school district or districts which are under the jurisdiction of the Board of Education.

Note: Any wording stricken would be deleted by this measure. All of the above wording which is shaded would be added by this measure.

SECTION 2. On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question:

**MEASURE**

<table>
<thead>
<tr>
<th>Shall the Modesto City Charter be amended to allow the Board of Education for Modesto City Schools to change the method of election of the Board of Education in accordance with the California Education Code?</th>
<th>Yes</th>
<th>☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>☐</td>
<td></td>
</tr>
</tbody>
</table>

**SECTION 3.** The City Council hereby orders the City Clerk to submit the proposed charter amendment to the voters of the Modesto City Schools Board at the next Regular Municipal Election on November 3, 2015.
SECTION 4. Pursuant to Elections Code section 12101 et seq., the City Clerk of the City of Modesto is hereby authorized to prepare all required notices related to the ballot measures and to publish such notices as required by law in *The Modesto Bee*, the official newspaper of said City and a newspaper of general circulation printed and published in said City.

SECTION 5. The Stanislaus County Elections Department is hereby authorized to canvass the returns of the Regular Municipal Election.

SECTION 6. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

06/23/2015/CA/ALindgren/Item 26  5  2015-223
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-224

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ASSIGN THE DUTIES AND FUNCTIONS OF THE CONVENTION AND VISITOR'S BUREAU TO THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

WHEREAS, in June 2003, the City of Modesto entered into an Agreement with the Modesto Convention and Visitor's Bureau, Inc. (CVB) to promote and market Modesto for meetings, conventions, tour groups, and visitor activities, and

WHEREAS, in June 2010, the City Council adopted Resolution No. 2010-285 extending the contract to June 30, 2015, and

WHEREAS, since the economic downturn, staff has taken a close look at all functions and services the City provides in order to create efficiencies and maximize production and delivery, and

WHEREAS, one of the hardest hit areas is how the City coordinates and delivers services related to the marketing and promotion of Modesto, and

WHEREAS, the Modesto Center Plaza, John Thurman Field, and the City's three golf courses are all operated, managed, and marketed independently, and

WHEREAS, in an effort to grow each of these venues to their maximum potential and use, staff recommends they be consolidated under one program, "Destination Modesto" and managed by the Director of Community and Economic Development to provide stability, consistency, and oversight that will allow them to thrive fiscally, and programatically, and

WHEREAS, the first step in the development of Destination Modesto is to absorb the functions of the CVB within the Community and Economic Development Department for a period of one year, and
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, to assign the duties and functions of the Convention and Visitor’s Bureau to the Community and Economic Development Department for a period of one year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: ADAM U. LINDGREN, City Attorney
A RESOLUTION ALLOCATING ONE FULL-TIME LIMITED TERM EVENTS COORDINATOR AND ONE FULL-TIME LIMITED TERM ADMINISTRATION OFFICE ASSISTANT III POSITION FOR A PERIOD OF ONE YEAR, PENDING HUMAN RESOURCES REVIEW AND CONFIRMATION OF THE POSITION CLASSIFICATIONS

WHEREAS, in June 2003, the City of Modesto entered into an Agreement with the Modesto Convention and Visitor’s Bureau, Inc. (CVB) to promote and market Modesto for meetings, conventions, tour groups, and visitor activities, and

WHEREAS, in June 2010, the City Council adopted Resolution No. 2010-285 extending the contract to June 30, 2015, and

WHEREAS, the functions and duties of the CVB have been assigned to the Community and Economic Development Department for a period of one year, and

WHEREAS, one full-time limited term Events Coordinator and one full-time limited term Administrative Office Assistant III is needed to staff the program, and

WHEREAS, the Human Resources staff will need to review and confirm the position classifications,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby allocates one full-time limited term Events Coordinator and one full-time limited term Administrative Office Assistant III to the Community and Economic Development Department, as CVB program staff for a period of one year pending Human Resources review and confirmation of the position classifications.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-226

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PREPARE AND PROCEED WITH AN RFP FOR PROFESSIONAL SERVICES TO RECOMMEND AND PREPARE A PLAN FOR THE REORGANIZATION OF MARKETING AND PROMOTION OF CONVENTIONS, VISITORS, TOURISM AND SPORTING VENUES

WHEREAS, since the economic downturn, staff is assessing all functions and services the City provides in order to create efficiencies and maximize production and delivery, and

WHEREAS, one of the hardest hit areas is how the City coordinates and delivers services related to the marketing and promotion of Modesto to attract conventions, tourism, and visitors to our cultural, historic and sports venues, and

WHEREAS, the Modesto Center Plaza, John Thurman Field and the City’s three golf courses are all operated, managed, and marketed independently, and

WHEREAS, each are at critical points in their existence in that their dependence on the general fund continues, and in several cases is growing, and

WHEREAS, in an effort to grow each of these venues to their maximum potential and use, staff recommends they be consolidated under one program, “Destination Modesto” and managed by the Director of Community and Economic Development to provide stability, consistency, and oversight that will allow them to thrive fiscally, and programmatically, and

WHEREAS, Destination Modesto is a temporary name for a comprehensive and coordinated management and marketing program based on a business model that uses economic growth as the driving performance measure, and
WHEREAS, Destination Modesto is reliant on partnerships, entrepreneurialism, and includes a regional approach to marketing and capitalizes on “bundling” local assets to maximize resources and results, and

WHEREAS, the City Council has taken the first step in the development of Destination Modesto by absorbing the functions of the CVB within the Community and Economic Development Department for a period of one year, and

WHEREAS, a Request for Proposals is needed to retain professional services to assist in the development and preparation of a plan to promote and market Modesto’s convention, visitor, tourism and sports venues, and

WHEREAS, the estimated budget for professional consultant services is $43,971 and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, to prepare and proceed with a Request for Proposals for professional services to assist in the development and preparation of a plan to promote and market Modesto’s convention, visitor, tourism and sports venues.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh
NOES:  Councilmembers: None
ABSENT: Councilmembers: None

ATTEST:

[Signature]

STÉPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-227

A RESOLUTION AMENDING THE FISCAL YEAR 2015-2016 OPERATING BUDGET AND AUTHORIZING THE DIRECTOR OF FINANCE OR HER DESIGNEE TO TRANSFER THE APPROPRIATION OF $249,071 FROM THE CITY MANAGER’S OFFICE TO THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

WHEREAS, funding for the Convention and Visitor’s Bureau (CVB) for fiscal year 2015-2016 is derived from the City Manager’s Operating Budget (0100-02020-54160), and

WHEREAS, the functions and duties of the CVB have been reassigned to the Community and Economic Development Department, and

WHEREAS, the funding for the CVB, in the amount of $249,071 must be transferred from the City Manager’s Office to the Community and Economic Development Department, and

WHEREAS, the CVB budget includes $148,248 for estimated salaries and benefits, $35,000 for marketing and advertising, $21,842 for rent and $43,971 to proceed with an RFP for professional services,

WHEREAS, the transfer of funding from the City Manager’s Office to the Community and Economic Development Department is identified in the attached exhibit “A”,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2015-2016 Operating Budget to transfer $249,071 from the City Manager’s Office to the Community and Economic and Development Department.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
Exhibit "A"

Transfer funding for the Modesto Convention and Visitor’s Bureau from the City Manager’s Budget (0100-02020-54160) to the Community and Economic Development Department as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and Benefits</td>
<td>$148,258</td>
<td>0100-14110-51401/51901</td>
</tr>
<tr>
<td>Marketing/Admin</td>
<td>35,000</td>
<td>0100-14110-53001</td>
</tr>
<tr>
<td>Rent for Real Property</td>
<td>21,842</td>
<td>0100-14110-53070</td>
</tr>
<tr>
<td>Professional Services</td>
<td>43,971</td>
<td>0100-14110-53300</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$249,071</td>
<td></td>
</tr>
</tbody>
</table>